

Brooks Pierce Case Recently Certified as Class Action

08.15.2018

Brooks Pierce attorneys Matt Tynan and Bob King are representing the plaintiffs in a recently certified class action suit that could potentially result in more than \$8 million in impact fees, plus interest, being returned to residential developers and individuals who built residences in Orange County, North Carolina, between 2009 and 2016.

At issue in the suit, *Zander v. Orange County*, are fees charged to individuals and builders who constructed new residences in Orange County between January 1, 2009, and December 31, 2016. During that time, the County charged a supposed “school impact fee” for all new residential construction, with fees as high as \$11,423 for a single family home.

The named plaintiffs in the suit bought a property in Chapel Hill to build a new home for themselves, with a construction budget of about \$200,000. The school impact fee ended up costing them more than 5 percent of their total construction budget.

The plaintiffs filed a lawsuit against Orange County and Chapel Hill, challenging the legality of the fees on behalf of themselves and all persons similarly situated. The plaintiffs assert that, while a statute exists that may have allowed the imposition of impact fees, the fees charged by the defendants were unlawful and were collected without any legal authority. Plaintiffs also contend that an Orange County ordinance requires the County to refund certain portions of the fees collected.

To have the case certified as a class action, Brooks Pierce had to show that numerous parties had the same issues and were impacted by the school impact fees. Based on the number of individuals and home builders who paid school impact fees between 2009 and 2016, it is estimated that the classes approved by the Court could include more than 250 members. Notice to the class members will be provided after Orange County provides additional documents to help identify the class members.

Additional information regarding the case can be found at www.brookspierce.com/impactfeeaction.

Shortly after the Order certifying the class action was entered on August 3, 2018, the defendants filed a notice of appeal to the North Carolina Supreme Court. That appeal is pending.

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PEOPLE

Robert King III

Matthew Tynan

SERVICES

Class Action