

Journal Scene

State Supreme Court reverses dismissal: Homebuilders' lawsuit back to lower court

By A.M. Sheehan

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A lawsuit filed in 2009 against Dorchester District Two by the Home Builders Association claiming the special legislation – passed in 2009 and allowing DD2 to collect special impact fees for new development – was been sent back to the lower court Wednesday, when the state Supreme Court reversed the lower court's decision to throw the lawsuit out.

In 2011 a circuit judge dismissed the lawsuit that questioned if the impact fee legislation was constitutional.

"Today's decision from the South Carolina Supreme Court reverses a lower court order dismissing an action brought to challenge the 2009 Act of the General Assembly authorizing the imposition of a residential impact fee," said attorneys for the district Sarah Patrick Spruill, of Haynsworth Sinkler Boyd, PA, of Greenville, and Charlton De Saussure, Jr. of Haynsworth Sinkler Boyd, PA, of Charleston.

"The matter has been remanded for the Circuit Court to receive evidence and rule on the merits of the case."

"The facts to be considered by the Circuit Court, according to the majority opinion, are necessary in determining the constitutionality of the 2009 Act. The dissenting opinion by the Chief Justice explains her rationale, and that of the lower court judge, finding the 2009 Act to be constitutional as a matter of law. The effect of the majority opinion is to continue the litigation commenced in 2009. The School District looks forward to presenting its position to the Circuit Court and defending the constitutionality of the 2009 Act."

To date, the district has collected \$6.7 million in impact fees that Superintendent of Schools Joe Pye has been placed in a reserve account, untouched, until the litigation is resolved. If the lower court decides in the district's favor, the money must be used for new construction, according to district PIO Pat Raynor.

Although the actual impact of new development in the district has resulted in the construction of three new schools, the funds collected would not cover the construction costs.