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County denies developer's request to lower impact fees

A developer of a condominium in Placida requested an appeal to a 2006 ordinance regarding the application of impact fees, as his company started the project prior to the new rates

A developer might pursue legal action against Charlotte County, claiming his company should not have to pay increased impact fees for projects that started prior to a 2006 ordinance.

The Charlotte County Commission denied an appeal from Hacienda del Mar to lower its impact fees to its former rates, despite claims the development was already approved several years earlier. Tricia Duffy was absent, as she is recovering from neck surgery.

Thomas Leiter, president of Hacienda del Mar, requested an appeal to have his development assessed the 1998 impact fee schedule, since construction started prior to a 2006 ordinance that increased the rates.

Leiter said the development -- a condominium consisting of 112 units in Placida -- received approval in 2003. At the time, Leiter's company was required to pay impact fees based on the 1998 calculated rates for each of the seven buildings.

Impact fees are a one-time tax on new construction. The purpose is to offset the impact of a new structure on local services, such as roads.

The commission approved a new fee schedule in 2006, which charged per square foot.

Leiter said his company wasn't aware of the change when they applied for permits to finish the final two buildings later that November.

"This is not a case of a developer seeking special treatment," he said. "This is the result of a legitimate misinterpretation of the application."

However, the commission did not waver on their decision.

Dan Gallagher, deputy attorney for Charlotte County, said the county created a stipulation in its 2006 ordinance to help companies that had ongoing projects.

The 90-day exemption allowed contractors to prepay their impact fees at the 1998 rate, although the figure would be nonrefundable. In addition, companies could still apply for a permit several months after the June ordinance and get the lower rates.

"We put those provisions in there because we did not want to submit 'gotcha' with anyone," Gallagher said.

The commission recently reduced impact fees for commercial and residential property back to the 1998 rates to help the construction industry. However, Leiter's development is still subject to the 2006 fees, Gallagher said.

Commissioner Adam Cummings believes the county gave developers every chance to pay the old rates

during the initial transition.

"I think we created plenty of opportunity," he said.

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