

[\[back\]](#)



Court: County can collect impact fees

BY MARK SCHULTZ, The Herald-Sun
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DURHAM -- A state court has ruled that Durham County may continue to collect school impact fees pending the appeal of a local judge's January order declaring them invalid.

The N.C. Court of Appeals ruled Monday that the county can continue to collect the fees on new residential construction until the county's appeal of Judge Orlando Hudson's Jan. 25 order is resolved, county officials said in a release.

The fees, which would help pay for new schools, run \$2,000 for each new house and \$1,155 for each new apartment or townhome. The county has never spent any fee revenue, however, because a group of developers sued two years ago, saying the county lacked the authority to impose them.

Durham County Commissioners Chairwoman Ellen Reckhow said she was pleased with Monday's appeals court ruling.

"Hopefully, when the suit is finally settled, these impact fees will allow the construction of much-needed school facilities," she said.

But former Durham Mayor Nick Tennyson, executive vice president of the Home Builders Association of Durham and Orange Counties, said the ruling has little real impact. The county would have been able to collect the fees retroactively if the appeals court eventually ruled in its favor, he said.

"The builders or people who get [building] permits are at risk for this fee whether they collect it or not," during the appeals process, Tennyson said.

About \$2.2 million has been collected so far. If it loses its appeal, Durham County would have to refund the fees plus 8 percent interest, officials have said.

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[\[back\]](#)