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Builders sue Mesa for impact fee hike

By Jason Massad
Tribune

A homebuilders association is challenging Mesa for imposing a fee on new developments in an effort to raise revenue for museums and to preserve the city's archaeological finds. The Home Builders Association for Central Arizona is the plaintiff in a suit filed Wednesday in Maricopa County Superior Court that challenges Mesa's "cultural impact fees."

On Tuesday, the city raised the impact fees it tacks onto new homes. The goal was to use the extra money to support a range of city services - from new sewage-treatment plants to parks and museums.

Clint Bolick, an attorney for the Goldwater Institute that is representing the association, said Mesa's fees follow a dangerous trend that is unfair to people buying new homes in the city.

"It's too tempting for cities to solve their budget problems on the backs of new homeowners," Bolick said. "I understand the temptation ... but under state law cities have to resist that temptation."

Cities have a right to charge developers impact fees, which often are built into the price of a home or commercial building when it's sold.

Mesa will reap an estimated \$17.6 million in impact fees this fiscal year, according to city budget officials. The new fees average \$8,300 for a singlefamily home, according to city officials.

The change makes Mesa the 12th highest among Arizona communities in the amount it charges in impact fees, according to city officials.

The fees are designed so that new residential and commercial developments pay upfront for a share of city services. However, the suit challenges the amount of fees assessed for the city's cultural offerings, which include the Mesa Arts Center and the Arizona Museum for Youth.

The cultural fee increased from \$59 to \$218 for single-family units, according to city officials.

"All of the facilities that provide the basis for the impact fees are already constructed," said the lawsuit. "The city of Mesa does not have a capital improvement plan for cultural facilities."

Terry Williams, Mesa's building safety director, said the city's decision to raise its cultural impact fee sparked controversy.

City officials discussed eliminating the fee earlier this year, and then considered combining it with the impact fee that supports the city's park land.

In the end, the fee survived, but the city has no five-year forecast to spend the money on cultural offerings, Williams said.

"It would be set aside for future improvements," Williams said.

Chuck Odom, the city's budget director, said the city has talked about improving the Mesa Grande ruins, a Hohokam Indian mound on the city's west side that could be an interpretive center that links the city to its Indian past.

With the city's tight budget, money is scarce to operate new facilities like the ruins, Odom said.

"We'd have to look at those issues to make sure we could take on that portion of the project," he said.

The lawsuit contends the city has no plans to use the fee revenue for new facilities. The city's own findings indicate the fees will "maintain the current level of cultural facilities provided by the city," the lawsuit said.

The homebuilders association is seeking a ruling that establishes Mesa's cultural fee violates Arizona statute. The association also seeks an injunction to stop Mesa from imposing the cultural impact fee.



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