



Hamilton Twp. impact fees OK, court rules

By Elaine Trumpey • etrumpey@enquirer.com • July 27, 2010

HAMILTON TWP. - Impact fees the township charges for new construction are legal, the 12th District Court of Appeals has ruled.

Township officials have battled the Home Builders Association of Greater Cincinnati over the legality of the fees for three years.

In a decision released this week, the court agreed with Warren County Common Pleas Judge James Flannery's 2009 decision that the township can collect the money because it is a "fee," not a "tax" as the home builders contended in a lawsuit.

The home builders association is disappointed in the ruling because of its effect on the consumer, said Dan Dressman, the group's executive director.

"Six thousand dollars and some change - it's a figure that goes to the bottom line," he said.

The township currently collects \$6,153 on each single-family building permit it issues.

Each court has now ruled that Hamilton Township can use money raised from impact fees to improve services and infrastructure in the areas where most of the residential growth is taking place in the sprawling township.

As a home rule township, Hamilton Township has more authority than a traditional township - but not as much as Ohio's cities or villages. Municipalities, such as the nearby county seat of Lebanon, are allowed to collect impact fees on new construction, according to Ohio law.

Hamilton Township tested the legal waters when it enacted its impact fee ordinance in 2007.

Neither the township nor the home builders' association is convinced the issue has reached its final conclusion.

The builder's association leadership has not yet met to decide if it will appeal the decision to the Ohio Supreme Court, Dressman said.

Another possibility: the higher court could choose to take the issue on itself.

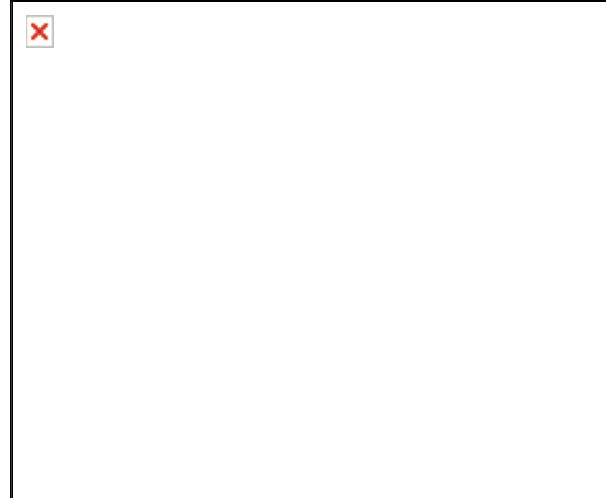
"We always thought that this was a statewide issue," Dressman said.

Meanwhile, the township won't be digging into the escrow account where the money has accumulated while the case travels through the court system.

The money collected - almost \$2 million so far - has been adding up at a much slower rate since home building rates took a dive more than a year ago.

Hamilton Township zoning records show that 59 single family permits have been approved through June of this year. That compares to 241

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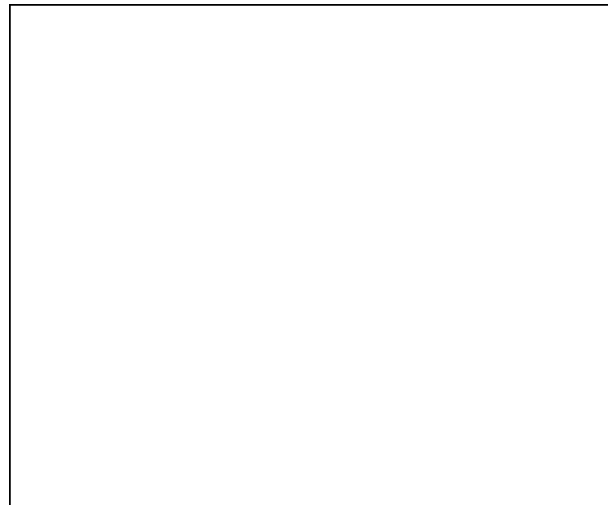


in 2009; 224 in 2008; 326 in 2007; and 341 in 2006.

The money is allocated to four categories: roads, fire, police and parks. It will remain there until the matter reaches its final conclusion.

"We are not going to spend any money until we are sure we won't have to pay it back," said Becky Ehling, the township's longest-serving trustee.

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