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Judge overturns road-fee ruling and calls for a trial

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A Hamilton County judge on Wednesday morning overturned a ruling that Westfield violated state law in how it implemented its road-impact fee.

But the four-year legal battle isn't over.

Superior Court 3 Judge William Hughes said the case should be resolved with a trial in which evidence is presented. No court date has been set.

In April, Hughes had affirmed a court magistrate's summary judgment -- meaning no trial was held -- that Westfield's road-impact-fee ordinance, which it used from roughly 2004 to 2008, violated state law.

While Hughes overturned that summary judgment Wednesday, he said Westfield so far had presented no evidence that supports the legality of its ordinance.

Still, Hughes said justice would be better served on a matter of such importance with a trial that could determine whether Westfield violated state law and whether a class action lawsuit should be formed with people and businesses that paid road-impact fees under the ordinance.

The city collected about \$3 million in road-impact fees under the ordinance, but not everyone who paid fees might be eligible for a refund even if the city loses, said Westfield City Attorney Brian Zaiger. He believes the city's ordinance is legal.

According to the lawsuit, the trouble started in 2005 when the town charged Gerhard Martens, owner of Westfield-based Metric Seals, \$9,130 in road-impact fees for warehouse space he added to his office at 17030 Westfield Park Road. Metric Seals is a supplier of hydraulic and pneumatic seals.

Martens appealed to the city's review board, saying Westfield was wrong to charge the fees because the warehouse would not increase traffic. The board sided with the city, and Martens sued.

Steve Cook, an attorney representing Martens, said he still plans to move forward with a class-action suit.
