

Court dismisses developers' Londonderry impact fee claims

Impact fee claims made by several area developers against the town of Londonderry have been dismissed by Rockingham Superior Court, town officials confirmed on Wednesday.

By APRIL GUILMET

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LONDONDERRY — Impact fee claims made by several area developers against the town of Londonderry have been dismissed by Rockingham Superior Court, town officials said on Wednesday.

Town Manager Kevin Smith said the town learned of the court's decision last week.

For the past year or so, the town has been in the process of returning wrongfully collected impact fees. Town attorney Michael Ramsdell said some uncertainties arose in determining who was entitled to the impact fee refunds, since some business owners aren't the original payers of the impact fees.

Ramsdell said the majority of the claims were more easily resolved, but there were a handful of developers who filed counterclaims with the court, alleging that the studies upon which the impact fees were previously calculated were flawed.

Developers insisted the town still owed them \$757,933 in impact fee refunds.

The town of Londonderry, in turn, moved to dismiss those claims. Ramsdell said the motion was granted on the basis that the town had already done its due diligence.

Among the companies to file impact fee claims this past November were Route 102 and Route 28 developers Shell Oil Company, Citizens Bank, Appletree Mall Realty Trust and 226 Rockingham Plaza LLC.

On Feb. 4, Rockingham Superior Court Judge Marguerite Wageling granted the town's motion to dismiss those claims, and the town received official notice of that decision on Feb. 12.

Impact fees are fees or assessments imposed on development, building construction or other land use changes used to help finance necessary infrastructure changes, such as roadways.

In summer 2012, Police Chief William Hart, who was then serving as the town's interim town manager, revealed that the town owed up to \$1.3 million in combined impact fees previously collected for state highway improvements to developers and property owners because of improper collection practices.

That December, the court ordered the town to conduct an audit of collected impact fees dating back to 1994, when collection of the fees began.

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