

# The Daily Courier

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## Prescott, Prescott Valley prevail in suit over impact fee waiver

By Ken Hedler

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The [City of Prescott](#) and [Town of Prescott Valley](#) have prevailed in a lawsuit that challenged both municipalities for waiving development impact fees for commercial and industrial construction.

Representatives from both jurisdictions said they do not know whether the Home Builders Association of Central Arizona will take the case to the state Supreme Court.

"We were hoping that they would let it go," Prescott Valley Town Attorney Ivan Legler said.

Connie Wilhelm, president and executive director of the association, was unavailable for comment. Sandy Griffis, executive director of the Yavapai County Contractors Association, said the YCCA was not a party to the case, and declined comment.

The home builders association contended in Yavapai County Superior Court and later in Division 1 the Arizona Court of Appeals that the waiver discriminated against home builders.

Appellate Court Judge Donn Kessler disagreed in his 20-page ruling dated Sept. 28. Prescott and Prescott Valley, he wrote, "properly considered the additional tax contributions of the nonresidential development property owners and the determination that these contributions outweighed the amount of the development impact fees that would otherwise be imposed was not clearly erroneous, arbitrary, or wholly unwarranted."

Prescott and Prescott Valley officials waived the impact fees for commercial and industrial development with the goal of stimulating development that would create jobs and generate tax revenues. They and other jurisdictions charge one-time impact fees to offset the cost of development and population growth on a variety of services.

Prescott has waived the fees since the mid-1990s, according to Mark Woodfill, budget and finance director. Prescott Valley began suspending the fees in 2003, according to Kessler's ruling.

However, both charge water and sewer fees for commercial and industrial construction.

Those water and sewer fees vary depending on the size of the meters and buildings, according to Woodfill. For instance, water and sewer fees for a 100,000-square-foot retailer (smaller than a Walmart superstore) would be nearly \$117,000.

The impact fees, including water and sewer, amount to \$12,856 for a single-family home in Prescott Valley, said Julia Bowers, plan/permit technician.

Impact fees for single-family homes in Prescott depend on their size, according to Tom Guice, community development director. He said the fees for a 2,000-square-foot home amount to about \$14,000 when water and sewer fees are included in the total.

Prescott also offsets the loss of impact fees with a penny on the dollar of the 9.35 percent sales tax that went into a fund for roads and open space, Woodfill explained.

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