Colorado Enacts Water Service Reforms to Remove Barriers to Real Estate Development

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Authors:

Dustin S. Charapata

Access to reliable water service is essential for real estate development, and Colorado's HB25-1211, signed into law on May 9, 2025, introduces significant reforms to how water districts assess tap fees and provide service. The bill, which takes effect August 6, 2025, seeks to enhance transparency, ensure equitable costs, and prevent arbitrary service denials that could slow down multifamily housing development.

A particularly notable provision in HB25-1211 is the duty-to-serve requirement, which mandates that water districts provide service to new developments within their boundaries if they have the capacity to do so. For developers, this represents an important safeguard against discretionary barriers and creates a cause of action against water districts for failure to serve when no such cause of action previously existed.

Bill Overview

- **Duty-to-serve requirement:** When a water district has sufficient capacity, it must provide service to new developments within their boundaries. Capacity is determined by looking at the district's infrastructure, legal water rights, and financial ability.
- **Fair tap fee assessments:** Water districts must ensure that tap fees are reasonably related to actual costs, considering factors such as expected water usage, property size, and conservation measures.
- **Conservation-based fee adjustments:** Water districts must consider at least one of the conservation-related factors below when determining proportional or reduced tap fees.
    - Expected long-term water usage, including indoor and outdoor consumption

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- Square footage of the unit or number of bedrooms
- Presence of low-water-usage appliances
- Per-unit fixture counts in indoor and outdoor spaces that provide water
- Graywater treatment systems, if applicable within district boundaries

Implications for Real Estate Developers

For developers, this bill—particularly the duty-to-serve provision—is a major win. Historically, some water districts have used service limitations and tap fees as a thinly veiled moratorium on development, often in direct contradiction to the approved entitlements the developer already has in hand. By mandating service where capacity exists, CO HB25-1211 ought to eliminate this practice and ensure water districts are not regulating beyond the scope of their authority.

Developers up against an antagonistic water district that is withholding development approvals based on purported capacity constraints, whether on the drinking water side or the sewage side, should make the water district aware of the contents of CO HB25-1211 and request specifics on such alleged capacity constraints. If the specifics are weak, unsupported, or can be solved through reasonable engineering based on the developer's infrastructure plans, a legitimate cause of action can now be filed in district court. Unfortunately, CO HB25-1211 does not contain a fee-shifting provision, so if the developer wins, it will not likely be able to recover its legal costs.

Legislative Background

Notably, HB25-1211 originated in the Committee on Transportation, Housing & Local Government rather than the Agriculture, Water & Natural Resources Committee, which typically handles water-related legislation. This underscores that the bill is intended to promote real estate development, remove unnecessary barriers, and foster a more predictable development environment.

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In committee, lawmakers emphasized that the bill was designed to prevent water districts from using service limitations and tap fees to control land use. Representative Rebekah Stewart, one of the bill's sponsors, explicitly stated that some districts have leveraged high tap fees to discourage multifamily and affordable housing projects, creating unnecessary hurdles for developers. To counteract this, CO HB25-1211 establishes a uniform tap fee standard, ensuring that fees are reasonably tied to actual costs rather than being manipulated to block growth.

The bill also includes provisions promoting water conservation and mandating reduced tap fees for water-efficient developments. Additionally, tap fees must now reflect both projected water use and the distinction between indoor and outdoor water consumption, reinforcing responsible resource management.

Key Takeaways

Ultimately, by requiring transparency in fee structures and prohibiting water districts from withholding service as a land-use tool, HB25-1211 positions Colorado as a more developer-friendly environment while still maintaining safeguards for water efficiency. Additionally, developers now have a specific cause of action against uncooperative water districts and should expect a fairer and more predictable process when planning new projects.

For more information or assistance as it relates to HB25-1211, please contact the author or any attorney with Frost Brown Todd's Real Estate or Multifamily Housing teams.

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