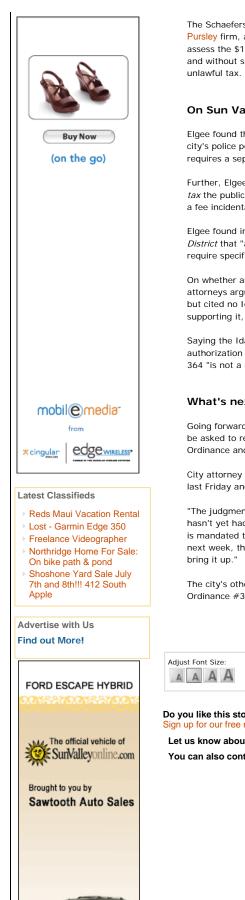


SunValleyOnline: Sun Valley ord. ruled unconstitutional:



The Schaefers, through attorney Christopher Meyer of Boise's Givens Pursley firm, argued there is no legislation authorizing the city to assess the \$11,989.97 fee on their property at 59 Lane Ranch Road and without such authorization, the fee amounts to an unauthorized,

On Sun Valley's police powers

Elgee found the 2004 case Plummer v. City of Fruitland provides for a city's police power but maintains that "a municipality's ability to tax requires a separate authority," an authority he found lacking.

Further, Elgee noted "a city's police power does not authorize a city to tax the public but to regulate the public and in some instances assess a fee incidental to the regulation."

Elgee found in Potts Construction Company v. North Kootenai Water District that "a municipal corporation's taxes on the general public require specific legislative authorization."

On whether an in-lieu fee is a tax or an exaction, Elgee said the city's attorneys argued the in-lieu fee was an exaction, not an impact fee but cited no Idaho law to support it. Elgee said he could find no law supporting it, either.

Saying the Idaho Legislature hasn't provided Sun Valley with authorization to collect revenue for housing, Elgee found Ordinance 364 "is not a lawful exercise of the City of Sun Valley's Police Power."

What's next?

Going forward, guestions on the issue concern whether Sun Valley will be asked to refund all fees collected under the Workforce Housing Ordinance and what will happen on the city's political front.

City attorney Rand Peebles said the city received the judgment only last Friday and that city leaders haven't yet met on the issue.

"The judgment applies to the Schaefers only," Peebles said. "The city hasn't yet had an opportunity to look at what kind of process the city is mandated to follow. The Mayor and Council will meet three days next week, the 17th 18th and 19th and I suspect Mayor Thorson will

The city's other affordable housing law, its Inclusionary Housing Ordinance #363, was not considered in Judge Elgee's review.

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Question: What's your favorite Outdoor Gear

Shop?	
Backwoods:	(28%)
The Elephant's Perch:	(28%)
Paul Kenny's:	(9%)
Silver Creek Outfitters:	(7%)
Sturtevant's:	(21%)
Sun Summit:	(6%)

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