

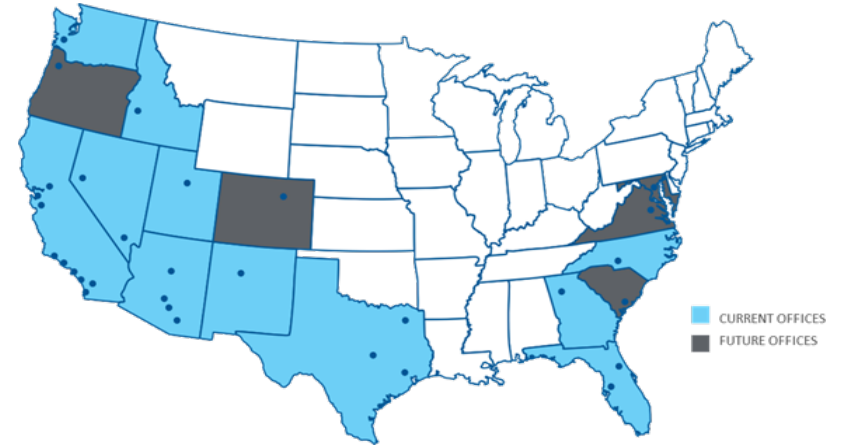
Land to Lots – Show Notes Development Impact Fees (“DIF”) Common Errors



We appreciate you keeping your line muted during the presentation.
Questions will be answered at the end of the presentation.

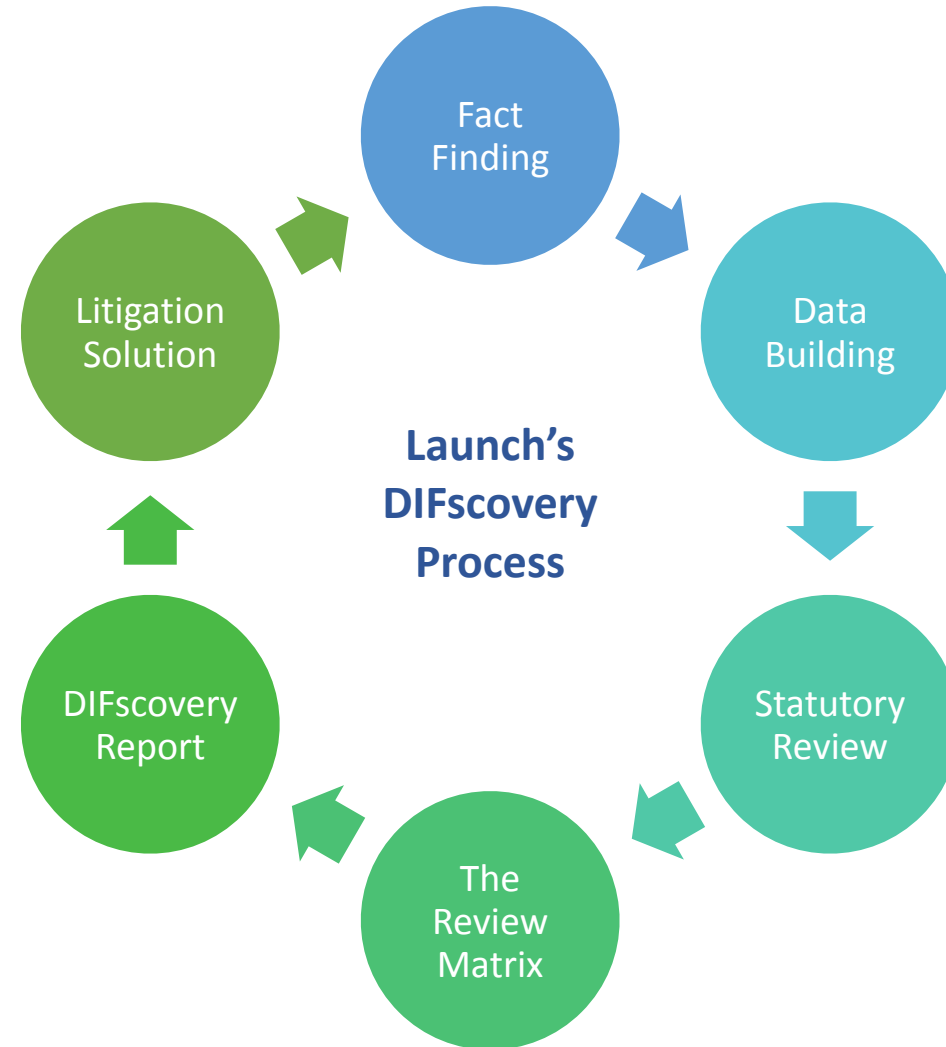
Assisting private sector clients in financing infrastructure, reducing costs, mitigating transaction risk, and enhancing profitability.

