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## Ruling frames battle over school impact fee

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DELAND -- The Volusia Home Builders Association claimed a victory Tuesday in its battle with the School Board over impact fees to help pay for new schools, saying a judge's ruling reopens debate about how much the schools can charge.

"We know we're going to have school impact fees," said homebuilders' attorney Allen Watts. "The only question is what is the right amount."

Despite the victory, the ruling on a legal fine point appeared to open a new round of questions about whether the new fees, which became effective June 6, will continue to be collected.

Trying to get a grip on growth, the School Board in January endorsed a plan to quadruple the fee on new home construction to \$5,443. At the Board's request, the County Council later passed an ordinance that included the change.

In April, the home builders association mounted a legal challenge, saying the School Board did not follow proper procedure before turning the matter over to the council.

In a written order issued Tuesday, Judge Don Davis of the Division of Administrative Hearings in Tallahassee agreed, saying the School Board had engaged in "rulemaking" without meeting all the legal requirements for doing so.

What exactly that means was open for debate Tuesday.

Watts said he expects the School Board to start the process of "rulemaking" from the beginning, getting affected parties like the homebuilders involved from the start.

"I want to emphasize the home builders do not oppose school impact fees," he said. "We did oppose this one because we believe it was adopted through a faulty process and based on faulty data."

Watts said he thinks the county ordinance is dependent on the rule, but deferred questions to the county attorney about whether the county, which collects the money for the School Board, can continue to collect the additional fee.

County attorney Dan Eckert declined to give an interpretation Tuesday.

"We're going to have to review the order and discuss it with (school) district staff," he said.

The School Board endorsed the fee hike in order to make new development help pay for its impact on schools. Enrollment is projected to grow from about 65,400 this year to 92,000 over the next 15 years.

District officials have estimated costs for providing classrooms, buses and related school facilities for each new student at \$23,856.

The board based its fee on a report by Tindale-Oliver & Associates of Orlando that was commissioned after builders balked at Deputy Superintendent Bill Kelly's earlier recommended increase to \$3,165.

Currently, the new fees -- that is, the difference between the prior and current rates -- are being accounted for separately and not being spent, said Alex Ford, an attorney representing the School Board.

He disputed the effect of the ruling and said the School Board may have several options, including an appeal or, possibly, doing nothing at all. He said he would work with the district to decide what comes next.

"It does not appear to me that (the ruling) does anything with regard to the county ordinance (that raised the fee,)" Ford said.

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## IMPACT FEES

\$5,443 Impact fee on new home construction

65,400 Projected enrollment at Volusia County schools this year

92,000 Projected enrollment at Volusia County schools in the next 15 years

\$23,856 Estimated cost to provide classrooms, buses and facilities for each new students.

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