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Court fight looms over impact fee

NW Fire sues major developer to collect new charge

By Dan Sorenson

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A crowd is gathering for the Dec. 19 showdown in Pima County Superior Court over Lennar/US Home's refusal to pay the Northwest Fire/Rescue District's new impact fee.

The fire district's chief says he's been receiving calls from fire districts around the state that are interested in the case, in which US Home is the surrogate for members of the Southern Arizona Home Builders Association refusing to pay the district's Facilities Benefit Assessment fees on new construction.

The fire district's governing board adopted the fees last December. It set the fees at \$387 for new single-family houses and \$296 per unit for apartments and all other residential types. Commercial building fees range from \$233 to \$818 per 1,000 square feet.

Chief Jeff Piechura said the district had billed \$656,000 but collected only \$96,000 as of early November. He said the construction was about 95 percent residential and 5 percent commercial.

He said the fire district chose to sue Lennar/US Home, and not other builders, because it had the largest bill of any builder, in excess of \$100,000.

Piechura said some custom home and commercial builders have paid the fee.

The fees, which the district's governing board and its legal counsel maintain are allowed under a 2003 revision to the state law governing fire districts, are intended to offset the cost of providing service to new buildings until taxes are collected on them.

Piechura and the district's governing board said the district is required to provide fire and rescue service to the sites for new homes and businesses for up to two years before the district receives property taxes from the owners of those properties.

In a 12-month period leading up to the board's adoption of the fee, Piechura said the district responded to 45 calls for service at construction sites but was collecting only "dirt taxes" — taxes based on the relatively low rate for undeveloped land.

When the district's governing board proposed the fee late last year, an attorney representing SAHBA maintained "the fire district was not authorized under Arizona law to levy a fee on just part of a fire district." He added, "There can be no user fee until there is a user."

Roger Yohem, SAHBA's vice president for communications, said the group's stand hasn't changed.

Steve Craddock, president of Lennar/US Home's Tucson division, said that, essentially, is the same argument the company will use in its case.

He declined to speculate about what the company would do if it lost the case, or what effect it might have on its decisions about doing future business within the fire district.

"We're looking forward to having this resolved," Piechura said.

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