

# Judge: 'Widespread Misfeasance' in Impact Fee Case

Town hires independent auditor in response to court order.

By Marc Fortier, January 8, 2013

A judge has ordered the town to hire an independent auditor to audit Londonderry's impact fee collections and expenditures over the past two decades.

Rockingham Superior Court Judge Marguerite Wageling issued an order dated Dec. 31, 2012 requiring the town to employ an independent auditor "to fully audit the Town's impact fee collections and expenditures since the program's creation in 1994."

Wageling said since the town has been "at best, lackadaisical in their handling and documentation of impact fees, the Court cannot rely upon the Town's representations as to payment amounts, dates, and the purpose for which impact fees were used." She said she sees a full accounting of the impact fee program as "the only solution to the Town's widespread misfeasance."

In a press release posted on its website Tuesday, the town said it hired an auditor on Monday, following receipt of the court order.

The town announced in July that it would [refund more than \\$1.2 million](#) in impact fees to developers and landowners that were either collected in error or not used within the set timeframe.

Around that time, the town said it filed a motion in Rockingham County Superior Court seeking guidance on whether the people who paid the impact fees or the current property owners should receive the refund.

In her ruling, Wageling said that the original payor is the party entitled to receive the refund. She said the town has admitted to "a pattern of unlawful behavior and mishandling of impact fees reaching back nearly to the program's inception, and which involves potentially millions of dollars of taxpayer funds."

In its press release, the town said it will accept Judge Wageling's ruling and will not seek to appeal.

"Londonderry brought the matter to the court's attention seeking guidance to correct a situation it discovered had been mishandled and will comply with the court's guidance unless such action is curtailed by another party's motion for consideration or appeal."