

Alternative School Impact Fee Analysis

The Teale New Haven

Prepared by
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This analysis was prepared by Susan Caswell, AICP for The Teale New Haven LLC.

Ms. Caswell has been a planner for the past 37 years, working at the East Central Florida Regional Planning Council, Orange County Planning, Osceola County Community Development, and as the Osceola County Director of Sustainability for the past several years. She has an extensive background in affordable housing, economic modeling, data analysis, land use planning, and development review. While at the Regional Planning Council she developed a methodology for estimating the affordable housing impacts of Developments of Regional Impact (DRIs), which was adopted for use statewide.

While at Osceola County she worked with the [Regional Affordable Housing Initiative](#), a partnership effort among Orange, Seminole and Osceola counties and the City of Orlando to explore the merits of a broadly established affordable housing strategy. Part of this strategy addressed impact fee proportionality, and Susan began working on this issue in 2017, developing a methodology to more accurately estimate the impact of studio apartments on educational facilities.

Since she left Osceola County, Susan has been working with developers to assess the impact of their proposed residential developments for the purpose of estimating proportional impact fees.

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I. Executive Summary

This is an alternative school impact fee analysis for The Teale New Haven. This proposed development will convert the Melbourne All Suites Inn, 4455 W. New Haven Avenue, into 245 multifamily studio apartments, each 280 square feet in size. The developer proposing this project has been converting motels in Florida to multifamily residential for the past several years. The majority of these redevelopments retain the original motel room footprint (as will this project), converting the units into studio apartments. The resulting apartments generally are considerably smaller than studio apartments constructed in new multifamily developments. Studio apartments in general are designed for one- or two-person households and therefore tend to have a lower impact on systems and facilities.

Impact fees are one-time charges for new development to cover a portion of the anticipated cost of additional infrastructure and public facilities needed to support that development. Local governments that adopt impact fees must meet Florida statutory requirements for the fees. As noted in Brevard's latest impact fee study, dated March 3, 2015:

In Florida, legal requirements related to impact fees have primarily been established through case law since the 1980s. Generally speaking, impact fees must comply with the "dual rational nexus" test, which requires that they:

- Be supported by a study demonstrating that the fees are proportionate in amount to the need created by new development paying the fee; and*
- Be spent in a manner that directs a proportionate benefit to new development, typically accomplished through a list of capacity²-adding projects included in the County's Capital Improvement Plan, Capital Improvement Element, or another planning document/Master Plan.*

Brevard County charges impact fees for a number of facilities, including schools. The County uses a consumption-based impact fee methodology, which estimates the burden placed on services by land use (demand). The demand component is measured in terms of population per unit in the case of all impact fees except transportation and schools. Student generation rate is used for schools (for roads they use vehicle miles traveled). Student generation rate is considered to be a more accurate way to estimate the fee because it's possible to use GIS to link student addresses to the Brevard Property Appraiser's database to estimate student generation from different housing types.

Brevard's impact fee ordinance allows for an alternative calculation to these general assessments, if the nature of the development can be shown to have a disparate impact. In the case of this proposed development, the units' small size and their configuration as one-room apartments means the average household size will be smaller, so fewer students per household will live in the development.

The total school impact fee for this 245-apartment development would be \$475,422.50, based on the County fee of \$1,940.50 per unit ([Brevard County Residential Impact Fee Schedule](#), effective January 2, 2017). The alternative analysis presented here proposes a total fee of \$136,465 (\$557 per unit), which is more representative of the project's very low student generation rate.

To be consistent with impact fee requirements in Florida Statutes, there must be a rational nexus between development impact and the fees charged. The fees must be proportionate in amount to the need created by the new development. This alternative analysis uses multiple sources to show a lower impact for schools. Accordingly, this analysis provides the necessary justification for decreasing school impact fees.

II. Impact Fees in Brevard County

A. Fee calculation for schools in Brevard County.

Many jurisdictions in Florida assess impact fees for new development and redevelopment. The fees are based on the need for new facilities resulting from the development, and the funds are used for construction of those facilities necessitated by the development. Brevard County assesses impact fees for a number of facilities, including schools. The County has hired consultants to complete impact fee studies for these government services and has adopted an impact fee ordinance based on those studies. The school impact fee study was last completed in 2015.

School impact fees are assessed based on the cost of facilities and the student generation rate of households. Brevard County's student generation rate (SGR) is calculated through a common methodology. It uses GIS to link student addresses to parcels in the Property Appraiser database, generating students per unit by unit type: single family, multi-family (including condominiums and townhouses), and mobile home. Table 1 shows the resulting student generation rates.

Table 1. Student Generation Rates, Brevard County			
	Total Housing Units ⁽¹⁾	Number of Students ⁽²⁾	Students per Unit ⁽³⁾
Residential Land Use			
Single Family Detached	170,227	52,499	0.308
Multi-Family/Condo/Townhouse	79,055	9,114	0.115
Mobile Home	30,775	2,302	0.075
Total/Weighted Average	280,057	63,915	0.228
(1) Source: Brevard County Property Appraiser			
(2) Source: Brevard Public Schools and Brevard County Property Appraiser			
(3) Number of students (Item 2) divided by the number of units (Item 1) for each residential land use type.			
Source: Tindale Oliver, Brevard County School Impact Fee Study March 2015, page VI-17			

While this methodology recognizes that student generation rate differs by unit type, it does not address how unit size, number of bedrooms, or occupancy restrictions might affect the generation rate. With a bit more data (correlating number of bedrooms with Parcel ID and student addresses), the methodology potentially could calculate SGR based on size and/or number of bedrooms for single family homes, townhouses, and condominiums. For multifamily the calculation still would not be possible, because generally property appraiser data show all multifamily units in an apartment complex as one parcel. Data on individual units by bedroom size and student occupants can't be correlated without information about the specific unit in which each student lives and background data (size and/or bedroom count) on each multifamily unit.

B. Ordinance provisions allowing alternative impact fee calculation.

Brevard County allows an alternative fee calculation of a development's impact on public facilities if an applicant can demonstrate that the nature, timing, or location of the proposed development make it likely to generate lower impacts [Section 62-297(b), *Computation*, of the Brevard County Land Development Regulations]. This alternative impact fee calculation is based on the consideration that the permanent physical characteristics of the dwelling units within The Teale New Haven residential conversion will result in smaller household sizes and therefore lower student generation rates.

