

Court to hear impact fee case

Summerville lawsuit might ripple in state

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SUMMERVILLE - The S.C. Supreme Court has agreed to hear a local case that could dictate how municipalities throughout the state use impact fees collected from developers.

The court will look at the Charleston Trident Home Builders Association's objections to Summerville's impact fees. A court date isn't expected until next year.

Both sides had asked the high court to intervene without waiting for an appeals court to rule on the case. The builders' association appealed the case after Master-in-Equity Patrick Watts sided with Summerville in April. The association sued the town in July 2003.

The association isn't objecting to impact fees but is claiming Summerville didn't demonstrate that the impact fees would be spent only on projects required by new developments, President Phillip Ford said.

The high court typically intervenes without waiting for an appeals court when the case is of significant public interest or involves an important legal principle, Supreme Court Clerk of Court Daniel Shearouse said. But the court also takes cases of less importance when the schedule allows. It's not possible to be more specific about this decision, he said.

Summerville is the first town in South Carolina to be sued because of impact fees since the state authorized them in the early 1990s.

State law allows towns to collect fees from builders to pay for roads, parks, fire and police stations and other capital improvements caused by development, as long as the town demonstrates that the projects are required by growth and the money will be used only for those projects.

Summerville started collecting impact fees in February 2003, citing the town's rapid growth. Residents complained that they didn't want the town to raise their property taxes to pay for services for new residents.

The town has collected about \$3 million so far in impact fees but has not spent any because of the pending lawsuit.

The money has to be spent within three years of collecting it, Operations Director Charlie Miller said.

The town issued 979 building permits for homes through November of this year, compared to 914 for all of last year, according to the town's planning department. The fee for a single-family house is \$1,138.

The town earmarked more than \$1 million to design two new parks and buy a new aerial fire truck, and the town also plans to build a new fire station with impact fees.

If the Supreme Court rules against the town, the town's contingency fund will cover expenses until the town amends its report on how impact fees will be spent, Miller said.

Impact fee lawsuit

What it's about: State law allows municipalities to charge builders impact fees to service new developments. The Charleston Trident Home Builders Association says Summerville didn't demonstrate that its expenditures were caused by new developments.

Why it's important: Summerville is the first town to be sued over impact fees since the state authorized them in the early 1990s.

What's at stake: The town has collected about \$3 million.

What's next: The S.C. Supreme Court will hear the case, probably sometime next year.

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