

Our Say: **Ruling underlines need for county impact fee overhaul**

By THE CAPITAL EDITORIAL BOARD

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The lawsuit against the county to recover improperly used impact fees has given new meaning to the term "protracted legal battle." For six years county attorneys have defended against a class action lawsuit pushed by private attorneys John Greiber and Phil Scheibe - but this week a Court of Special Appeals judge awarded the last round to the plaintiffs and asked a lower court to determine the damages owed to them.

At stake is a refund to taxpayers who paid impact fees between 1987 and 1996. The lawsuit claims those fees were not used to improve services - roads and schools - in the same districts in which they were collected. Attorneys for the plaintiffs estimate the damages should total \$22 million; county attorneys feel the sum is more like \$2 million. The vast difference may reflect wishful thinking on both sides.

There are probably a few taxpayers who are wondering if they are due a refund, but they shouldn't count their money yet. It will be difficult to determine who is eligible and, more importantly, the case isn't quite over - further appeals are still possible.

We'll leave it to the courts to sort out this mess, but clearly the decision sends a signal to the county that the way it went about using impact fees was misleading and flawed.

Impact fees - money collected to offset the cost of county services that come with new construction - were imposed here in 1987 during the Lighthizer administration. We bet most people thought that the impact fees that added to the cost of their houses would go toward construction of roads or schools in their neighborhood, not projects somewhere else in the county. Instead, in some cases at least, the county took the money collected in one district and used it to build roads and schools elsewhere. In

one case, it was spent it on portable classrooms.

This sleight of hand is just the sort of gambit that makes taxpayers distrust their government.

The county has adjusted the impact fees over the years, but this court decision underlines the need for an overhaul. Is there a better way to use future impact fees? Or is a better law needed? Do the district lines drawn in the 1980s still make sense? And should the fees ever be used to fund projects outside the districts they are collected in?

County Councilman Jamie Benoit feels the current system should be dumped in favor of an assessment applied with the recordation fee. That way the money can be use for projects anywhere in the county with no misunderstandings - or legal action. Maybe that's the answer, but we hope this regrettable court decision at least provokes additional consideration on how impact fees are applied.

- No Jumps-

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