

Transportation & Other Fees

Utah Sage, Inc. v. Pleasant Grove City & Recent Developments

October 25, 2023



SNOW
CHRISTENSEN
& MARTINEAU

The Impetus for the Transportation Utility Fee (“TUF”)

PCI VALUE (62.1 IN 2023)



ORIGINAL FEE SCHEDULE

- Residential: \$8.45
- Business Tier 1: \$41.27
- Business Tier 2: \$236.06*
- Business Tier 2 includes convenience stores, businesses with a drive-thru, and businesses with a high employee count on-site
- *Subsequently reduced*

GENERAL WELFARE: LIMITED REACH?

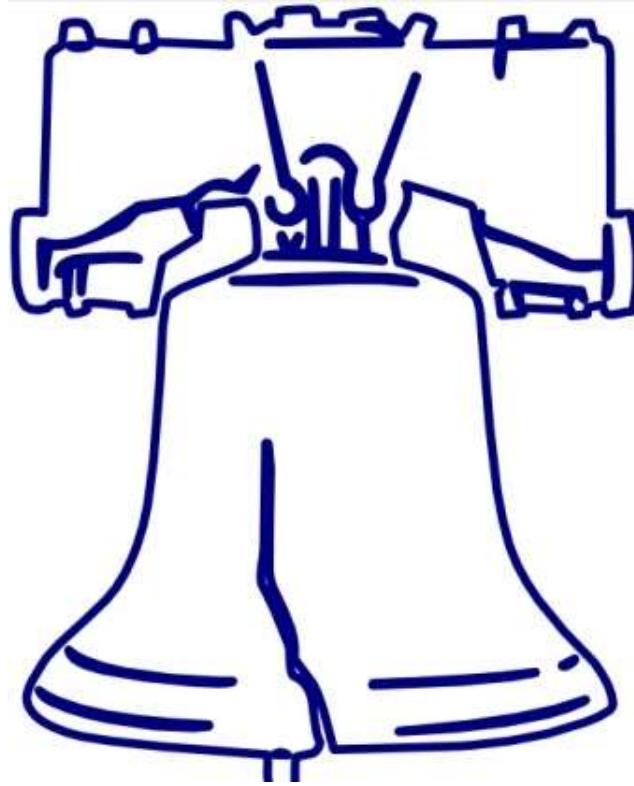
UTAH CODE § 10-8-84

- The municipal legislative body may pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by this chapter, and as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city.

ORIGINAL FEE SCHEDULE

- Utah Code § 10-6-106 (Definitions)
- Utah Code Ann. § 10-8-14 (Utilities)

TAXES VS. FEES



REASONABLENESS: BACK TO THE FUTURE?

WANTED: Somebody to go back in time with me. This is not a joke. P.O. Box 322, Oakview, CA 93022. You'll get paid after we get back. Must bring your own weapons. Safety not guaranteed. I have only done this once before.



CALCULATING FEES – WHAT IS REASONABLE?

October 2023

- (4) A municipality may not impose or collect:
- (a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or
 - (b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review

(5)(a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.

Steady Demand

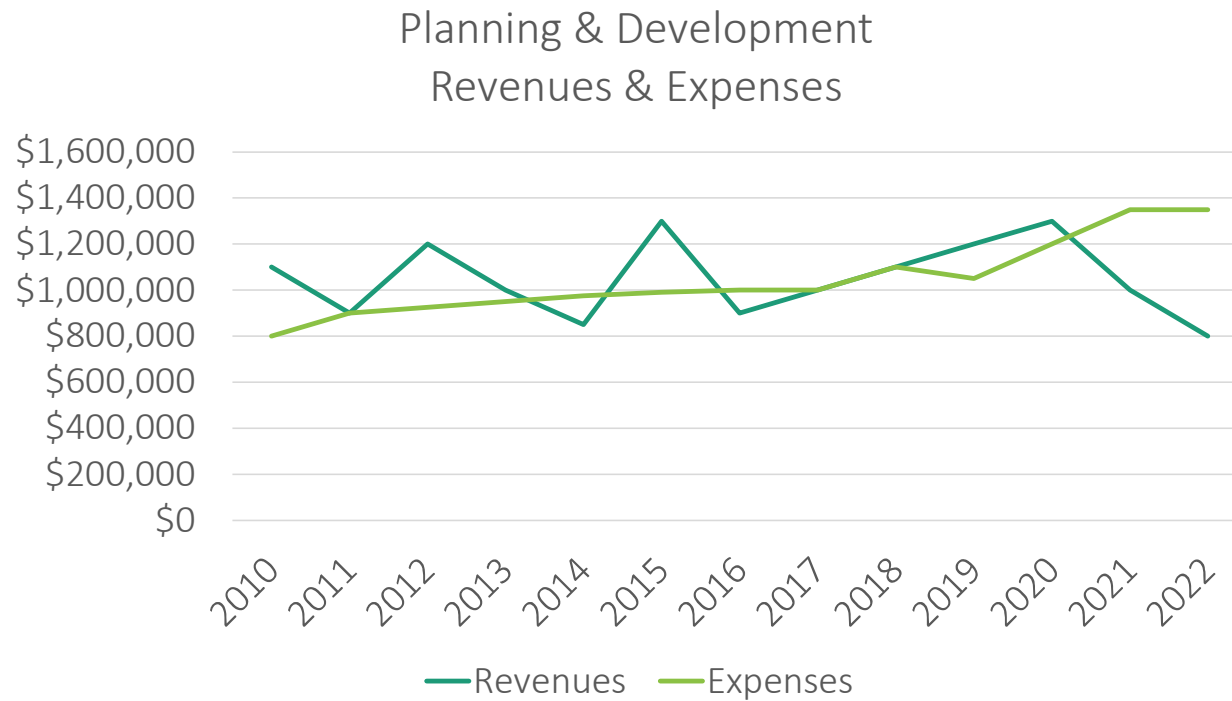
- Utility Fees
- Business License Fees
- Transportation Utility Fees

Changing Demand

- Development Fees

1. Average of revenues and expenses over time
2. Prior year expenses and demand used as basis for following year
3. Calculated direct costs, indirect costs, supplies

1 – AVERAGE OF REVENUES AND EXPENSES OVER TIME



Issue: Individual fees are not necessarily proportional to services provided

Numbers are for illustrative purposes only

Similar to prior approach but adjusted yearly

Issues

- Individual fees are not necessarily proportional to cost of services – benefits received
- May not keep up with inflationary costs

3 – DETAILED ANALYSIS OF INDIVIDUAL FEES

	Cost per Hour – Position 1
Wages + Benefits (Health/Retirement)	\$55.89
Indirect – Overhead	\$14.93
Indirect Costs - Department	\$1.68
Supplies	\$0.54
Study	\$1.20
TOTAL Cost per Hour	\$74.25
Cost per Minute	\$1.24

Numbers are for illustrative purposes only

3 – DETAILED ANALYSIS OF INDIVIDUAL FEES

Minutes per Fee Type	Position 1	Position 2	Position 3	Position 4
Fee Type 1	60	45	15	10
Fee Type 2	15	5	0	5

Issue: City revenues can vary dramatically from year to year while expenses remain relatively constant

Numbers are for illustrative purposes only

UTAH SUPREME COURT COMMENTS - PLEASANT GROVE CASE

REASONABLE:

- Must be in just proportion to the benefits conferred
- Do not insist on exact mathematical precision
- A fee may be reasonable even if it raises revenue that exceeds the cost of service

UNREASONABLE

- If not reasonably related to some need created by the one paying the fee
- If services provided through the fee are not of demonstrable benefit to the one paying the fee