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Builders Association Lawsuit Puts Impact Fees Out of Reach for Schools

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Scott Coulombe's letter of March 18 concerning impact fees ["Builders' Impact-Fee Lawsuit Is Not Delaying School Construction"] requires a measured response. The constitution and laws of the state of Florida allow counties to impose impact fees in order to fund the development of infrastructure, including schools, made necessary by growth.

There is nothing unconstitutional about adopting an impact fee, but, thus far, the School Board of Polk County has been compelled to spend more than \$100,000 in defending a lawsuit filed by the Polk County Builders Association attacking Polk County's school impact fee. The Circuit Court in Polk County ruled in favor of the County and against the Builders Association, and the 2nd District Court of Appeal has affirmed the ruling.

Over the almost three years since the Builders Association filed suit, impact fees have generated approximately \$35 million for use in school construction. In other counties, courts have required that impact fees be placed in escrow pending the outcome of litigation.

The School Board placed half of all impact fee revenue, about \$17.5 million, in escrow as they were received. This amount is the School District's conservative estimate of what would have been at risk had the court ruled the other way, and placing it in escrow was the only responsible approach for the School Board to take after the Builders Association filed suit.

If the court had ruled the other way, any impact fees collected may have had to be refunded, and in these austere times there are no other funds available for this

purpose.

Since the Builders Association filed suit, the budget for public schools in Polk County has been cut by more than \$57 million. State funding for school construction is drying up.

It is unfortunate that, although there is money available to provide needed classrooms and equipment for the education of our children, we are unable to use it until this lawsuit is over.

FRANK J. O'REILLY

Chairman

Polk County School Board

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