C. Submitting an alternative impact fee analysis for schools.

This alternative impact fee analysis for educational facilities was prepared for The Teale New Haven, LLC consistent with the requirements of Section 62-927(b). The reason for the analysis is that the nature of this proposed development (size and single-room unit configuration) makes it likely to generate lower impacts than those estimated in the *Brevard County Impact Fee Update Study Final Report*, dated March 3, 2015.

The issue of school impact fees has been raised because the multi-family impact fee of \$1,940.50 per unit is based on a student generation rate that is not representative of a studio apartment. This alternative analysis estimates a rate that more closely reflects the impact studio apartments would have on the school system. A number of studies have been completed in Florida showing a lower student generation rate (SGR), and actual counts from several existing projects in Osceola County bear this out. A comparison of demographics between Osceola and Brevard counties is also included to demonstrate that the projected SGR likely is higher than what would be experienced in Brevard.

This information and analysis for The Teale New Haven will provide justification for alternative school impact fees.

III. Project Description

Built in 1974, the Melbourne All Suites Inn, 4455 West New Haven Avenue, Melbourne, is a two-story motel with 245 rooms 280 square feet in size. The Teale New Haven LLC has been approved for an adaptive reuse project that will convert the units to studio apartments.

This developer has been converting hotels and motels to multifamily residential in Florida for the past several years. These conversions also have retained the motel room footprint and converted the units into studio apartments. The resulting apartments in these cases generally are smaller than studio apartments constructed in new multifamily developments, and considerably less expensive. (Studio apartments in recent construction generally start at 400 square feet per unit.) Studio apartments typically are designed for one, or at the most two, persons per unit.

The developer has entered into an agreement with Brevard County to restrict rental rates and income levels for the redevelopment. The community will offer rent and income restrictions on 40% of the units at or below 120% of Area Median Income.

IV. School Impact Fees for The Teale New Haven

A. Comparison to Similar Developments.

A number of hotels in Osceola County have been converted within the past five years. Osceola has had more conversions than other parts of the state because Osceola’s tourist corridor, W. Irlo Bronson Memorial Highway, has over 100 hotels in a 15-mile stretch, many of which are older and no longer viable as hotels. Additionally, the corridor is zoned Tourist Commercial, a category that allows both hotel and residential uses, making rezoning unnecessary. A Freedom of Information Act request to the Osceola County School District in 2023 provided the following student counts for the conversions (Table 2).

The Teale Kissimmee comprises two property conversions, with a total of 299 studio units ranging in size from 201 to 287 square feet. Phase 1 of the development (101 units) has been open since August 2021. Phase 2 (198 units) opened in April 2022. An occupancy audit on the property completed in June 2024 indicated that two children lived in the development, one of school age.

Table 2. Hotel to Apartment Conversions, Osceola County

Name	Address	Number of Units	Number of Children	Student Generation Rate
The Teale Orlando Phase 1	4970 Kyngs Heath Road Kissimmee	101	4 ¹	0.013
The Teale Orlando Phase 2	4978 W Irlo Bronson Memorial Hwy Kissimmee	198		
Vivo Living Kissimmee 1 ²	4018 W Vine Street Kissimmee	223	5	0.022
West Bay Village	3010 West Bay Circle Kissimmee	252	1	0.004
Total Units and Children—Average SGR		774	10	0.013

1 Occupancy audits conducted in 2023, 2024, and 2025 showed 6, 1, and 4 students respectively, for an average of 4 students.
2 Vivo Living currently is working on Phase 2, comprising 129 units at 4156 W Irlo Bronson Memorial Highway Kissimmee
Sources: Osceola County Property Appraiser, School District of Osceola County, 2023; The Teale, 2023-2025.

B. Previous Studies of Studio Apartments.

Several studies have been completed in Osceola County in recent years to address the relative impact of smaller units on student generation. Additionally, impact fee analyses using Census data have been completed for many jurisdictions over the past two decades, with the consistent result being that smaller units, as well as units with fewer bedrooms, have a much lower student generation rate.

The Osceola studies are summarized in Table 3 below, while links to the others are included in Appendix A.

2018. The Osceola County Community Development Department completed an analysis of studio apartments in 2018. Using Census data to estimate occupancy of studio apartments, the analysis resulted in an SGR for studios of 0.019, significantly lower than the multifamily SGR of 0.391, with the resulting impact fee being reduced from \$11,362 to \$552.

2021. When the School District of Osceola County updated their education impact fees in 2021, they requested their consultant complete an analysis using Census data. The consultant used Public Use Microdata Sample (PUMS) Census data, which allowed them to estimate SGR not only for studio units but one-bedroom units as well. Their analysis estimated SGR for studios and one-bedroom units at 0.011, again a much lower rate than the overall multifamily rate of 0.354. This resulted in a proposed fee of \$326, as compared to the overall multifamily fee of \$11,225. (The multifamily fee subsequently was increased slightly to account for higher construction costs.)

2023. In March 2023, Florida Economic Advisors (FEA) completed an alternative impact fee analysis for a specific development in Osceola County. FEA calculated a student generation rate for studio units in a range of 0.017-0.029 and a maximum permissible per-unit fee of \$152.

Looking at those three studies, along with the actual data from existing conversions in Osceola County, results in a student generation rate of 0.0165, as shown in Table 3.

Table 3. Studies of Student Generation Rate in Osceola County			
Study	Year	Estimated SGR	Estimated Maximum Allowable Fee
Osceola County Community Development	2018	0.019	\$552
Osceola School District Consultant ¹	2021	0.011	\$326
Florida Economic Advisors ²	2023	0.023	\$152
Hotel to apartment conversions, Osceola County ³		0.013	N/A
Average SGR and resulting Brevard fee		0.0165	\$557
¹ This study combined studios and one-bedroom apartments to arrive at the SGR.			
² This study had a range of 0.017 to 0.029. The midpoint was used to average the SGR across studies.			
³ From Table 2			
Source: http://edr.state.fl.us/Content/index.cfm			

C. Economic and Demographic Profiles, Brevard and Osceola Counties.

Demographic data has been pulled from the U.S. Census database, as indicated for each table below. For economic data this study relies on the Office of Economic and Demographic Research (EDR), which is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. EDR publishes all of the official economic, demographic, revenue, and agency workload forecasts that are developed by [Consensus Estimating Conferences](#) and makes them available to the Legislature, state agencies, universities, research organizations, and the general public.

