



## **Builders withdraw impact-fee suit against Bentonville**

By Tracy M. Neal Staff Writer // [tracyn@nwanews.com](mailto:tracyn@nwanews.com)

Posted on Saturday, August 2, 2008

URL: <http://www.nwanews.com/bcdr/News/64367/>

BENTONVILLE — The Northwest Arkansas Home Builders Association announced Friday its intentions to withdraw the impact suit it lodged several years ago against the city of Bentonville.

“ We believe removing the barriers of communication can be the first step to improving the path to home ownership in Bentonville, ” W. P. Burckart, one of the plaintiffs in the case said in a press release. “ It is in this spirit of cooperation we are withdrawing the impact fee lawsuit, and pledge our effort to promote a positive working environment with the new administration of the city of Bentonville. ”

Rogers attorney Ronald Boyer, who represents the home builders group, said the association looks forward to working with the city of Bentonville to recover from the local housing downturn and to move forward with common goals. “ While we believe firmly in the legal and factual basis of the lawsuit, we understand the need in this environment for the association to withdraw this lawsuit in an effort to encourage cooperation, ” Boyer said.

Bentonville Mayor Bob Mc-Caslin said he is grateful for the builders association decision to withdraw the suit. Mc-Caslin said he and other city officials recognize that there is a downturn in building and they are looking forward to working with builders to strengthening the market.

The lawsuit involves Bentonville’s impact and capacity fees — fees that developers or builders must pay when developing new land. The fees are ultimately passed on to the person or entity that buys the home or office.

Impact fees stem from the concept that if a development creates a change in sewer, water or fire protection, the developer must pay to handle those additional needs.

On Jan. 8, 2002, the Bentonville City Council enacted a city sewer-capacity fee ordinance, a water-capacity fee ordinance and a fire impact fee ordinance, all of which became effective July 1, 2002.

The lawsuit charges that the city’s impact fees amount to a tax; that the ordinances setting the fees are without authority from the state; and that the ordinances are not constitutional.

The plaintiffs are listed as Burckart, Musson Custom Buildings, Christopher Trudo (doing business as Christopher Homes ), and the Northwest Arkansas Home Builders

Association, a nonprofit organization.

The suit was originally filed in Benton County Circuit Court on July 9, 2003. The plaintiffs asserted a federal constitutional claim against the city, saying the impact fee ordinance did not comply with the U. S. Constitution. The federal court decided there were no questions at the federal level.

The case was sent back to Benton County Circuit Court.

Copyright © 2001-2008 Arkansas Democrat-Gazette, Inc. All rights reserved.  
Contact: [webmaster@nwanews.com](mailto:webmaster@nwanews.com)