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# County on hook for impact fee refunds

## State high court rules county owes homeowners money

By ERIN COX, Staff Writer

Published 05/07/09

After an eight-year legal battle, the state's highest court yesterday ruled that the county government must repay impact fees to some homeowners.

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The ruling said county officials must return fees that either were not spent or misspent. The Court of Appeals ordered a lower court to handle the details of the repayments.

The exact amount the county has to refund - and to whom - has yet to be determined, but estimates range from \$2.1

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million to \$22 million. The Circuit Court will now review the case, a scenario that could lead to more protracted court battles.

"It's not likely that a plaintiff will see a check a year from now," County Executive

John R. Leopold said.

He later added that the impact fee issue was "the error of the two previous administrations."

The class-action lawsuit, originally filed by Odenton-area homeowners and developers in 2001, demanded repayment of \$4.7 million in development fees levied to offset the impact of new homes on local infrastructure.

Anne Arundel began collecting the fees in 1987 and crafted a set of rules about how they must be spent. Those rules say the development fees must be used in the same area in which they are collected and must be used to build infrastructure, such as schools or roads. The rules also say that the money has to be returned if it is not spent in six years.

The lawsuit claims that impact fees paid to develop Odenton-area homes between 1987 and 1996 were not spent to improve nearby roads and schools as required. The Court of Appeals ruling agrees that the county broke its own ordinances.

Attorney John R. Greiber Jr., who represents the plaintiffs, said there are "thousands" of homeowners possibly entitled to the fee refunds.

Greiber and County Attorney Jonathan Hodgson disagree on whether the Circuit Court will uphold an earlier ruling that the county's liability is \$2.1 million.

Both sides asked the Court of Appeals to consider the case after the Court of Special

Appeals ruled last year that the county owed about \$2.1 million - not the \$4.7 million ordered by a county Circuit Court Judge in 2006, and dramatically less than the \$22.1



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million plaintiffs originally sought. County officials argued that the county owed much less or nothing at all; the plaintiffs argued that they were entitled to more.

Hodgson said yesterday that the Circuit Court will re-examine the case to determine the county's liability.

Greiber said all records related to the case already had been examined, and doubted there was a new piece of evidence that lightened the county's liability.

"After eight years in court, if they have a record that says something different, it must be fabricated," Greiber said.

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