Demographic profile. Data from the US Census American Community Survey compare Brevard County to Osceola County, where The Teale Kissimmee is located. Table 4 summarizes certain demographic characteristics. Osceola has a larger average household size, 3 people compared to Brevard’s 2.45. The average age in Osceola is 37.3, while in Brevard it’s a much older 46.6 years. Not surprisingly, Brevard has a lower percentage of households with children, 20.3% compared to 31.3% in Osceola.

Table 4. Demographic Characteristics, Brevard and Osceola, 2023			Brevard	Osceola
Average household size			2.45	3.00
Households with one or more people under 18 years			20.3%	31.3%
Median age (years)			46.6	37.3
Selected age categories as a percentage of total population				
5 to 14 years			10.2%	13.3%
15 to 17 years			3.5%	4.5%
Under 18 years			17.9%	23.7%
Median household income			\$78,575	\$77,466
Source: US Census ACS S1101, S0101, S1901, 2023				

Table 5. Population and Housing Growth, Brevard and Osceola, 2010 to 2020								
	Brevard				Osceola			
	2010	2020	Change	%	2010	2020	Change	%
Population	540,583	594,001	53,418	9.9%	258,531	363,666	105,135	40.7%
Housing Units	267,036	280,648	13,612	5.1%	122,823	155,925	33,102	27.0%
Source: US Census ACS, Table DP05, 2010 and 2020								

Population and housing growth is shown in Table 5. Osceola’s housing construction is not keeping pace with its rapid population growth, which between 2010 and 2020 resulted in an increase in household size, a trend contrary to most of the country.

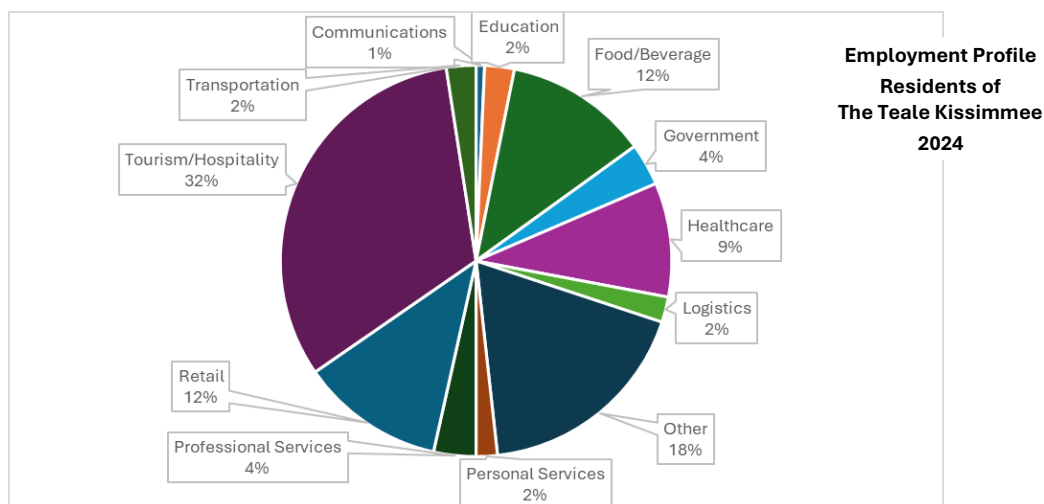
With its younger population, larger household size, lower median income, higher percentage of households with children, rapidly growing population, and relative shortage of housing units, Osceola should be far more likely to have multiple people, including school-aged children, living in studio apartments than Brevard would. Given the low student generation at Osceola’s hotel conversions, it is reasonable to expect that Brevard would experience a similar or lower student generation rate, and this is shown by the Census data (see Appendix D).

Economic profile. The Florida Office of Economic and Demographic Research prepares area profiles for Florida counties. Profile data for Brevard, Osceola, and Florida are shown summarized in Table 6 below. (The full profiles can be found here: <http://edr.state.fl.us/Content/index.cfm>.) In Osceola, the Education and Health Services; Leisure and Hospitality; and Trade, Transportation and Utilities sectors comprise more than half of employment, while in Brevard they comprise just under half. These sectors include service sector jobs such as hotels, tourist attractions, restaurants, and retail establishments, which tend to pay lower wages. Employees in these sectors can have difficulty finding affordable housing, but in many parts of Florida, even teachers and healthcare workers are having difficulty finding housing they can afford. In many parts of Florida, this is creating recruiting challenges for schools and hospitals.

At The Teale Kissimmee, nearly three in five residents work in the tourist, retail, and restaurant sectors. Residents also include teachers, health care workers, and employees of local law enforcement.

Table 6. Average Annual Employment Percentage of All Industries, 2023			
Industry	Brevard	Osceola	Florida
All Industries	238,752	110,846	9,678,557
Natural Resource and Mining	0.1	0.3%	0.7%
Construction	7.5	6.1%	6.5%
Manufacturing	13.9	2.1%	4.4%
Trade, Transportation and Utilities	16.1	21.1%	20.2%
Information	1.0	1.6%	1.7%
Financial Activities	3.3	4.5%	6.9%
Professional and Business Services	15.1	12.8%	16.7%
Education and Health Services	15.8	16.8%	15.1%
Leisure and Hospitality	12.3	20.5%	13.4%
Other Services	2.8	2.6%	3.0%
Government	11.9	12.3%	11.2%

Source: <http://edr.state.fl.us/Content/index.cfm>



D. Enforcement of occupancy restrictions.

The Department of Housing and Urban Development (HUD) has released occupancy guidance of the Fair Housing Act (42 U.S.C. §§ 3601-19), which states that an occupancy policy of two occupants per bedroom is reasonable under Fair Housing. The Teale follows this guidance across each of its properties, thereby restricting occupancy in all studio units to two persons. (See Appendix E, Fair Housing Enforcement—Occupancy Standards Statement of Policy.)

The Teale Kissimmee has a standing policy limiting tenants to two per unit—it is a requirement included in the lease agreement with all tenants. They require all residents to undergo screening, including people who move in with an established tenant. If more than two people were to be found to occupy an apartment, they would be in violation of their lease and would face eviction. Given the small size of the units, this has not been an issue for The Teale, as it simply is not feasible to fit more than two people in a unit. (Photos in Appendix F show the size and layout of a typical unit in The Teale Kissimmee.)

V. Conclusion

Previous studies of studio apartments (shown in Table 3), along with an analysis of recent conversions in Osceola County (Table 2), yielded an average SGR of 0.0165. Based on these analyses, using the \$33,746 net impact cost per Table VI-11 of the impact fee study, the impact fee per unit for The Teale New Haven would be: $\$33,746 \times 0.0165 = \557 , for a total fee of \$136,465 for 245 units.

