

## Impact fees are valid

By Staff Reports · heraldonline.com FTP

Published 04/14/08 - 12:00 AM | [Comment on this story](#)

A developer of a Tega Cay retirement community has appealed to the 16th Circuit Court of Common Pleas to exempt his project from paying school impact fees. We hope the court rejects that appeal.

Stone-crest Villas, the project in question, is primarily a 55-and-older community. The developer, Frankhauser Property Group, argues that the older residents would not have children of school age and would not put new strains on the school district.

The impact fees assessed for this project total \$225,000. While the money would go to the Fort Mill school district, York County collects the fees and turns them over to the district. While the council has the discretion to grant waivers, members said during a January hearing that they were leery of setting a bad precedent in this case.

Fort Mill took advantage of a window of opportunity in 1999 by adopting local school impact fees just two months before the state banned development impact fees. Fort Mill now is the only district in York County and one of only two in the state to assess the fees.

S.C. Attorney General Henry McMaster recently issued a legal opinion regarding York County's impact fees. While he said the fees must be presumed valid, he recommended that the courts review changes in 2003 and 2005 to the impact fee ordinance. Among the changes was the elimination of waivers of impact fees for retirement and low-income housing.

The villas qualify as housing for older persons under federal law with 80 percent of residents aged 55 and older. No school-age children currently live there.

Nonetheless, we think the county has valid reasons for denying such waivers. Foremost, the county is in no position to determine the specific impact each new residential development will have on the school district.

While Stonecrest Villas might not have children of school age, residents of that community clearly benefit from Fort Mill's highly regarded school system. Good schools are a big part of the reason so many new residents have flocked to Fort Mill in recent years. That growth also has spawned a host of restaurants, services and other amenities that improve the quality of life for residents of the Villas along with the rest of the community.

Any fees or taxes that benefit local school districts ultimately serve the interests of the entire community, not just those with children who attend the schools. Taxpayers have never been exempted from school taxes simply because they have no children in the district, nor should they be.

It also is possible that some school-age children will live in the Villas someday. If the residential makeup of that community changes in the future, the district would have lost its chance to assess impact fees.

Total impact fees are \$225,000, but the cost of condos in the Villas start at \$190,000, and more than two-thirds of them already have been sold. We suspect that buyers are willing to absorb their fair share of the impact fees

if they have to.

Why wouldn't they? Many of them no doubt were attracted to the community because the state last year eliminated personal property taxes for school operations. If they came here from out of state, their school taxes might have been far higher.

The county is right that granting a waiver would set a bad precedent. We hope the court upholds the county's right to assess impact fees fairly and evenly across the board.

IN SUMMARY

Court should uphold right of county to collect impact fees from all residential developments.

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