

washingtonpost.com

Ruling on Arundel Fee Backs Homeowner Refunds

By Raymond McCaffrey
Washington Post Staff Writer
Tuesday, February 19, 2008; B01

As he prepared to close on a newly built home, Dan Puckett scrutinized the long list of costs on his settlement sheet, unaware that [Anne Arundel County](#) had already assessed an "impact fee" to pay for improvements to schools and roads in his Odenton neighborhood.

Now, 14 years later, Puckett stands to get a portion of the roughly \$2,000 fee back, as do more than 20,000 other people whose homes were built in the county from 1988 to 1997. The payments amount to a rare refund of a fee, paid by developers, that most homeowners know nothing about.

This month, a [Maryland](#) appeals court ruled that the county must partially refund fees that were collected on new homes in the Odenton area because the money was not properly spent on roads and schools in that area. The county estimates the total amount to be refunded at just over \$2 million; attorneys for the plaintiffs say it could be as much as \$22 million.

John R. Greiber, an attorney for the homeowners and developers, said the ruling by the Court of Special Appeals, the state's second-highest court, sends a clear message that governments must account for the ways in which money collected through impact fees is spent.

"Whatever your particular rules are, you better understand them and follow them," Greiber said. "Anne Arundel County didn't follow their own rules."

Such fees, which have become common in the past two decades, can help fast-growing jurisdictions to pay for new schools and roads without increasing taxes. Many developers in Maryland, however, say the fees unfairly drive up the price of new homes. Although the fees are paid up front by developers, the cost is passed on to home buyers.

verizon

Upgrade your new computer to
VERIZON HIGH SPEED INTERNET

\$12⁹⁹
a month for the first 6 months
WITH 1-YEAR AGREEMENT

Up to 768Kbps

Upgrade Now

Advertisement

SHOP
WORK OUT
PICNIC
SWIM
DINE
LIVE

Rollover to learn what CityVista has to offer...

CITY VISTA

[Montgomery County](#) nearly doubled impact fees in November. On a new single-family house, the County Council raised the fee for schools from \$9,111 to \$20,456 and for transportation from \$6,264 to \$10,649.

In [Anne Arundel](#), which is bracing for rapid growth because of an expected influx of workers to [Fort Meade](#), County Executive [John R. Leopold](#) (R) has proposed a dramatic change in impact fees: from a flat fee of about \$4,900 to a progressive scale that would go as high as \$37,000 for five-bedroom houses.

The proposed increase is needed because the cost of accommodating development is much greater than the revenue from the existing fees, said Alan R. Friedman, county director of government relations. "After years of undercharging, we have to pay the piper," he said.

The District does not charge a standard impact fee. The city negotiates with developers to provide "community benefits" such as parks, affordable housing and parking. The city levied a special assessment on development surrounding the new [Nationals Park](#) expressly for the construction of a sewer line.

In [Virginia](#), local governments have long negotiated with developers over payments to offset the cost of providing services to new residents. A bill now before the Senate, sponsored on behalf of the politically influential home-building industry, would replace that system with a schedule of flat fees for each new house.

In the court case, Greiber said, Halle Development and the other plaintiffs argued that impact fees are supposed to be used "solely for the expansion of a capacity of a school or roads." They contended, in part, that portable classrooms paid for with fees from the Odenton homes were later moved to another part of the county.

The appeals court agreed, faulting the county for using the impact fees for "relocatable classrooms" and for performing work that did not increase the capacity of local schools. The court, which reviewed a 2006 Circuit Court ruling, also found that the county did not meet its own requirement to use revenue from impact fees within six years after it was collected.

The county argued that it had the power to extend the time frame -- an issue that could be the subject of a further appeal, according to County Attorney Jonathon Hodgson. The Court of Special Appeals remanded the case to the lower court to determine the amount of the refund.

Hodgson said the appeals court ruling might reduce the amount of the refund the county would have been required to pay under the 2006 ruling. The plaintiffs' attorney disagreed and said he would file a motion with the Court of Special Appeals asking that it clarify its ruling on the judgment.

For now, homeowner Dan Pucket isn't celebrating. "I'll believe it when I see it," Puckett, president of the Seven Oaks Community Association in Odenton, said of his refund.

Puckett said that just as the builder passes along the cost of the impact fee, the county will pass along the cost of a refund. "It'll come with a tax increase," he said.

Post a Comment

[View all comments](#) that have been posted about this article.

You must be logged in to leave a comment. [Login](#) | [Register](#)

Submit

Comments that include profanity or personal attacks or other inappropriate comments or material will be removed from the site. Additionally, entries that are unsigned or contain "signatures" by someone other than the actual author will be removed. Finally, we will take steps to block users who violate any of our posting standards, terms of use or privacy policies or any other policies governing this site. Please review the [full rules](#) governing commentaries and discussions. You are fully responsible for the content that you post.

© 2008 The Washington Post Company

Ads by Google

[Six Flags Season Pass](#)

Have Fun this Summer at Six Flags Buy Your 2008 Season Pass Today
SixFlags.com/SeasonsPass

[The 2008 BMW 3 Series](#)

More bells and whistles - See What's Inside - Official BMW Site.
www.washingtondcbmw.com

[SAP Consulting Jobs](#)

IBM Global Business Services Is Hiring Experienced SAP Consultants.
www.ibm.com/consulting/careers