

Judge rules township can charge impact fees

By Denise G. Callahan, Staff Writer

Updated 2:20 PM Wednesday, September 30, 2009

A Warren County judge has ruled Hamilton Twp. can charge impact fees on new construction, making it the only township in the state with such authority.

A group of home builders and the Home Builders Association of Greater Cincinnati filed suit five months after the township instituted the fee in May 2007.

Warren County Common Pleas Judge James Flannery ruled Wednesday, Sept. 30 that Hamilton Twp. may charge the impact fees to help pay for capital expenditures for police, fire, parks and roads.

“We’re very excited,” said township board President Becky Ehling. “We’ve worked so hard on this.”

The township has collected in excess of \$1.3 million. The money has been held in an escrow account pending the lawsuit filed by the home builders.

The home builders argued that the impact fees were really a tax and townships have limited taxation authority. Flannery didn’t buy that argument.

“The township has treated all impact fee payers as a class and fees paid are used for improvements that benefit the class of fee payers and have not been shown to benefit the class of non-fee payers,” Flannery wrote. “The court concludes that the impact fee is not a tax.”

Dan Dressman executive director of the Home Builders Association of Greater Cincinnati, said it is likely they will appeal the judge’s decision. He said the decision will have a negative impact on township residents.

“It makes it more difficult for potential home buyers, they are ultimately the ones that have to pay the freight,” he said. “It’s going to make housing more expensive in this community.”

The township is charging approximately \$6,150 for a single-family detached home. A new retail/commercial structure is charged based on square footage — \$7,265 for roads, \$432 for fire and \$265 for police — per 1,000 square feet.

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