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Building Industry Association says county traffic fees too steep

By: GIG CONAUGHTON - Staff Writer

SAN DIEGO ---- Calling it an illegal tax, the local building association sued the county of San Diego on Wednesday and asked the courts to throw out the county's new fees to make developers pay for new roads.

Supervisors adopted what is called traffic impact fees in April, and they are set to go in effect in the middle of this month.

But building industry representatives and developers of small commercial projects, such as shopping centers, office buildings and industrial complexes, say the county fees are so steep that they will be forced out of business.

Paul Tryon, president of the Building Industry Association of San Diego County, said the suit will ask the courts to invalidate the county's fees, toss them out, and order the county to start over.

The suit alleges the county used "illegal" methods that overcharge developers for traffic impacts to create their new fees.

Supervisors said they were legally prohibited from discussing the challenge Wednesday. County lawyers said they had not yet reviewed the 40-page lawsuit.

Each of the five county supervisors said two months ago that they were also unhappy about the fees when they adopted them. But in a 4-1 vote April 13, the majority said they "had no choice" but to approve the fees.

County officials said they desperately needed the fees to unclog a "de facto" moratorium on backcountry home building caused by changes to California laws that require all developments to have extremely expensive, extremely broad traffic studies.

County planners said they created the fees by requiring future residential, retail, office and industrial developments to pony up \$909 million ---- a figure Tryon said was exorbitant ---- over the next 40 years to build new roads that will be needed as development creates more traffic in the unincorporated county.

County planners said the new fee would give residential builders a cheaper alternative to the traffic studies, which can cost \$20,000 to \$30,000, and unclog a jam of roughly 270 projects that have been on hold for as long as 18 months.

In addition, county planners said developers could still opt out of paying the fees by completing the state-required traffic studies.

But Building Industry Association of San Diego officials cried foul again Wednesday as they filed their lawsuit, in which the association was joined by the San Diego chapter of the National Association of Industrial and Office Properties.

They said the county's claim that developers could opt out and do their own traffic studies was a mirage, because those traffic studies would now use the county's \$909 million list of roads as a guideline for impacts that need to be addressed by builders.

And Tryon said the commercial fees were so high that they would ask builders to spend as much in fees as they would in actual building costs, in some areas.

"We want to pay our fair share, but these fees are as high as \$62 a square foot in some places," he said. "Heck, you can build a whole building for \$70 a square foot in some cases."

In a written news release, the association said that \$62 per square foot fee "translates into a \$2.48 million tax on a typical 40,000 square-foot grocery store, rendering the project completely infeasible."

Tryon said the fees were five to 10 times higher than in other areas of the country.

Effective this month, the new residential fees for unincorporated communities will range from \$2,938 per home in desert areas to \$10,255 per home in Fallbrook.

The commercial building fees, meanwhile, will range from \$8.13 per square foot for small shopping centers and stores in backcountry mountain areas in Julian, to more than \$30 per square foot in Bonsall, and higher in other parts of the unincorporated county.

Tryon and other building association leaders said the county's plan had "several flaws." Tryon said the county seriously overestimated, at \$909 million, how much money it needed to offset traffic impacts. Association officials said their own study suggested the county needs about \$570 million.

Tryon also said the county did not take revenue it expects to get from the recently approved TransNet extension to pay for road work. TransNet is the half-cent sales tax voters extended for 40 years in November, beginning in 2008.

However, county planners said the TransNet money would only pay for the \$700 million worth of road improvements that needed to offset current traffic congestion in the unincorporated county.

They said they used the county's still-incomplete General Plan 2020 growth guide, and traffic studies by the San Diego Association of Governments, for their traffic-impact estimates.

Tryon said the association believes it could take a few months for the courts to hear the suit.

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