

INDYSTAR★COM

Town close to settling lawsuit

Consulting firm could pay \$99,000 over park impact fees; Council should vote Tuesday

By Robert Annis

Posted: September 2, 2010

Zionsville has reached a tentative deal to settle a major lawsuit.

Mishawaka-based Lehman & Lehman will pay \$99,000 under terms of the settlement agreed to last week. The Zionsville Plan Commission had sued the consulting firm for nearly \$500,000 last year, alleging it "failed to exercise ordinary skill and knowledge" when it helped the town craft a park impact fee in 2005.

The settlement must be approved by the Town Council to take effect. Council members are expected to vote on the agreement Tuesday evening.

Town Council President Matt Price said the mediator went through a variety of best-case and worst-case scenarios before telling the parties Zionsville likely would receive \$90,000 to \$100,000 if the case went to trial. Town manager Ed Mitro said at least \$65,000 of any money won at trial would have gone to attorney fees.

"Settling for \$100,000 is like hitting a home run for us," Price said. "Instead of netting \$35,000, we'll get to keep" the entire \$99,000.

Mitro said the settlement would allow the town to recoup much of its expenses on the case as well as the interest paid to developers.

In proposing an impact fee, Lehman and an advisory committee originally suggested an amount of \$1,054 per new home. The Plan Commission ultimately went against the recommendation and decided on \$1,862, the national average at the time.

According to court documents, Lehman "explained how he believed Zionsville could statistically support (the larger fee)," and town officials followed his advice in adopting it.

Builders passed along that \$1,862 fee to 181 buyers of new homes from May 2006 to October 2008.

Advertisement



Mom Dilemma #36:
Your daughter insists on wearing her princess costume to the grocery store. Allow it or not?

YES, at least she's dressed!

NO, I have some rules!

momslime.com
where Local moms meet

Print Powered By  FormatDynamics™

INDYSTAR★COM

The Builders Association of Greater Indianapolis challenged the fee almost immediately in Boone Superior Court. Judge Rebecca McClure ruled that the fee was set arbitrarily and ordered Zionsville to repay \$391,914 to the affected developers.

Advertisement



Mom Dilemma #36:
Your daughter insists on wearing her princess costume to the grocery store. Allow it or not?

YES, at least she's dressed!

NO, I have some rules!

momslike me.com
where Local moms meet

Print Powered By  FormatDynamics™