Federal Highway Administration Webinar on Value Capture Strategies: Developer Impact Fees

Webinar Date: August 4, 2021

Answers to Questions Posed During the Webinar

Developer Impact Fees Primer

How do developer impact fees relate to Transit-Oriented Developments which are residential?

One example is providing a reduction or exemption to the fee for low-income households. Some other strategies include using density bonuses or affordable housing with developer impact fees.

In general, developer impact fees for residential uses are based on per dwelling unit based on average trip generation rate by housing type (single- vs. multi-family). Depending on how local government chooses to define different residential uses, multi-family units with higher trip generation rates have lower impact fees per dwelling unit. In TOD situation, residential fees are lower because the housing tend to be higher density with higher trip generation rate. In addition, discounts are often provided near transit to encourage TODs.

How do remedies for gentrification function?

Along with standard impact fee schedules, local jurisdictions often offer fee waivers, deferments, deductions, and/or other financial incentives (e.g., low interest housing loans) to low-income households to remedy the effect of gentrification and to keep neighborhoods affordable to existing residents. Another remedy is to have standard fee schedules that reflect a progressive-fee structure where the fees are lower for lower income households in multi-family housing. These can be combined with other measures such as density bonus for developers to build more affordable housing or impose impact fees that are set aside specifically for affordable housing.

Has the effectiveness of developer impact fees been examined for infrastructure versus housing and commercial development?

Relative effectiveness of DIF between infrastructure vs. real estate development (whether residential or commercial) does not make sense because impact fees are in essence generated from real estate developments to pay for infrastructure. Perhaps what is being asked is the DIF effectiveness between housing vs. commercial development. On housing specifically, it is important to distinguish between market-based housing (payer of impact fees) and affordable housing (receiver of impact fees). Between housing vs. commercial, it depends on local growth and land use policy—local jurisdictions can choose to impose impact fees for residential only, commercial only, for both or for none for different geographic areas and their effectiveness would vary depending on local government's funding/land use planning priority and on real estate market conditions of each area.

What effect do developer impact fees have on property values and the decision to proceed with development?

The whole purpose of development feasibility assessments (typical done after or along side nexus studies, which establish maximum legally defensible fee levels) is indeed to determine fee levels under the maximum that would not dampen new developments. When developments are complete, developer impact fees on property values depend on the real estate market condition at the time of property sales. Under seller's market, developers tend to pass on the impact fees to property buyers, thus increasing the property value. Under buyer's market, developers typically assume the impact fee costs without having any impact on property value.

Do impact fee studies Incorporate the expected rates of return a developer may use in considering where to invest?

Nexus studies are primarily cost-based linked to capital costs needed to accommodate public improvements required by new developments based on new trips generated. Development feasibility studies, if done property along with nexus studies, should be where DIF's impact on effective rate of return on developers should be examined and whether that would discourage new developments from happening. In reality, however, these studies, if done at all, are often not robust enough to address these details usually relying on fees in adjacent areas (representing competitive, market accepted levels). Please refer to DIF primer Section 5.1.2 for a survey of how development feasibilities are conducted currently.

Shouldn't DIF funds be accounted for by project? Why would Municipalities account DIF funds in a GENERAL FUND Account?

DIF funds are NOT part of General Fund. DIFs are collected on project by project basis but the fund expenditure is for public improvements that cover more than one project. There are different DIF programs (transportation, water, parks/open space, affordable housing, etc.), each of which are accounted separately (sometimes by separate departments within a city) and they do not go into general fund account. However, DIF programs rely on local General Plan/Comprehensive Plan for growth projections and future capital improvements to determine the appropriate fee levels. With voter approval, some jurisdictions have issued GO bonds backed primarily by DIF revenues for specific capital improvements.

Bellingham, WA

Was infill encouraged or reduced versus penalizing and charging more for growth in sprawl areas? If the former, how did you make up the funding?

We do not penalize other development. We showed that the development with sidewalks, bikeways, and high-frequency transit produced less vehicle trips which in turn allowed for reduction in impact fees since the fee is based upon vehicle trips.

Did Bellingham do any analysis that confirmed the TIF reduction encouraged infill development?

Yes, there are over 100 individual projects which benefitted from the TIF reduction program and resulted in-fill development.

Are there experiences or applications of mode-specific impact fees (i.e. $/pedestrian trip $/vehicular trip)?

No, the modes are merged into a combined metric of person-trips used to assess the fee.

How much of the impact fees are used on projects and how much on staff wages/benefits?

The impact fees cannot be used on anything except capital expenses for infrastructure projects.

Pasco County, FL

Was the Urban Land Institute (ULI) report which provided insight into Pasco County trends a market-sounding questionnaire?

The ULI report came from a panel who came into Pasco County to do an assessment of the planning paradigm in 2008. They returned for a reassessment in 2011. It was not a market assessment but a planning critique.

Questions for All Presenters

Do impact fees exist for all states, cities, and regions?

Impact fees are applied at the municipal and county levels but some 30 states currently have impact fee enabling legislation that govern how impact fees are applied by localities within their state. If there is state enabling legislation, localities also have their own ordinances that further details eligibility, implementation process, uses of funds, etc. Some states, such as Ohio, does not have state enabling legislation and leave up to localities to establish DIF ordinance. For some state, such as Arkansas, the state enabling legislation allows DIFs for municipalities only and not at county level. You can also have multi-jurisdictional impact fees jointly established across multiple jurisdictions, such as found in Sacramento County, CA.

What are the insights into the longevity of impact fees? Should they be updated annual, every 3 years, etc.?

Impact fees, along with special assessments and tax increment financing, have become important source of local revenues since late 1970s when severe restrictions have been put on property tax increases. Especially in states like California and Florida, they are used extensively. In terms of updates, there are two types of updates—first type is related to annual escalation for inflation/cost of living adjustments that are allowed by some jurisdictions within the current DIF program. The second type is major adjustments made along with updates in local General Plan or when there are Specific Plans with new developments that are not included in GP. On an annual basis, for example, San Diego's DIF ordinance allows increase in their impact fee annually per the construction cost index published each year by ENR. In Bellingham, the fees increase each year per city council while the TIF system is reassessed as part of the comprehensive plan update. The Pasco County fees are updated every three to five years to keep pace with rising construction and infrastructure costs.