



## North Idaho Building Contractors Association

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PRESS RELEASE

# NIBCA PREVAILS IN STRIKING DOWN ILLEGAL TAX – REFUNDS EXPECTED

FOR IMMEDIATE RELEASE

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The North Idaho Building Contractors Association (NIBCA) is pleased, but not surprised, by today's final court ruling that the City of Hayden's sewer expansion tax was illegal. The Supreme Court and then the Trial Court have consistently and repeatedly told Hayden they cannot tax and spend without approval from its citizens. The tax imposed, designed to raise \$20 Million to expand city sewer into every acre of Hayden's area of impact, was imposed on the citizens without voter approval. In order to try to circumvent the law which requires voter approval Hayden attempted to disguise the tax as an "expansion fee."

The justices stated this was illegal: "A city's power to spend money does not include the power to impose any tax or fee that is necessary to raise the money it desires to spend." And "Idaho Code section 50-1030(f) does not permit a city to charge both a fee and a tax." Supreme Court decision February 26, 2015. Judge Meyer agreed with the Supreme Court and specifically told the City that the tax was illegal first on February 16, 2016 again on July 15, 2016 and then for a third time this month when she stated "The cap fee was an impermissible tax enacted without authority and without a basis in law."

The ruling today once again made it clear the City's conduct was illegal, today's ruling also requires the money collected in excess of the real \$774 fee to be refunded, with interest.

What is unfortunate about this ruling is that the City of Hayden, though multiple Mayors and City Counsels, refused to have reasonable conversations with the builders and concerned citizens from the start. Years before this suit was filed Hayden raised its fees 393% between 2005 and 2007. At that time the NIBCA had multiple meetings and conversations with the City of Hayden attempting to explain the proper way to separate fees and taxes. The NIBCA even donated, at their cost, extensive legal memorandums from industry leading attorneys. Hayden refused listen, refused to respond to reasonable efforts to resolve the suit, and even refused to settle the suit in a formal mediation through one of Kootenai County's most respected, and mutually agreed upon, attorneys. Instead, for over 4 years, Hayden paid Boise attorneys over \$750,000 to relentlessly try to justify Hayden's clearly illegal conduct. In the end justice prevailed and now Hayden is going to have to refund approximately \$750,000 in illegal taxes.

The NIBCA wishes to thank all the local citizens, local industries and even some of the statewide trade associations whose support and encouragement helped make this suit possible and reminds all the Hayden citizens that paid building permit fees from 2010-2016 that this action was pursued on their behalf. The NIBCA, on behalf of the class, intends to request the Court to award attorney's fees so that 100% of the refunds collected can be passed onto those who paid the fees.

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*The North Idaho Building Contractors Association, Inc. founded in 1970, is an organization dedicated to protecting and promoting the building industry for the benefit of its members and the citizens of North Idaho. The NIBCA strives to continue its role as an industry leader in governmental issues and community service.*