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Quimby Act 101: An Abbreviated Overview

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Local governments in California provide a critical role in the effort to set aside parkland and open space for recreational purposes. Cities and counties have been authorized since the passage of the 1975 Quimby Act (California Government Code §66477) to pass ordinances requiring that developers set aside land, donate conservation easements, or pay fees for park improvements. Revenues generated through the Quimby Act cannot be used for the operation and maintenance of park facilities.

The goal of the Quimby Act was to require developers to help mitigate the impacts of property improvements. The Act gives authority for passage of land dedication ordinances only to cities and counties. Special districts must work with cities, and/or counties to receive parkland dedication and/or in-lieu fees. The fees must be paid and land conveyed directly to the local public agencies that provide park and recreation services community-wide.

When California voters approved the local property tax relief initiative, Proposition 13 in 1978, property taxes were essentially frozen thus frustrating local governments' financing options further. In addition, Federal and state mandates without reimbursements also put pressure on already stretched recreation and park agency budgets. Local agencies needed to become more resourceful in locating funding options, and turned to Quimby, Mello-Roos, development impact fees, developer agreements (informal agreements requiring additional exactions) fee concession operations, facility leases, non-profits, commercialization, and competitive grants to sustain their budgets.

This brief article is meant to assist park and recreation staff members in refamiliarizing themselves with the Quimby Act and with its intended function. A sample resolution and policy are provided for the reader, but are intended as examples only.

Local agencies have found that the Quimby Act provides a consistent means of providing parks for many California communities and helps to supplement strained agency budgets. While the Quimby Act is not an end-all in being able to provide sufficient dollars for land acquisition and park development, many agencies agree that it's a good start.

Originally, the Act was designed to ensure "adequate" open space acreage in jurisdictions adopting Quimby Act standards (i.e., 3-5 acres per 1,000 residents). In some California communities the acreage fee can get very high where the property values are high, and many local governments do not differentiate on their Quimby fees between infill projects and green belt developments.

Amendments to Quimby: In 1982, the Act was substantially amended. The amendments further defined acceptable uses of or restrictions on Quimby funds, provided acreage/population standards and formulas for determining the exaction, and indicated that the exactions must be closely tied (nexus) to a project's impacts as identified through traffic studies required by the California Environmental Quality Act (CEQA).

Exaction abuses coupled with economic recession and political changes – stronger “private property” rights advocacy – brought about a builders’ backlash of perceived loopholes prompting California legislation AB 1600 (California Government Code §66025).

Exaction is the process of shifting forward to new development the cost of infrastructure for which is generated the need is generated by the new residents. Parkland and or development of recreation facilities can be exacted from the developer as land, cash-in-lieu of land and/or impact fee as a condition of subdivision map approval.

The 1982 amendment to Quimby was designed to hold local governments accountable for imposing park development fees; hence the 1982 amendment to Quimby. AB 1600 requires agencies to clearly show a reasonable relationship between the public need for the recreation facility or park land and the type of development project upon which the fee is imposed. Cities and counties were required to be more accountable and to show again, a strong direct relationship or nexus between the park fee exactions and the proposed project. Local ordinances must now include definite standards for determining the proportion of the subdivision to be dedicated and the amount of the fee to be paid.

Pressure to further revise the Quimby Act has come from a variety of sources, including governmental officials, the building industry, homeowners, and environmental groups. In recent months, AB 2936 has been introduced authorizing Quimby funds to be used for the planning of new parks and for community master planning purposes.

The subject of park fees and the possibility of an ordinance revision can quickly polarize local policy makers and community leaders. Community involvement is crucial to any suggestion of Quimby revision. Reliable data on costs of acquisition, development and values of competing communities is essential to keep the debate as objective as possible. Formal public hearings conducted by the decision making body must be held before approval of the ordinance with staff members keeping everyone apprised of developments throughout the process.

How Quimby Works: Typically, the City/County Planning staff develops Quimby Act ordinances with the assistance from the City/County Attorney. Implementation of a Quimby ordinance begins once a developer files an application for a development project with a tentative subdivision parcel map. The tentative map goes to a review committee that makes recommendations on the proposed map. Comments are sent to the planning department that will provide information for a public hearing that result in a recommendation action for the city council or county board of supervisors. If denied, the tentative map would be sent back to the developer for revision.

The final map would be reviewed by all the appropriate agencies for conformance with conditions before going to a final public hearing and approval, or disapproval, by the city council/county board of supervisors at which time fees are paid. If approved, the final map is filed with the county recorder.

Whether you use the Quimby Act and/or other authorizations, the development of the ordinance must be done with the help of legal counsel. (Please note that the sample resolution below is for illustration only). Each community should refine the model ordinance by taking into account its own unique circumstances and conditions.

