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August 6, 2008

Mayor William Dalton
City of Garden Grove
11222 Acacia Pkwy
Garden Grove, CA 92840



**Orange County
Chapter**

Building Industry Association
of Southern California

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RE: Deferral of collection timing for development impact fees.

Mayor Dalton,

I am writing on behalf of the membership of the Building Industry Association Southern California, Orange County Chapter (BIA/OC) to request that the City of Garden Grove adopt a policy to defer the collection of development impact fees until the issuance of the certificate of occupancy for all residential construction.

As you know, the housing industry in Orange County is facing troubling times in this distressed market. The sharp decline of the housing market has had sweeping effects on the overall economy in Orange County. The financial strains that our members are enduring have forced massive layoffs over the last year. According to the Construction Industry Research Board (CIRB), business activity in Orange County related to residential development was over \$5 billion in 2006; in 2007 that number dropped to just under \$4 billion, and in 2008 the projected figures have plunged to little over \$7 hundred million in by the end of the 3rd quarter. Negative trends continue to spiral downward.

BIA has identified an opportunity to partner with local jurisdictions to offer some economic stimulus to home builders during these challenging times; development impact fee deferral.

Last week (8/1/08) the Governor signed a bi-partisan bill that quickly moved through the state legislature encouraging local jurisdictions to adopt development impact fee deferral programs as a means for creating economic stimulus. In Orange County, a number of cities, the County of orange and the Orange County Sanitation District have already amended their fee collection policies.



Assembly Bill No. 2604

CHAPTER 246

An act to amend Section 66007 of the Government Code, relating to land use.

[Approved by Governor August 1, 2008. Filed with
Secretary of State August 1, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2604, Torrico. Developer fees.

Existing law prohibits a local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities from requiring the payment of those fees or charges until the date of the final inspection or the date the certificate of occupancy is issued, whichever occurs first, with specified exceptions. If the fee or charge is not fully paid prior to issuance of a building permit, existing law authorizes the local agency issuing the building permit to require the property owner, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge within the specified time.

This bill would authorize a local agency to defer the collection of one or more fees up to the close of escrow.

The people of the State of California do enact as follows:

SECTION 1. Section 66007 of the Government Code is amended to read:

66007. (a) Except as otherwise provided in subdivisions (b) and (g), any local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

paid in full, or a partial release in the event the fee or charge is prorated pursuant to subdivision (a).

(3) The contract may require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(e) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 edition.

(f) Methods of complying with the requirement in subdivision (b) that a proposed construction schedule or plan be adopted, include, but are not limited to, (1) the adoption of the capital improvement plan described in Section 66002, or (2) the submittal of a five-year plan for construction and rehabilitation of school facilities pursuant to subdivision (c) of Section 17017.5 of the Education Code.

(g) A local agency may defer the collection of one or more fees up to the close of escrow. This subdivision shall not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.