- Special District Financing (PID, MUD, MMD, TIRZ)
- “Private Label” Bond Financing
- Reimbursement Agreements & Processing
- Fiscal Impact Studies
- Cash Flow Analysis
- **Development Impact Fee (“DIF”) Review, Analysis, and Litigation**



DIF Results

- Provide average reduction to DIFs reviewed of **24.6%** since 1998
- Updated NAHB's DIF Handbook
- Prepare reports; review 3rd party studies; and perform “audits” of jurisdictional DIF collections



DIF Headlines

COMMUNITY
IMPACT
NEWSPAPER

Hutto City Council increases water, wastewater impact fees

Statesman

Bastrop City Council considers 39% hike to impact fees for new development

Proposed roadway impact fees progress in Pflugerville



Roadway impact fees are a means of funding public infrastructure improvements, such as roadways, that are needed as a result of new or expanded development. (Kelsey Thompson/Community Impact Newspaper)

Background

- Necessary evil
- One-time fee for public capital facilities
- New development
- Nexus between fee paid and impact
- Proportional
- Fair and equitable
- Regulated by State Enabling Statutes
- Case law (Nolan, Dolan)



Not Used For

- Upgrading obsolete infrastructure
- **Repair and maintenance**
- Infrastructure with a useful life less than < 10 years (typically)
- Increasing jurisdictional existing levels of service

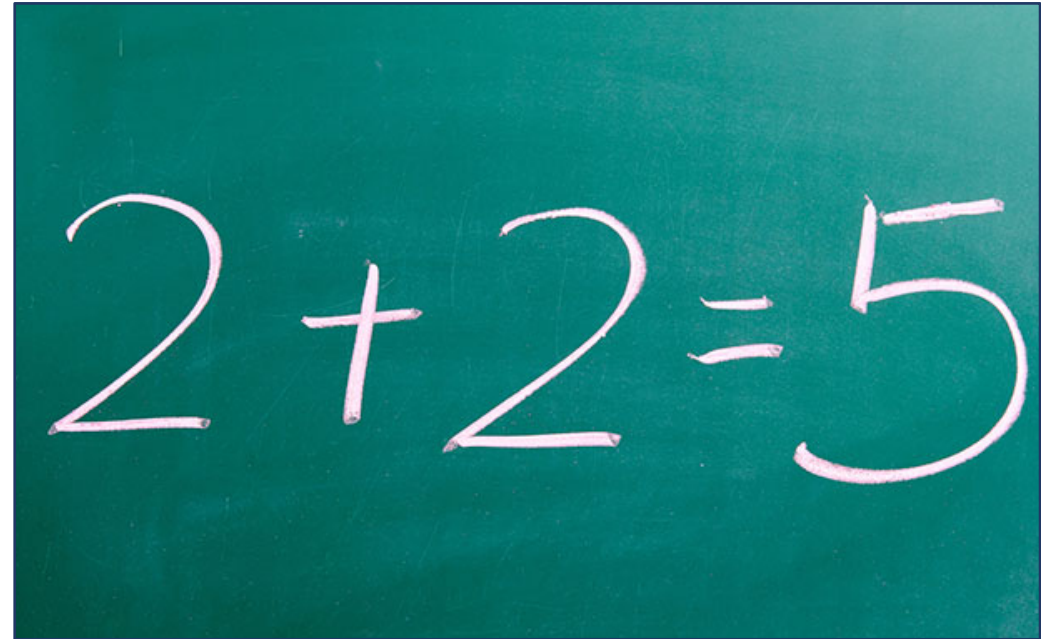


Top 5 Common DIF Errors

- Error #1: Mechanical Accuracy
- Error #2: Correcting Existing Deficiencies
- Error #3: Lack of Service Areas
- Error #4: Ignoring Funding Offsets
- Error #5: Funding Increased Levels of Service

Error #1: Mechanical Accuracy

- **Mathematical errors**
- Typos in excel formulas
- Decimal place errors
- Inaccurate source references
- Incorrect formulas
- Improper information sources
- Flawed logic



$2 + 2 = 5$

Error #2: Funding Existing Deficiencies

- Not to be used for correcting existing infrastructure deficiencies
- Not to be used for repairing, replacing or maintaining existing infrastructure
- Only for new capital improvements (> 10 years)

Error #2: Correcting Existing Deficiency (Example)

- City of Tucson attempted to use DIFs to upgrade to new ADA standards
- \$107MM in new sidewalks for areas developed in 1970's
- **Attempted to correct existing ADA deficiencies**

Description	Total	% of Total
Costs Attributable to New Development	\$ 268,318,236	100%
Sidewalks	\$ 107,500,000	40.1%
Bus Pull Outs	\$ 6,947,558	2.6%
Intersections	\$ 7,500,000	2.8%
City Contributions - RTA Projects	\$ 63,000,000	23.5%
Total	\$184,947,558	68.9%



