

## [Court sides with Lemoore on impact fees](#)



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South Valley builders are unhappy with a recent court opinion upholding a slew of development fees enacted in the City of Lemoore.

Lemoore may continue charging new-home builders for impacts in such areas as park land acquisition and community/recreational facilities, based on the opinion filed June 9 with the Fifth Appellate District.

Bob Keenan is president of the Homebuilders Association of Tulare/Kings Counties, which originally challenged the fees in court. He said the result of the opinion would be a chilling effect on new home construction in the Kings County town. Keenan said the fees faced by builders increased from \$6,190 per single-family home to \$21,056 as a result.

Lemoore hired Sacramento-based Colgan Consulting Corp. in late 2005 to conduct a development fee impact study. In 2007, the city adopted 13 impact fees for new housing in Lemoore based on the report.

In a May 2007 lawsuit, the homebuilders association filed a lawsuit challenging seven of the new fees, including ones meant to mitigate impacts in the areas of law enforcement, park land acquisition and improvement, refuse vehicles and containers, fire protection, general municipal facilities and community/recreational facilities.

The homebuilder's association said the fees violate the Mitigation Fee Act. Keenan said some of the fees amount to collections for "slush funds" since they did not specifically name any specific purpose for the fee and how it would be used.

"Any infrastructure should be defined, listed and named," Keenan said.

Kings County Superior Court James T. LaPorte disagreed, finding the city didn't break any laws in setting its fees with the exception of a park land improvement impact fee.

The Fifth Appellate District opinion was authored by Justice Herbert Levy and concurred by Justice Betty Dawson. The opinion upholds Lemoore's fees with the exception of a fire protection impact fee.

"The city's action was not arbitrary, capricious, or entirely lacking in evidentiary support," according to the court ruling.

Keenan said the association may appeal to the state Supreme Court.

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