An analysis of Census data showing occupancy of studio apartments (see Appendix D) yielded an estimated SGR of 0.001. Based on this analysis, using the \$33,746 net impact cost per Table VI-11 of the impact fee study, the impact fee per unit for The Teale New Haven would have been: $\$33,746 \times 0.001 = \33 . That Census data, along with the demographic comparison between Brevard and Osceola, demonstrates that the student generation rate in Brevard County would be far lower than in Osceola—therefore, the estimated fee of \$557 per unit represents the worst case scenario for The Teale New Haven and therefore a fair representation of the actual impact of this development.

The \$557 per-unit fee is based on the average SGR of 0.0165, derived from multiple studies of studio apartments in Osceola County, as well as actual student counts from converted motel properties similar to The Teale New Haven. Given that Brevard County has a lower overall household size and a smaller percentage of households with children compared to Osceola County, it is reasonable to assume that the actual SGR for The Teale New Haven would be even lower than 0.0165. However, to ensure the alternative fee remains consistent with Florida's impact fee framework and withstands scrutiny, this analysis uses the higher SGR of 0.0165 as a reasonable worst-case scenario.

By adopting a \$557 per-unit impact fee rather than the lower estimate using only Brevard County demographics, this proposal achieves a balance between ensuring fair proportionality in fees while also recognizing the minimal impact this development will have on school enrollment. This approach aligns with the *dual rational nexus* test by ensuring that the fee reflects actual impact without imposing an undue burden that could discourage the development of much-needed affordable housing in Brevard County.

The intent of impact fees is to cover a portion of the anticipated cost of additional infrastructure and public facilities needed to support new development. Impact fees must meet the criteria of the dual rational nexus test, meaning that the fees must have a reasonable connection between: 1. the proposed new development and the need for additional capital facilities, and 2. the expenditure of funds and the benefits accruing to the

proposed new development. This requirement was validated by the U.S. Supreme Court as recently as April 2024. In *Sheetz v. El Dorado County*, the Court reiterated this two-part requirement:

“First, the permit conditions must have an ‘essential nexus’ to the government’s land use interest, ensuring that the government is acting to further its stated purpose, not leveraging its permitting monopoly to exact private property without paying for it,” wrote Justice Amy Coney Barrett for the court. “Second, permit conditions must have ‘rough proportionality’ to the development’s impact on the land-use interest and may not require a landowner to give up (or pay) more than is necessary to mitigate harms resulting from new development.”

The Teale New Haven will include 245 studio apartments. This analysis shows that studio apartments generate a small fraction of impacts compared to other residential development. Charging a studio apartment the same fees as a three-bedroom, two-bath, 1,400 square foot apartment (which could easily rent for \$2,400 per month or more in the Brevard County market) is not reflective of a studio’s actual impact, according to the analysis in this report. It also serves to discourage smaller, more affordable units in Brevard County.

While the benefits of this development may not be legally relevant when it comes to impact fees, adaptive reuse projects such as this do benefit the County by providing affordable housing for the County’s workforce and by increasing property values for the redeveloped property. The value of the surrounding area also is likely to benefit from redevelopment of an underutilized property. In Osceola County, hotels that have been underutilized for many years and have become eyesores on the tourist corridor have now been renovated to become attractive facilities. They have low entry costs for renters, offer affordable rents for tourist workers, and they are located close to the jobs on Osceola’s main tourist corridor. These conversions have resulted in attractive facilities that enhance the corridor and add to its value.

Thirty percent of Brevard’s households have only one person, and another 38% have two people. So while nearly seven in ten households have only one or two persons, smaller studio units—which could provide an adequate and less expensive housing alternative—comprise only 1% of the County’s housing units. Acknowledging the smaller impact these units have, and adjusting the fees accordingly, could result in an increase of studios in the County. In this country homeownership has been emphasized as the preferred model, but people at different stages of their lives have different housing needs. One thing that makes it easier for household to progress to homeownership is a stable and affordable rent. Projects such as this provide that.

The Teale New Haven will be redeveloped into an attractive place to live for Brevard’s workers who need affordable housing. Impact fees can be looked at as de facto land use policy—high fees can discourage development of certain types of property, and fees adjusted to reflect actual impact can make such development financially viable. Given that smaller household sizes and fewer children per household in these studio conversions justify lower impact fees for schools, adjusting impact fees to encourage this type of development represents a win-win for the County—it provides affordable housing while having minimal impact on public facilities.

VI. Appendices

APPENDIX A. IMPACT FEE STUDIES THAT USE CENSUS DATA

APPENDIX B. PROPORTIONAL IMPACT FEES IN FLORIDA

APPENDIX C. FLORIDA IMPACT FEE ACT, CH. 163.31801

APPENDIX D. ANALYSIS OF UNIT OCCUPANCY FOR BREVARD COUNTY

APPENDIX E. HUD FAIR HOUSING ENFORCEMENT—OCCUPANCY STANDARDS STATEMENT OF POLICY

APPENDIX F. PHOTOS OF THE TEALE KISSIMMEE

APPENDIX A. IMPACT FEE STUDIES THAT USE CENSUS DATA

SCHOOL IMPACT FEE STUDIES

Village of Schaumburg, Illinois

Impact Fee Study Technical Report

December 2022

[https://schaumburg.novusagenda.com/AgendaPublic/AttachmentViewer.ashx?
AttachmentID=47092&ItemID=23691](https://schaumburg.novusagenda.com/AgendaPublic/AttachmentViewer.ashx?AttachmentID=47092&ItemID=23691)

SCHOOL IMPACT FEE UPDATE

Town of Barrington, New Hampshire

January 2016

http://www.barrington.nh.gov/sites/g/files/vyhlf2766/f/uploads/2016_update_report_barrington_schlfees1.pdf

EDUCATIONAL SYSTEM IMPACT FEE STUDY

Clay County, Florida District Schools

November 2022

https://agenda.oneclay.net/content/files/impact-fee-resolution-1523_1.pdf

SOUTH BURLINGTON SCHOOL DISTRICT IMPACT FEE STUDY

City of South Burlington, Vermont

November 2022

[https://cms6.revize.com/revize/southburlington/Planning/Project%20Docs/SoBurl%20School%20Dist%
20Impact%20Fee%20Studyv2_9Nov22.pdf](https://cms6.revize.com/revize/southburlington/Planning/Project%20Docs/SoBurl%20School%20Dist%20Impact%20Fee%20Studyv2_9Nov22.pdf)

