



Developers taking city to court over new fees

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Gastonia's new strategy of making growth pay for growth may be stunted by a court challenge.

The city recently began tying a new expansion fee to each application for a building permit or utility service that developers submit. The charges substantially increase the cost of building new subdivisions, and are designed to help the city pay for future water and sewer system upgrades.

But several area development groups filed a lawsuit against the city this week that disputes the legality of that. The litigation in Gaston County Superior Court includes five plaintiffs: the Homebuilders Association of Gaston County, the Gaston County Association of Realtors, Eastwood Construction, The Reserve at Catawba Creek and Flathead Investments.

The latter three plaintiffs are all limited liability corporations that own tracts of land slated for development in Gaston County.

Gastonia City Council members adopted the new system expansion fees in 2009. After a year of regular meetings with groups that stood to be impacted, the city began implementing the fees July 1 on a staggered basis.

On top of the standard charge for a building permit, homebuilders must now pay \$1,800 per permit for system expansion. That will increase to \$2,700 next year, and the full fee of \$3,600 per permit will take effect on July 1, 2012.

The charges for improved water and sewer service are necessary as new homes and businesses sprout up, said Assistant City Manager Flip Bombardier.

But developers including Donnie Cann, owner of Cann Builders in Gastonia, have consistently spoken out against the new policy — most recently during a City Council meeting last month. Cann recently spent \$1 million to put in water and sewer lines in a local subdivision that has 48 lots left to sell in the newest phase. If building permits on all of them were obtained after July 1, 2011, Cann would have to pay an extra \$172,800 alone in system expansion fees.

Attorney Nancy Paschall of the law firm Mullen, Holland and Cooper in Gastonia could not be reached for comment Thursday. But the 20-page lawsuit spells out her clients' grievances.

The suit questions Gastonia's recent claims about how soon it will have to expand its water and wastewater treatment plants to accommodate future growth. It also maintains that the city is not within its legal rights in enforcing such fees.

Gastonia City Attorney Ash Smith said his office received a copy of the suit Wednesday and they are still reviewing it. But he said a state statute concerning public enterprise utilities allows cities to establish reasonable rates and fees for providing public services, such as water and wastewater.

"This is not an 'impact fee,'" he said.

The city will likely file a response within 60 days, Smith said.

"I think the city and City Council have made it clear we're moving forward with implementing the system expansion fees and we look forward to defending our right to do that," he said.

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