

The Post and Courier

Dorchester District 2 impact fee suit tossed

Dorchester schools chief cautiously optimistic

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Since 2009, the growing Dorchester District 2 has been collecting \$2,500 for school construction for each new home built.

It has collected nearly \$2 million so far from the school impact fee. But district leaders have been unwilling to spend the money until they are certain of the outcome of a lawsuit attempting to reverse their ability to collect the fee.

Superintendent Joe Pye said the district got some promising news last week when Circuit Judge Edgar Warren Dickson dismissed the lawsuit, which challenged the constitutionality of the school impact fee.

The suit was filed by the Home Builders Association of South Carolina and the Charleston-Trident Home Builders Association. The associations have 30 days to appeal.

Pye was cautiously optimistic about the dismissal. "But 30 days from now, we might say it's very, very good news," he said.

The suburban district desperately needs new schools to serve the rapidly growing part of Dorchester County, he said. It has been collecting impact fees from developers and home builders since a piece of special legislation filed by Sen. Mike Rose, R-Summerville, passed in 2009. "But we're not going to use it until this is settled," Pye said.

Phillip Ford, executive vice president of the Charleston Trident Home Builders, said he wasn't surprised by the decision. He and others involved in the lawsuit will discuss their next steps Tuesday.

The associations filed the lawsuit in 2009, arguing the special legislation passed to create the fee wasn't constitutional because it bypassed general legislation that already existed governing impact fees. That legislation says that counties and municipalities can't assess impact fees for schools, but doesn't address whether individual school districts can. The associations argued that taxes such as the fee should be approved statewide only.

Ford said the special legislation wasn't a bill voted on by the state Legislature. "This was a bill voted on by a few."

Mark Nix, executive director of the Home Builders Association of South Carolina, said the fee in Dorchester County is being placed only on new home construction and will likely be passed on to people who purchase new homes. It's easy to place a fee on an empty house, he said, because no potential voters live in them. "Empty houses have no voice."

Rose said the fees are necessary in the fastest-growing county in the state. The fee places some of the burden of the cost of building new schools on people new to the district, he said. That's fair, he said, because newcomers are causing the need for new schools.

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