FACILITY FEE STUDY

Raleigh, North Carolina

Prepared by Duncan Associates in association with Kimley-Horn and Associates, Inc. and Dr. James C. Nicholas
April 2006

[https://cityofraleigh0drupal.blob.core.usgovcloudapi.net/drupal-prod/COR28/
FacilityFeeReportPhaseIIFINAL.pdf](https://cityofraleigh0drupal.blob.core.usgovcloudapi.net/drupal-prod/COR28/FacilityFeeReportPhaseIIFINAL.pdf)

APPENDIX B. PROPORTIONAL IMPACT FEES IN FLORIDA

Eight counties in Florida currently adjust impact fees based on unit size, underscoring the idea that smaller units exert less pressure on public infrastructure compared to larger ones. Seven of the eight use square footage as the measure, while Broward County adjusts impact fees based on the number of bedrooms. For example, studios or one-bedroom units incur a school impact fee that is just 8% of what is charged for a three-bedroom unit (see Table B1). For the seven counties that categorize units based on size, the minimum size ranges from 750 to 900 square feet (or less). Since the units at The Teale New Haven will be less than half this size, this information further validates the rationale for these alternative fee calculations.

Table B1. Proportional Impact Fees in Florida					
School Impact Fees			Size Thresholds (Square Feet)		
Jurisdiction	Smallest SF	Largest SF	Percent	Minimum	Maximum
Lake	\$2,504	\$7,976	31%	Up to 800 SF	2,500 or more
Seminole	\$4,900	\$8,700	56%	Up to 800 SF	2,301 or more
Martin	\$3,609	\$5,756	63%	Up to 800 SF	2,301 or more
Manatee	\$2,218	\$6,893	32%	Up to 750 SF	2,201 or more
Palm Beach	\$2,804	\$6,077	46%	Up to 800 SF	3,600 or more
St. Johns	\$1,777	\$8,707	20%	Up to 800 SF	5,000 or more
Hillsborough	\$1,645	\$10,976	15%	Up to 900 SF	3,400 or more
Broward	\$480	\$5,901	8%	1 bedroom or less	3 bedrooms or more
Source: The Teale New Haven LLC					

APPENDIX C. FLORIDA IMPACT FEE ACT, CH. 163.31801

The 2024 Florida Statutes

Chapter 163 INTERGOVERNMENTAL PROGRAMS

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

- (1) This section may be cited as the “Florida Impact Fee Act.”
- (2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments’ reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.
- (3) For purposes of this section, the term:
 - (a) “Infrastructure” means a fixed capital expenditure or fixed capital outlay, excluding the cost of repairs or maintenance, associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of at least 5 years; related land acquisition, land improvement, design, engineering, and permitting costs; and other related construction costs required to bring the public facility into service. The term also includes a fire department vehicle, an emergency medical service vehicle, a sheriff’s office vehicle, a police department vehicle, a school bus as defined in s. [1006.25](#), and the equipment necessary to outfit the vehicle or bus for its official use. For independent special fire control districts, the term includes new facilities as defined in s. [191.009](#)(4).
 - (b) “Public facilities” has the same meaning as in s. [163.3164](#) and includes emergency medical, fire, and law enforcement facilities.
- (4) At a minimum, each local government that adopts and collects an impact fee by ordinance and each special district that adopts, collects, and administers an impact fee by resolution must:
 - (a) Ensure that the calculation of the impact fee is based on a study using the most recent and localized data available within 4 years of the current impact fee update. The new study must be adopted by the local government within 12 months of the initiation of the new impact fee study if the local government increases the impact fee.
 - (b) Provide for accounting and reporting of impact fee collections and expenditures and account for the revenues and expenditures of such impact fee in a separate accounting fund.
 - (c) Limit administrative charges for the collection of impact fees to actual costs.
 - (d) Provide notice at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A local government is not required to wait 90 days to decrease, suspend, or eliminate an impact fee. Unless the result is to reduce the total mitigation costs or impact fees imposed on an applicant, new or increased impact fees may not apply to current or pending permit applications submitted before the effective date of a new or increased impact fee.
 - (e) Ensure that collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.
 - (f) Ensure that the impact fee is proportional and reasonably connected to, or has a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.
 - (g) Ensure that the impact fee is proportional and reasonably connected to, or has a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.

- (h) Specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving capital facilities to benefit new users.
- (i) Ensure that revenues generated by the impact fee are not used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or nonresidential construction.
- (5) (a) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, or resolution, the local government or special district that requires any improvement or contribution must credit against the collection of the impact fee any contribution, whether identified in a development order, proportionate share agreement, or any form of exaction related to public facilities or infrastructure, including monetary contributions, land dedication, site planning and design, or construction. Any contribution must be applied on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made.
- (b) If a local government or special district does not charge and collect an impact fee for the general category or class of public facilities or infrastructure contributed, a credit may not be applied under paragraph (a).
- (6) A local government, school district, or special district may increase an impact fee only as provided in this subsection.
- (a) An impact fee may be increased only pursuant to a plan for the imposition, collection, and use of the increased impact fees which complies with this section.
- (b) An increase to a current impact fee rate of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.
- (c) An increase to a current impact fee rate which exceeds 25 percent but is not more than 50 percent of the current rate must be implemented in four equal installments beginning with the date the increased fee is adopted.
- (d) An impact fee increase may not exceed 50 percent of the current impact fee rate.
- (e) An impact fee may not be increased more than once every 4 years.
- (f) An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.
- (g) A local government, school district, or special district may increase an impact fee rate beyond the phase-in limitations established under paragraph (b), paragraph (c), paragraph (d), or paragraph (e) by establishing the need for such increase in full compliance with the requirements of subsection (4), provided the following criteria are met:
1. A demonstrated-need study justifying any increase in excess of those authorized in paragraph (b), paragraph (c), paragraph (d), or paragraph (e) has been completed within the 12 months before the adoption of the impact fee increase and expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations.
 2. The local government jurisdiction has held not less than two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the phase-in limitations set forth in paragraph (b), paragraph (c), paragraph (d), or paragraph (e).
 3. The impact fee increase ordinance is approved by at least a two-thirds vote of the governing body.
- (h) This subsection operates retroactively to January 1, 2021.
- (7) If an impact fee is increased, the holder of any impact fee credits, whether such credits are granted under s. [163.3180](#), s. [380.06](#), or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. If a local government adopts an alternative transportation system pursuant to s. [163.3180](#)(5)(i), the holder of any

transportation or road impact fee credits granted under s. [163.3180](#) or s. [380.06](#) or otherwise that were in existence before the adoption of the alternative transportation system is entitled to the full benefit of the intensity and density prepaid by the credit balance as of the date the alternative transportation system was first established.

