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Builders challenge Granville impact fee

BY SHAUN LOCKHART : The Herald-Sun
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OXFORD -- An association of 24 homebuilders in the Granville County area filed a civil suit against the county, calling its impact fee ordinance unconstitutional.

The suit, filed last week, claims the county "does not have the authority to adopt such an ordinance" and asks that it be voided.

The impact fee ordinance discriminates against new-home construction, according to the suit. The exclusion of existing residences is unreasonable, the suit states, and violates equal protection and due process clauses in the Constitution.

The suit lists as plaintiffs 24 builders and associated firms who are part of the Granville Land Owners Association, an unincorporated entity.

County Manager Dudley Watts said the suit was unfortunate but not a surprise.

"We were told that there would be a challenge by some of the builders," Watts said. "It was sort of promised by the homebuilders association."

The county has 30 days to file a response.

According to the ordinance approved unanimously June 6, a single-family, detached home, including manufactured homes, would be assessed a \$2,000 fee.

All other new residential construction, including multifamily dwelling units, would be assessed \$1,250 per dwelling unit.

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Watts said ideally the Legislature would give the county some assistance through new legislation, particularly since it has granted counties in similar positions the ability to apply their own impact fee ordinances.

Tony Cozart, chairman of the County Commissioners, said the board believes the impact fees were their only course of action to get additional money for schools.

"We'll just have to be prepared to state that case and make a strong argument," Cozart said. "We as a board didn't see any other options to get the money."

Neither Henry C. Fordham Jr., attorney for the builders, nor county attorney William Hopper could be reached for comment.

But in a report he wrote for the board earlier this year titled "Kiss me Once, Kiss me Twice and Kiss me Once Again -- The Saga of Impact Fees," Hopper laid out concerns about the county's chances of success in pursuing an impact fee ordinance.

"Impact fees as a source of general revenue and as a tax on development, for the reasons stated, in my opinion are D.O.A (dead on arrival)," Hopper wrote.

The board of commissioners had considered an adequate public facilities ordinance, which would have allowed the county to regulate and retard development in areas where the infrastructure wasn't available, but changed course at the 11th hour to pursue impact fees.

Hopper suggested an adequate public facilities ordinance instead in his report, stating: "It is, perhaps, a way to provide indirectly what counties could not do directly through impact fees."

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