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Restaurant loses appeal of traffic impact fee

An East Cocalico Township restaurant has unsuccessfully appealed a township traffic impact fee that officials say should generate \$6 million in revenues from developers over the next 20 years to fund major road projects.

The traffic impact fee, based on the amount of traffic a project creates, is assessed on commercial and residential development.

In the case of Kyma Seafood Grill, 1640 N. Reading Ave., the fee that owners Nick and George Barakos appealed was \$28,633, which was for an improvement that was deemed an expansion.

The supervisors' vote was 2-1. Alan Fry voted for the appellants, saying he felt the fee wrongly infringed on business owners.

Kyma's fee was triggered when the owners installed a covering over a deck built in 2011 that provides seating for 74 diners. The township reasoned the deck would mean additional customers and more traffic on township roads.

The township implemented the traffic impact fee in 2009. Because of the recession and a delay in increasing the township's public water supply, there has been relatively little development since.

However, the township projects that its population will grow by nearly 50 percent in the next two decades and says it needs to improve major roads to accommodate it.

Instead of charging taxpayers, the township enacted the impact fee to pass the cost along to developers, Township Manager Mark Hiester said. The fee works out to about \$1,500 per night peak-hour trip attributable to a development.

In Kyma's case, the township calculated that the additional seating on the deck would add 19 evening peak-hour trips.

While the fee was triggered in September when the owners got permits to cover the deck and install heaters, the supervisors ultimately decided that the basis for the fee was the deck, covered or not.

According to the written decision, the township has the right to assess the fee more than a year after the deck was built because the fee is basically a tax and the township has up to 10 years to collect back taxes.

Kyma co-owner George Barakos objected to the decision. He said that if the township was charging him a fee based on the deck alone, it should have done so in 2011, when he filed plans to build it, not after he tried to add a covering.

- By Chris Reber

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