

## Idaho Property Tax Updates: The Wheels of Justice Turn Slowly: Sewer Fee Litigation Drags On

Legal Alert  
March 2019  
*American Property Tax Counsel*

### Related Services

Property Tax  
State & Local Tax  
Tax

Idaho has frequent litigation over city-imposed fees that may be illegal taxes in disguise. In March 2015 we reported on a case involving a “sewer capitalization fee” charged by the city of Hayden. The trial court upheld the fee, but the Supreme Court reversed and remanded for further proceedings. The two opinions from the Supreme Court (a 3-justice majority opinion and a 2-justice concurrence) produced confusion on remand. The confusion was compounded by a 2017 case from the opposite corner of the state involving wastewater charges by the city of Blackfoot. The Supreme Court’s Blackfoot opinion discussed its Hayden decision in a way that, in hindsight, was misleading. Meanwhile, the Hayden case was reprocessed by the trial court with the city losing this time. The case then took a second trip to the Supreme Court and in late December was reversed and remanded for still more proceedings. The city of Hayden lives to fight another day!