(8) A local government, school district, or special district must submit with its annual financial report required under s. [218.32](#) or its financial audit report required under s. [218.39](#) a separate affidavit signed by its chief financial officer or, if there is no chief financial officer, its executive officer attesting, to the best of his or her knowledge, that all impact fees were collected and expended by the local government, school district, or special district, or were collected and expended on its behalf, in full compliance with the spending period provision in the local ordinance or resolution, and that funds expended from each impact fee account were used only to acquire, construct, or improve specific infrastructure needs.

(9) In any action challenging an impact fee or the government's failure to provide required dollar-for-dollar credits for the payment of impact fees as provided in s. [163.3180](#)(6)(h)2.b., the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee or credit meets the requirements of state legal precedent and this section. The court may not use a deferential standard for the benefit of the government.

(10) Impact fee credits are assignable and transferable at any time after establishment from one development or parcel to any other that is within the same impact fee zone or impact fee district or that is within an adjoining impact fee zone or impact fee district within the same local government jurisdiction and which receives benefits from the improvement or contribution that generated the credits. This subsection applies to all impact fee credits regardless of whether the credits were established before or after June 4, 2021.

(11) A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. [420.9071](#). If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

(12) This section does not apply to water and sewer connection fees.

(13) In addition to the items that must be reported in the annual financial reports under s. [218.32](#), a local government, school district, or special district must report all of the following information on all impact fees charged:

- (a) The specific purpose of the impact fee, including the specific infrastructure needs to be met, including, but not limited to, transportation, parks, water, sewer, and schools.
- (b) The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, or tiered scales based on square footage.
- (c) The amount assessed for each purpose and for each type of dwelling.
- (d) The total amount of impact fees charged by type of dwelling.
- (e) Each exception and waiver provided for construction or development of housing that is affordable.

APPENDIX D. ANALYSIS OF UNIT OCCUPANCY FOR BREVARD COUNTY

Studio apartments have a unique characteristic that allows the application of certain Census data to individual units. The Census Bureau has been compiling data on overcrowding for well over a century, initially for tracking of overcrowded housing conditions in tenements. For our purposes, the data used to estimate overcrowding—number of rooms in a unit (Table D1) and number of persons per room in a household (Table 3)—can be combined to estimate occupancy of studio apartments, because a studio apartment generally comprises one room with a kitchenette along one wall, or two rooms if the kitchen is separated.

The Census Bureau releases these correlated data as a variable called *Occupants Per Room*. In Brevard County, 98.5% of occupied housing units have 1 or fewer occupants per room, while 1.2% have 1 to 1.5 occupants per room, and 0.4% have 1.51 occupants or more. (Table D2.)

Table D1. Rooms per Housing Unit		
Housing Units	Brevard	
Total	294,461	
1 room	3,009	1%
2 rooms	5,179	2%
3 rooms	20,085	7%
4 rooms	49,760	17%
5 rooms	66,437	23%
6 rooms	59,159	20%
7 rooms	38,154	13%
8 rooms	27,249	9%
9 or more rooms	25,429	9%
Source: US Census, ACS, B25017, 2023		

Estimate of students in studio units. The *Occupants Per Room* variable can be used to provide an estimate of studio apartment occupancy. This same calculation cannot be done for larger units (because those units have rooms that are not bedrooms but would be counted toward occupancy). Knowing number of occupants per room allows us to make an assumption about the percentage of households living in these units that are single-person households or two-person households. (While potentially more than two persons could live in a studio, this developer is limiting occupancy to two persons.) It is safe to assume that it is extremely unlikely people in single-person households are school-aged children, and the percentage of school-aged children in two-person households living in these units also is likely to be small.

Table D2. Occupants Per Room		
	Brevard	
Occupied housing units (households)	251,889	
0.50 or less occupants per room	196,350	78.0%
0.51 to 1.00 occupants per room	51,668	20.5%
1.01 to 1.50 occupants per room	2,968	1.2%
1.51 to 2.00 occupants per room	739	0.3%
2.01 or more occupants per room	164	0.1%
Source: US Census American Community Survey, B25014, 2023		

Studio housing units represent 1.0% of the total Brevard County inventory of 294,461 units. As mentioned above, 98.5% of Brevard’s dwelling units have one or fewer persons per room. (This is calculated by adding up all rooms in a dwelling unit and dividing by the number of people in the unit, so a three-bedroom house with a living room, dining room, and kitchen occupied by three people would have six rooms, three people – 0.5 people per room.) Based on occupants per room, Table D3 shows an estimate of the number of people in the County’s 3,009 one-room units. In each case, the upper end of the range was used to estimate persons in

the unit, with the exception of the three units with more than two persons, which was estimated at two persons. The resulting estimate is 2,963 people in one-person households and 92 people in 46 two-person households.

Table D3. Occupants in Studio Housing Units, Brevard County 2023				
People per room	% of total units	Studios		
		Units	People per unit	People
0.5 or less	78.0%	2,346	1	2,347
0.51 to 1	20.5%	617	1	617
1-person households		2,963		2,963
1.01 to 1.5	1.2%	35	2	72
1.51 to 2	0.3%	9	2	12
More than 2	0.1%	2	2	6
2-person households		46		92
Total	100%	3009		3055
Source: US Census American Community Survey, B25014, 2023; Table 3.				
Notes:				
1. People per unit were rounded up to eliminate 1/2 persons.				
2. The "More than 2" category was held at 2, generally the maximum occupancy for a studio unit.				

How many occupants are school-aged children. Even if a studio unit has more than one occupant, the likelihood that one of those occupants is a school-aged child is small. For those households that may have children, the other occupant is most likely a single parent.

In Brevard County, single-parent households with children under 18 (which would include school-aged and preschool-aged children) comprise 6.4% (16,001) of all households (Table D4). This number is derived by adding the number of households with male or female householders, no spouse present, that have children under 18.

