

Lawsuits filed over impact fees

Jun 26, 2013 (The Free Lance-Star - McClatchy-Tribune Information Services via COMTEX) -- A developer has filed a lawsuit against Stafford County alleging that the recently adopted transportation impact fees were not properly created under state code.

Michael Stonehill, president and owner of Hour Homes Inc., Hour Development Corp., Brookstone Homes Inc. and Stonehill Development Corp., and his wife, Anita, filed the lawsuit last week. It has not been served on the Board of Supervisors.

In May, supervisors approved the impact fee ordinance and its associated \$204 million road-improvement wish list.

The idea behind impact fees is for new growth to help pay for itself through fees that go directly toward roads, specifically to improve 20 highly traveled roads throughout Stafford. The fees go into effect in May 2014.

"Accordingly, impact fees are intended to place the costs of building or improving roads for the benefit of new development on new development. However, impact fees are not intended to be used to cover the costs of road maintenance and improvements the need for which existed prior to the new development," reads the suit, filed by land-use attorney Clark Leming of Stafford.

Should the Stonehills decide to develop their 68 acres after May 2014, they'll be subject to the \$2,999 per-unit fee, the suit states.

The suit makes six major claims that:

The notice before the Planning Commission's public hearing was lacking;

The county can't exempt non-residential (commercial) development from the fees;

Placing the entire county in the service fee area means that fees associated with specific developments may be used in other areas;

The fees cannot be used to meet demands on the roads that existed prior to new development;

The county failed to calculate growth over the state's specified time period;

And preliminary subdivision plans approved within one year of the passage of the fee program should be exempt. Right now, the county ordinance exempts only projects that are further along in the process.

Leming filed the suit in Stafford County Circuit Court on June 20, with directions to wait until further notice is given to serve the Board of Supervisors.

In March, the Stonehills, along with four other developers, filed suits against the county regarding the cluster subdivision ordinance, arguing that Stafford did not properly advertise public hearings leading up to a Feb. 19 Board of Supervisors vote. That's when the board removed a "density bonus" for cluster communities connected to public water and sewer. Developers like clusters because infrastructure costs are lower.

Stafford government officials have yet to be served that suit.

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