

Builders sue Syracuse over impact fees

A coalition of home builders has filed a complaint in 2nd District Court against Syracuse for an unspecified dollar amount, alleging the city assesses "illegal" and "improper" impact fees.

But Mayor Jamie Nagle, who was served with the lawsuit last week, said the city's impact fees are legal.

"We have to make sure (builders) are not saddling the city with the impacts they are creating," Nagle said. "We want to be sure future residents don't have to be impacted."

The complaint against the city was filed May 12 by the Salt Lake City law firm of Anderson, Call & Wilkinson. The plaintiffs are Benchmark Homes; Benchmark Real Estate Company; Castle Creek Homes LLC; Ivory Homes LTD; Nilson and Company Inc; Nilson Homes; and Mike Schultz Construction Inc.

The complaint allows the home builders to challenge the impact fees Syracuse is assessing, hoping the city will make an adjustment, said attorney Craig Call, legal counsel for the home builders.

"I don't think we are that far apart," Call said of the city and the group he represents.

Call said he is confident the litigation will not be decided by a judge.

In the complaint, the home builders contend that Syracuse has required them to pay "illegal" and "inequitable" impact fees adopted by the city based on improper, faulty capital facilities plans and impact fee analyses that do not conform to the requirements of the Utah Impact Fee Act in Utah Code.

As a result, the plaintiffs contend that where those impact fees have been charged, they are entitled to recover as damages all impact fees paid to the city.

Plaintiffs are also entitled to recover such other damages suffered as a result of the imposition of the impact fees, including court costs and attorney fees, an amount as established at the time of trial, the complaint states.

The home builders are not alleging Syracuse has too many impact fees, Call said.

"The question is, is the (dollar) amount right?" he said. "And is there evidence to support the amount?"

Nagle said she is frustrated because she told home builder representatives weeks ago they would see movement in the city's impact fees as Syracuse works toward adjusting the fees to stimulate residential and commercial growth.

"They never disclosed they had filed," she said of the complaint. "Nowhere in that conversation did they indicate they were considering a lawsuit.

"The thing that is unfortunate in this thing now is that the attorneys win," she said of the legal cost the city and home builders will incur.

Because of the complaint, she said, city representatives will be unable to talk with the home builders without having city legal counsel Todd Godfrey present.

The complaint comes on the heels of Syracuse's recently having to pay a settlement of \$158,623 to Woodside Homes of Salt Lake City over a payback agreement and improvements made to a residential development.

The city agreed to a settlement with Woodside Homes, reached through a mediator, to save legal costs the city can ill afford to pay, Nagle said.

Meanwhile, at its meeting Sept. 14, the council will vote on reducing its park and culinary water impact fee.

A person is always reluctant to litigate, Call said, but the home builders do not anticipate any repercussions from Syracuse as a result of filing the complaint regarding their being able to develop there.

"You can't just talk and talk and talk. You have to draw a line," Call said of submitting the legal challenge.

The city had been considering looking at its impact fees, Call admits.

"We are very grateful the city on its own wanted to talk about it, too."