

## **Mesa impact fee disputed: Group challenges cultural charge**

*By Angela De Welles, Independent Newspapers*

One of Mesa's development impact fees is being called into question by an organization representing area home builders.

A legal challenge was filed Sept. 5 in Maricopa County's Superior Court on behalf of the Home Builders Association of Central Arizona. The group takes issue with Mesa's cultural facilities impact fee, saying the charge is out of line.

"There're a number of criteria that impact fees have to satisfy," said Clint Bolick, litigation director for the Goldwater Institute, a nonprofit organization representing the home builders association. "Development should pay for expenses that it imposes on the community, but no more than that."

The case is scheduled for an initial hearing 9 a.m., Thursday, Sept. 20. Mr. Bolick said there are no plans to file for a preliminary injunction on the fees.

Typical impact fee categories include water, roads, fire, public safety and parks. The fees are charged by municipalities only to new development during the building permitting process.

The cost is paid by developers and usually added to the price of a new home.

In Mesa, most of that new construction is happening in the east, according to the city's Building Safety Director, Terry Williams.

"Almost all of the land is (already) developed in the western part of the city," he said.

New fees went into effect Sept. 3.

Mesa's total development fee increased from \$5,233 to \$8,321 for a single-family residence. However, the cultural facility portion of that total decreased from \$237 to \$218 per residence.

Mr. Williams said the city has been charging a cultural facility fee since 1998.

In the past it has been used for an expansion of Mesa's Arizona Museum for Youth, Mr. Williams said. There are no projects included in the city's five-year capital improvement plan that will utilize the fee, he said.

Councilman Rex Griswold said there is talk about utilizing the fee to build a fence around the Mesa Grande ruins, located near the Mesa Southwest Museum, 53 N. Macdonald.

He said the city council discussed folding the cultural facility fee into a combined parks and cultural fee, as other cities do, but decided against it.

"We thought that's just window dressing," said Mr. Griswold, adding Mesa might be one of the few municipalities to charge a cultural facilities fee as a separate category.

"I think that's the fear of the homebuilders, that other cities will charge it as a separate one," he said.

Mr. Bolick said questions about Mesa's fee center around its necessity, adding state laws require impact fees go toward essential public expenses. Mr. Bolick does not think the fee stands up to that requirement.

"The second problem is that impact fees are supposed to cover only facilities that are necessitated by new development and these are facilities that are already built," he said.

Mr. Bolick said he hopes the challenge is a warning to other municipalities.

"Increasingly cities are using impact fees to make up for shortfalls in revenue rather than using them as they're intended to be used," he said. "It's simply too easy for cities to impose taxes on those who are not voters."

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