To provide a conservative estimate of studio units occupied by parents with school-aged children, we assume that 6.4% of the two-person households in studio apartments comprise a parent with a school-aged child. (This estimate is conservative because the likelihood that studio units would have the same percentage of families with children as the general household population is small.) Consequently, the number of multi-person households (from Table D3) with school-aged children is estimated to be 3 (6.4% of 46 households). Given these assumptions, the estimated number of children in these units is 2 (half of 3 is 1.5, rounded up to 2).

Table D4. Household Type and Size, Brevard County 2023					
Subject	Total Households	Family Households			Nonfamily Households
		Married couple	Male householder, no wife present	Female householder, no husband present	
Total households	251,889	123,135	10,442	25,396	91,916
Average household size	2.43	3.05	3.25	3.52	1.23
FAMILIES					
Total families	158,973	123,135	10,442	25,396	(X)
Average family size	3.04	3.02	2.88	3.21	(X)
With own children under 18	51,245	35,244	4,406	11,595	(X)
Source: US Census Bureau, American Community Survey, S1101, 2023					

Student generation rate. The above calculations result in an estimate of 2 children for 3,009 studio apartments, for a student generation rate of 0.001, far lower than the overall multi-family student generation rate of 0.115 in the Brevard impact fee study (Table VI-10). Using the \$33,746 net impact cost per Table VI-11 of the impact fee study, the impact fee per unit for The Teale New Haven would be $\$33,746 \times 0.001 = \33.75 per unit. For 245 units, the total fee would be \$8,268.75.

(Note: this analysis includes all children, not just students, whereas the impact fee study done in 2015 counts only students. Because it is not possible at this time to narrow down this count to school-aged children, all children have been left in the count.)

Best
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Friday
December 18, 1998

Part IV

Department of
Housing and Urban
Development

Fair Housing Enforcement—Occupancy
Standards Statement of Policy; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4405-N-01]

Fair Housing Enforcement—Occupancy Standards Notice of Statement of Policy

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of statement of policy.

SUMMARY: This statement of policy advises the public of the factors that HUD will consider when evaluating a housing provider's occupancy policies to determine whether actions under the provider's policies may constitute discriminatory conduct under the Fair Housing Act on the basis of familial status (the presence of children in a family). Publication of this notice meets the requirements of the Quality Housing and Work Responsibility Act of 1998.

DATES: Effective date: December 18, 1998.

FOR FURTHER INFORMATION CONTACT: Sara Pratt, Director, Office of Investigations, Office of Fair Housing and Equal Opportunity, Room 5204, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-2290 (not a toll-free number). For hearing- and speech-impaired persons, this telephone number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (toll-free).

SUPPLEMENTARY INFORMATION:

Statutory and Regulatory Background

Section 589 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998, "QHWRA") requires HUD to publish a notice in the *Federal Register* that advises the public of the occupancy standards that HUD uses for enforcement purposes under the Fair Housing Act (42 U.S.C. 3601-3619). Section 589 requires HUD to publish this notice within 60 days of enactment of the QHWRA, and states that the notice will be effective upon publication. Specifically, section 589 states, in relevant part, that:

[T]he specific and unmodified standards provided in the March 20, 1991, Memorandum from the General Counsel of [HUD] to all Regional Counsel shall be the policy of [HUD] with respect to complaints of discrimination under the Fair Housing Act . . . on the basis of familial status which involve an occupancy standard established by a housing provider.

The Fair Housing Act prohibits discrimination in any aspect of the sale,

rental, financing or advertising of dwellings on the basis of race, color, religion, national origin, sex or familial status (the presence of children in the family). The Fair Housing Act also provides that nothing in the Act "limits the applicability of any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling." The Fair Housing Act gave HUD responsibility for implementation and enforcement of the Act's requirements. The Fair Housing Act authorizes HUD to receive complaints alleging discrimination in violation of the Act, to investigate these complaints, and to engage in efforts to resolve informally matters raised in the complaint. In cases where the complaint is not resolved, the Fair Housing Act authorizes HUD to make a determination of whether or not there is reasonable cause to believe that discrimination has occurred. HUD's regulations, implementing the Fair Housing Act (42 U.S.C. 3614) are found in 24 CFR part 100.

In 1991, HUD's General Counsel, Frank Keating, determined that some confusion existed because of the absence of more detailed guidance regarding what occupancy restrictions are reasonable under the Act. To address this confusion, General Counsel Keating issued internal guidance to HUD Regional Counsel on factors that they should consider when examining complaints filed with HUD under the Fair Housing Act, to determine whether or not there is reasonable cause to believe discrimination has occurred.

This Notice

Through this notice HUD implements section 589 of the QHWRA by adopting as its policy on occupancy standards, for purposes of enforcement actions under the Fair Housing Act, the standards provided in the Memorandum of General Counsel Frank Keating to Regional Counsel dated March 20, 1991, attached as Appendix A.

Authority: 42 U.S.C. 3535(d), 112 Stat. 2461.

Dated: December 14, 1998.

Eva M. Plaza,

Assistant Secretary for Fair Housing and Equal Opportunity.

Appendix A.

March 20, 1991.

MEMORANDUM FOR: All Regional Counsel
FROM: Frank Keating, G
SUBJECT: Fair Housing Enforcement Policy: Occupancy Cases

On February 21, 1991, I issued a memorandum designed to facilitate your review of cases involving occupancy policies under the Fair Housing Act. The

memorandum was based on my review of a significant number of such cases and was intended to constitute internal guidance to be used by Regional Counsel in reviewing cases involving occupancy restrictions. It was not intended to create a definitive test for whether a landlord or manager would be liable in a particular case, nor was it intended to establish occupancy policies or requirements for any particular type of housing.

However, in discussions within the Department, and with the Department of Justice and the public, it is clear that the February 21 memorandum has resulted in a significant misunderstanding of the Department's position on the question of occupancy policies which would be reasonable under the Fair Housing Act. In this respect, many people mistakenly viewed the February 21 memorandum as indicating that the Department was establishing an occupancy policy which it would consider reasonable in any fair housing case, rather than providing guidance to Regional Counsel on the evaluation of evidence in familial status cases which involve the use of an occupancy policy adopted by a housing provider.

For example, there is a HUD Handbook provision regarding the size of the unit needed for public housing tenants. See Handbook 7465.1 REV-2, Public Housing Occupancy Handbook: Admission, revised section 5-1 (issued February 12, 1991). While that Handbook provision states that HUD does not specify the number of persons who may live in public housing units of various sizes, it provides guidance about the factors public housing agencies may consider in establishing reasonable occupancy policies. Neither this memorandum nor the memorandum of February 21, 1991 overrides the guidance that Handbook provides about program requirements.

