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## Impact of fee lawsuit hits county's wallet

By CHARLIE WHITEHEAD, [ckwhitehead@naplesnews.com](mailto:ckwhitehead@naplesnews.com)

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Lee County and the School Board have already spent almost \$500,000 fighting a lawsuit over school impact fees.

Starting Tuesday, they're expected to be able to spend more.

Lee County Attorney David Owen will ask commissioners to approve as much as \$100,000 more to pay outside counsel to continue to argue the case, filed by builders after commissioners adopted the fees in December 2001. A local judge found in favor of the county after a five-day trial in March 2004, but an appeal is pending before the Second District Court of Appeal in Tampa.

"This is additional funding for current and potential future expenses," said County Attorney David Owen. "I don't know if we're going to need that much, but I like to have something set aside and identified."

The Lee Building Industry Association helped launch the suit, but it's since become a class action suit, with attorneys Jeffrey Garvin and Ted Tripp representing new home buyers. BIA director Mike Reitmann said he doesn't know how much has been spent trying to have the fees declared unconstitutional.

"I guess they're getting ready for the appeal," he said.

They're not the only ones. Two organizations have weighed in on each side of the issue, receiving court permission to file briefs. On the county and school board side are the Florida Association of Counties and the Florida School Boards Association.

Backing the home buyers are Habitat for Humanity of Sarasota and the Pacific Legal Foundation, a property rights group.

The Lee County school impact fees so far have generated more than \$80 million, including just under \$17 million this fiscal year, which began Oct. 1.

Owen said no arguments have been scheduled yet, though some briefs have been filed.

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