

# National Association of Home Builders SAHBA v. Town of Marana



# SOUTHERN ARIZONA HOMEBUILDERS ASSOCIATION

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Southern Arizona Home Builders Association

- One of three local HBA's in Arizona
- Established in 1952
- Headquartered in Tucson, AZ
- Serves Cochise, Pima and Santa Cruz Counties
- 290 Members



# LAUNCH DEVELOPMENT FINANCE ADVISORS



**Private Sector's representative in matters of public finance.**

- Financing infrastructure through special districts since the mid 1980's.
- *Key Role* - Determination of development impact fee credits for infrastructure financed by bonds.
- Noticed issues with jurisdictional impact fee studies.
- Began reviewing impact fee studies for builders and builder industry associations.
- Assisted NAHB update the Impact Fee Handbook in 2008 and 2016.

## SAHBA v. Town of Marana (Town)



- Noted Town's \$16.4 MM purchase of Pima County WWTP which provided no additional capacity for new growth.
- Town purchased to WWTP to contribute to Town's 100 year water supply.
- Town allocated \$16.4MM cost to Water / Sewer Fees.
- None of the \$16.4 MM was allocated to existing residents.
- Later funding of WWTP replaced existing headworks and improved secondary treatment quality, yet no costs were allocated to existing residents.

- 2018 SAHBA brought suit alleging costs of WWTP benefited existing residents and created a higher level of service.
- Trial Court and Appeals Court ruled in favor of Town on its presumption of “validity” and that SAHBA did not show that the purchase increased the level of service to existing residents.
- AZ Supreme Court found that Town violated AZ DIF Statute and remanded to trial court to make proportional allocations.

# AZ SUPREME COURT

- DIFs must be “roughly proportional” – Dolan v. City of Tigard.
- DIFs must be based on the “same level of service provided to existing development in the area.”
- DIFs cannot be used “to provide a higher level of service.”
- Powers conferred on municipal governments shall be narrowly construed to ensure DIFs are not used to impose on new residents a burden all taxpayers of a municipality should bear equally.



- AZ DIF Statute revamped in 2011 requiring procedural and substantive limits on the imposition of DIFs.
- All industry groups should consider updating DIF statutes.
- See NAHB 2016 Impact Fee Handbook – Appendix
- Continued vigilance of jurisdictional impact fees is necessary.

## FOR FURTHER INFORMATION



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