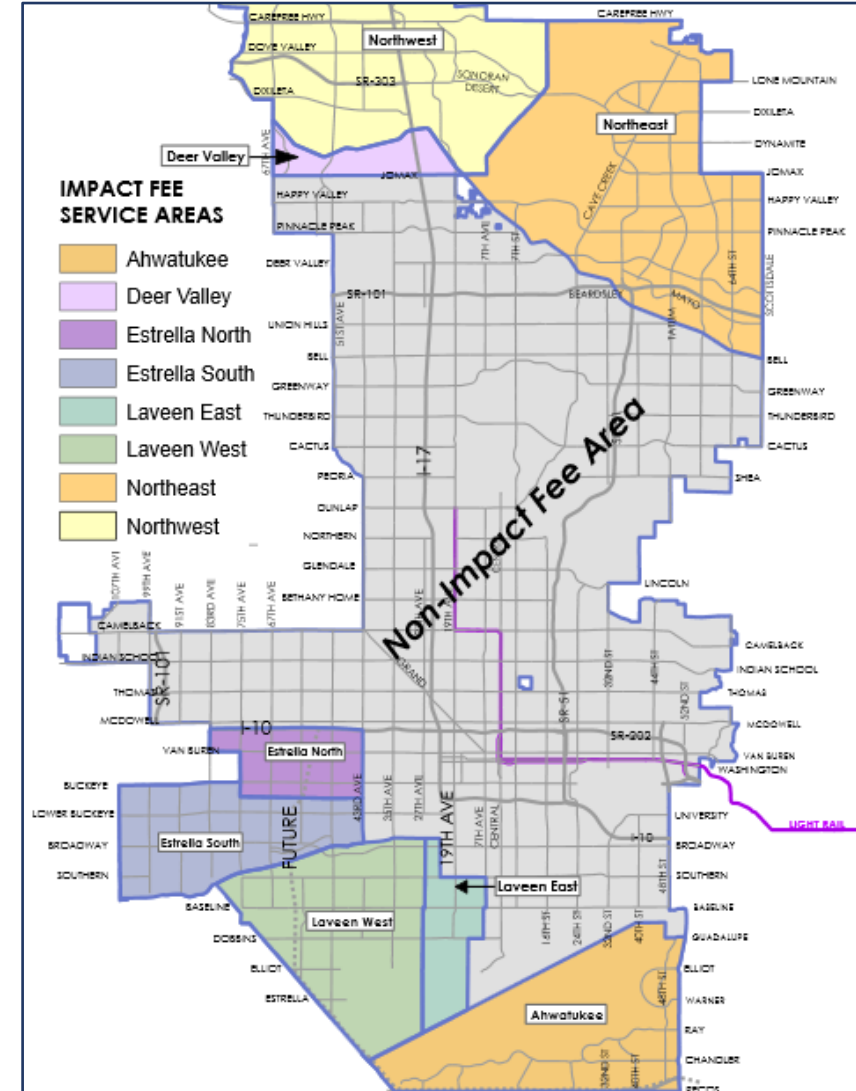
Error #3: Lack of Service Areas

- Infrastructure costs must be distributed fairly, service areas promote this concept
- DIFs must have rough proportionality
- DIFs must have a rational nexus between fee paid and benefit received

Insight – Be careful about what you ask for; service areas will result in varying DIF levels

Error #3: Lack of Service Areas (Example)

- City of Buckeye, AZ attempted to use only 1 service area (Phoenix has 8)
- Jurisdictions like one service area as they can “move DIFs” at their sole discretion
- **Creates environment where new growth does not receive benefit for DIF payments**



Error #4: Ignoring Funding Offsets

- Must consider other revenues collected by jurisdiction to fund public improvements
- May include jurisdictional bonding, user fees, sales taxes, grants, state contributions
- **If no offset calculation this could results in a jurisdictional “double dip”**

Error #5: Funding Increased Levels of Service

- May not fund a higher level of service than currently being provided by jurisdiction
- Existing levels of service may be inaccurately estimated or NOT estimated at all
- Current costs/values may be prepared by unqualified sources



Error #5: Funding Increased Levels of Service (Examples)

- Idaho jurisdiction's fire station level of service estimated at \$500 per sf



NC jurisdiction's sewer DIFs estimated increased levels of service

Diameter	Current Value Total	Percentage
48	\$0	0.00%
42	\$4,910,144	8.98%
36	\$0	0.00%
30	\$4,541,302	8.30%
27	\$142,129	0.26%
24	\$1,524,735	2.79%
21	\$767,945	1.40%
20	\$394,675	0.72%
18	\$786,533	1.44%
15	\$2,130,609	3.90%
12	\$3,188,223	5.83%
10	\$778,170	1.42%
8	\$31,472,408	57.54%
6	\$1,858,034	3.40%
4	\$1,642,000	3.00%
3	\$399,685	0.73%
2	\$157,795	0.29%
Total	\$54,694,386	100.00%
Costs > 12"	\$18,386,295	33.62%
Costs < 12"	\$36,308,092	66.38%
Total	\$54,694,386	100.00%

Takeaway Concepts

- DIFs will be implemented if ignored
- Review all DIF Studies / CIPs
- Work collaboratively with jurisdictions (if possible)
- Jointly prepare DIF studies with jurisdictions in future (if possible)
- Consider changing state enabling acts to make the preparation of DIF studies more thorough

FOR FURTHER INFORMATION

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