As you know, assuring Fair Housing for all is one of Secretary Kemp's top priorities. Prompt and vigorous enforcement of all the provisions of the Fair Housing Act, including the protections in the Act for families with children, is a critical responsibility of mine and every person in the Office of General Counsel. I expect Headquarters and Regional Office staff to continue their vigilant efforts to proceed to formal enforcement in all cases in which there is reasonable cause to believe that a discriminatory housing practice under the Act has occurred or is about to occur. This is particularly important in cases where occupancy restrictions are used to exclude families with children or to unreasonably limit the ability of families with children to obtain housing.

In order to assure that the Department's position in the area of occupancy policies is fully understood, I believe that it is imperative to articulate more fully the Department's position on reasonable occupancy policies and to describe the approach that the Department takes in its review of occupancy cases.

Specifically, the Department believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act. The Department of Justice has advised us that this is the

general policy it has incorporated in consent decrees and proposed orders, and such a general policy also is consistent with the guidance provided to housing providers in the HUD handbook referenced above.

However, the reasonableness of any occupancy policy is rebuttable, and neither the February 21 memorandum nor this memorandum implies that the Department will determine compliance with the Fair Housing Act based solely on the number of people permitted in each bedroom. Indeed, as we stated in the final rule implementing the Fair Housing Amendments Act of 1988, the Department's position is as follows:

[T]here is nothing in the legislative history which indicates any intent on the part of Congress to provide for the development of a national occupancy code. * * *

On the other hand, there is no basis to conclude that Congress intended that an owner or manager of dwellings would be unable to restrict the number of occupants who could reside in a dwelling. Thus, the Department believes that in appropriate circumstances, owners and managers may develop and implement reasonable occupancy requirements based on factors such as the number and size of sleeping areas or bedrooms and the overall size of the dwelling unit. In this regard, it must be noted that, in connection with a complaint alleging discrimination on the basis of familial status, the Department will carefully examine any such nongovernmental restriction to determine whether it operates unreasonably to limit or exclude families with children.

24 C.F.R. Chapter I, Subchapter A, Appendix I at 566-67 (1990).

Thus, in reviewing occupancy cases, HUD will consider the size and number of bedrooms and other special circumstances. The following principles and hypothetical examples should assist you in determining whether the size of the bedrooms or special circumstances would make an occupancy policy unreasonable.

Size of bedrooms and unit

Consider two theoretical situations in which a housing provider refused to permit a family of five to rent a two-bedroom dwelling based on a "two people per bedroom" policy. In the first, the complainants are a family of five who applied to rent an apartment with two large bedrooms and spacious living areas. In the second, the complainants are a family of five who applied to rent a mobile home space on

which they planned to live in a small two-bedroom mobile home. Depending on the other facts, issuance of a charge might be warranted in the first situation, but not in the second.

The size of the bedrooms also can be a factor suggesting that a determination of no reasonable cause is appropriate. For example, if a mobile home is advertised as a "two-bedroom" home, but one bedroom is extremely small, depending on all the facts, it could be reasonable for the park manager to limit occupancy of the home of two people.

Age of children

The following hypotheticals involving two housing providers who refused to permit three people to share a bedroom illustrate this principle. In the first, the complainants are two adult parents who applied to rent a one-bedroom apartment with their infant child, and both the bedroom and the apartment were large. In the second, the complainants are a family of two adult parents and one teenager who applied to rent a one-bedroom apartment. Depending on the other facts, issuance of a charge might be warranted in the first hypothetical, but not in the second.

Configuration of unit

The following imaginary situations illustrate special circumstances involving unit configuration. Two condominium associations each reject a purchase by a family of two adults and three children based on a rule limiting sales to buyers who satisfy a "two people per bedroom" occupancy policy. The first association manages a building in which the family of the five sought to purchase a unit consisting of two bedrooms plus a den or study. The second manages a building in which the family of five sought to purchase a two-bedroom unit which did not have a study or den. Depending on the other facts, a charge might be warranted in the first situation, but not in the second.

Other physical limitations of housing

In addition to physical considerations such as the size of each bedroom and the overall size and configuration of the dwelling, the Department will consider limiting factors identified by housing providers, such as the capacity of the septic, sewer, or other building systems.

State and local law

If a dwelling is governed by State or local governmental occupancy requirements, and the housing provider's occupancy policies reflect those requirements, HUD would consider the governmental requirements as a special circumstance tending to indicate that the housing provider's occupancy policies are reasonable.

Other relevant factors

Other relevant factors supporting a reasonable cause recommendation based on the conclusion that the occupancy policies are pretextual would include evidence that the housing provider has: (1) made discriminatory statements; (2) adopted discriminatory rules governing the use of common facilities; (3) taken other steps to discourage families with children from living in its housing; or (4) enforced its occupancy policies only against families with children. For example, the fact that a development was previously marketed as an "adults only" development would militate in favor of issuing a charge. This is an especially strong factor if there is other evidence suggesting that the occupancy policies are a pretext for excluding families with children.

An occupancy policy which limits the number of *children* per unit is less likely to be reasonable than one which limits the number of *people* per unit.

Special circumstances also may be found where the housing provider limits the total number of dwellings he or she is willing to rent to families with children. For example, assume a landlord owns a building of two-bedroom units, in which a policy of four people per unit is reasonable. If the landlord adopts a four person per unit policy, but refuses to rent to a family of two adults and two children because twenty of the thirty units already are occupied by families with children, a reasonable cause recommendation would be warranted.

If your review of the evidence indicates that these or other special circumstances are present, making application of a "two people per bedroom" policy unreasonably restrictive, you should prepare a reasonable cause determination. The Executive Summary should explain the special circumstances which support your recommendation.

[FR Doc. 98-33568 Filed 12-17-98; 8:45 am]

BILLING CODE 4210-28-M

APPENDIX F. PHOTOS OF THE TEALE KISSIMMEE



The Teale Kissimmee

- Exterior—improved facades, re-landscaped
- Lobby area also serves as a place to hold social events
- Pool area includes bbq grills, seating
- Apartments equipped with full kitchens, built in shelving
- Units completely renovated—new fixtures and finishes
- On-site laundry includes an app to notify residents when wash/dry cycles are completed
- Amenities not pictured: fitness room, daily valet trash pickup