Sample City/County Resolution Modifying the Quimby Ordinance:

**City/County of XYZ
California**

Resolution No. _____

**A RESOLUTION OF THE CITY COUNCIL/COUNTY BOARD OF SUPERVISORS OF
THE CITY/COUNTY OF XYZ
MODIFYING THE PARK IN-LIEU FEE**

WHEREAS, the XYZ Agency (District) is the Government entity responsible for providing park facilities within the City/County of XYZ, and

WHEREAS, the City/County has established a Park Land in-lieu fee based upon the provisions contained in the California Government Code §66477 and this fee is based upon the standard of developing x# acres of parkland per 1,000 residents which is a standard currently existing and maintained with the City/County and is the policy established by the XYZ General Plan, and

WHEREAS, section #x establishes the Park Land in-lieu fee and provides that the amount of the fee shall be established by resolution of the City Council/County Board of Supervisors, and

WHEREAS, the Agency has requested that the City/County increase the fee to reflect the changes to the actual cost of acquiring and developing park lands since the fee was last established in ____ (year), and

WHEREAS, the cost estimates for the City/County has carefully evaluated parkland acquisition and development and a duly noticed public hearing held on the fee adjustment.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL/COUNTY BOARD OF SUPERVISORS OF THE CITY/COUNTY OF XYZ that the Park Land In-Lieu fee amount shall be \$_____ per residential parcel established by subdivision map recorded after this date. This fee shall not apply to parcels on which residential development is prohibited or to commercial or industrial subdivisions where not residential parcels are established. The specific rules and procedures for administering the fee that will be followed by the Agency and the City/County are attached as Exhibit "A" to this Resolution.

Sample City/County Quimby Policy

CITY/COUNTY OF XYZ

QUIMBY DEVELOPMENT FEES

This policy is enacted pursuant to the authority granted by Section §66477 of the Government Code of the State of California. The park and recreation facilities for which dedication of land and/or payment of a fee required by the City/County of XYZ's Recreation and Park Agency is in accordance with the general plan of the City/County XYZ.

- A. **Requirements:** Prior to the approval of the tentative map or parcel map, the XYZ Recreation and Park Agency shall meet with the subdivider and determine the land required for dedication and/or in lieu fee payment. As a condition of approval of a final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in-lieu thereof, or both at the option of the Agency for neighborhood and community park or recreational purposes.
- B. **General Standard:** It is found and determined that the public interest, convenience, health, welfare and safety require that "spelled out number" (#) acres of property for each 1,000 persons residing within the Agency be devoted to neighborhood and community park and recreational purposes.
- C. **Formula for Dedication of Land:** The formula for determining acreage to be dedicated shall be as follows:

$$\frac{\text{Average number of persons/units} \div \text{1,000 population}}{\text{park acreage standard}} = \text{minimum acreage dedication}$$

$$\text{EXAMPLE: } 2.6 \div \frac{1,000}{5} = 0.013 \text{ acres per dwelling unit}$$

Formula for Fee In-Lieu of Land Dedication: The formula for calculating park fees in-lieu of land is as follows:

$$\text{Average number of persons/household} \times \text{required acreage} + \text{conversion factor} \times \text{park land development cost per acre in the XYZ area} = \text{required park fee}$$

$$\text{EXAMPLE: } 2.6 \times 5 \div 1,000 \times \$x = \$x,xxx$$

- D. **Fees in Lieu of Land, x# of parcels or less:** If the proposed subdivision contains x# parcels or less, the subdivider shall pay the in-lieu fee. However, nothing in this section shall prohibit the dedication and acceptance of land for park and recreation purposes in subdivision of x# parcels or less, where the subdivider proposes such dedication voluntarily and the land is acceptable to the Agency's Board of Directors.

- E. Use of Money: The money collected shall be used only for the purpose of acquiring necessary land and developing new neighborhood and community park or recreation facilities reasonably related to serving the subdivision.
- F. Land Access: All land offered for dedication shall have access to at least one existing or proposed public street. The Agency's Board of Directors may waive this requirement if the Board determines public street access is unnecessary.
- G. Special Waiver – Affordable Housing Projects: The Agency will waive the Quimby provisions of land dedication or in lieu fees for projects that result in the creation of residential units with a long term dedication to affordability as defined as affordable to moderate income or lower income households. These parcels however will be required to pay the fees for the Agency's AB 1600-mitigation program.
- H. Waiver of AB 1600 Impact Fees: All parcels, which have paid a Quimby Fee, are exempt from paying the Agency's AB 1600 impact fee. A record of all parcels paying a Quimby Fee is available at the Agency's offices.
- I. Special Provision – Condominium and Townhouse Projects: Since condominium and townhouse projects submit their building plans prior to the recordation of the subdivision map *<this may not apply to your city/agency>*, they will be required to pay the Agency's AB 1600 impact fee and at the time the subdivider files their subdivision map act for their project, they will be required to pay the balance of the Quimby fee less the amount previously paid for the AB 1600 fee.
- J. Request for Waiver of a portion of the In-Lieu Fee or Land Dedication: A waiver not to exceed x% shall be given against the requirement of land dedication or payment of fees in-lieu there of if the Agency's Board of Directors finds that it is in the public interest to do so. No credit will be give for open space. In order for the proposed facilities in the subdivision to be eligible for a waiver, they must fit the current needs of the community.