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Published June 30 2010

Appeals court rejects challenge to town's impact free process

In a decision released last week, Wisconsin's District III Court of Appeals upheld a judgment dismissing the St. Croix Home Builders Association's challenge to a town's impact fees.

By: **Judy Wiff**, Pierce County Herald

TOWN OF OAK GROVE--In a decision released last week, Wisconsin's District III Court of Appeals upheld a judgment dismissing the St. Croix Home Builders Association's challenge to a town's impact fees.

The three-judge panel ruled the association should have used mechanisms in the Town of Oak Grove ordinance to contest the impact fees rather than taking the matter to court.

In March 2008, the Home Builders Association--a trade association of real estate developers, homebuilders and construction subcontractors--sued the Pierce County Town of Oak Grove, asking the county court to declare the town's impact fee ordinance invalid and order the town to refund any fees collected. The suit asked Oak Grove be ordered to repay over \$453,000.

Under Wisconsin law, municipalities are allowed to impose a fee on people seeking to build or create a land development. The purpose of the fee is to charge developers a part of the costs the municipality would incur to expand or build public facilities as a result of development.

Oak Grove used a needs assessment to identify costs it anticipated from development, adopted an ordinance in 2003 and set its impact fee at \$3,190 per house. That included a road improvement fee of \$2,590, a fire protection facilities fee of \$380 and a fire protection well fee of \$220.

In January 2008, the town updated its needs assessment and adopted a new ordinance, but kept the fee at \$3,190.

For more please read the June 30 print version of the Herald.

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