

DUBLIN SCHOOLS

DUBLIN UNIFIED SCHOOL DISTRICT

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For Immediate Release

Date: November 2, 2016

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COURT OF APPEALS RULES AGAINST BUILDING INDUSTRY ASSOCIATION IN BATTLE FOR LEVEL III FEES

On Friday, October 28, the Third District Court of Appeal denied the California Building Industry Association's (CBIA) legal challenge to the state's decision to allow school districts to raise the developer fees to the highest amount allowed by law.

The Court's decision means that qualifying districts, such as Dublin Unified, may immediately begin charging Level III Developer fees on new, unmitigated construction projects for the first time. Dublin Unified's most recent School Facilities Needs Analysis places the District's Level III amount at \$21.32 per square foot for new construction in Dublin. The District will begin collecting fees at that amount immediately.

"The Board of Trustees is thrilled with the decision of the Court to allow districts to charge Level III fees," said Board President Dan Cunningham. "Dublin has been a leader in the fight to get developers to pay a greater share for building schools. We will continue to advocate for better systems to fund school construction and look forward to a positive result on Election Day for the state bond measure to bolster our ability to create the state-of-the-art learning environments our students deserve."

The Court of Appeal's ruling comes approximately two months after a Superior Court Judge in Sacramento denied a preliminary injunction and terminated a Temporary Restraining Order in the case of *California Building Industry Association vs. the State Allocation Board*. That decision was appealed by the CBIA, together with a request for a stay of the lower court's ruling. Friday's appellate court order denied the requested stay, and on November 1, 2016, the Superior Court judge finalized his September ruling.

On May 25, 2016, the State Allocation Board, the body responsible for distribution of school facilities funding, determined that state funds for new construction are no longer available and that the Board is no longer approving apportionments for new construction due to the lack of funds. That determination triggered the implementation of Level III developer fees for the first time ever. Developer fees are imposed at three levels under Senate Bill 50 (SB50), which was passed in 1998. Districts that currently charge Level II fees would be eligible to charge Level III.

Dublin Unified became the first school district in the state to ask the State Allocation Board to consider the trigger of Level III fees to help mitigate the cost of school construction in January 2016. Dublin School Board Trustees were joined in the advocacy effort by Fremont Unified and other high-growth districts around the state.

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