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County impact fee refunded

By Ryan Smith, News-Leader

A local builder has finally been refunded more than \$26,000 in impact fees after a yearlong battle with Nassau County.

In 2007, Yulee Professional Plaza LLC remodeled the former IGA Supermarket at the corner of A1A and US 17, turning the building into office space to house the relocated Sutton Place Behavioral Health Center.

"When we applied for our remodel permit, we went in to change that from a grocery store to an office building," said Phil Griffin, managing member of Yulee Professional Plaza LLC. "When we picked up the building permit, they charged us an extra \$26,000 and said it was a new building and they were entitled to charge us for the impact."

Griffin argued that the change from a supermarket to office space actually lessened the building's impact on area traffic, since not as many people would utilize the office. He argued that charging a fee for construction that would actually lessen the building's impact was bad business.

"This is part of the reason that Nassau County's economy is stalled out the way it is," he said last week. "They just kill business deals."

Griffin requested an impact fee refund on behalf of Yulee Professional Plaza LLC in January 2008. However, he said he had to threaten legal action before the county would respond to his requests. "I had to threaten to sue the county to even get them to come to the table," he said. "I have no interest in suing the county. I just wanted to get our money back. ... We spent \$5,000 in a year pursuing our own \$26,000."

Although the county eventually agreed that the company was entitled to a refund, Griffin said reimbursement was slow in coming.

"We had an arbitration back in early December. The arbitrator and (Nassau County Attorney) Dave Hallman agreed that we were entitled to our money back," he said. "Three weeks later it went to the Board of County Commissioners and they agreed to give our money back. Now it's March."

Hallman acknowledged that the reimbursement should have come much faster. "It sat on my desk because I had to write an opinion letter to get the clerk to release the money," he said. "It's my fault, and I owe Phil an apology."

Hallman said that upon review, he found that the county had been authorized to collect the impact fee - but it made sense to return it. "Basically, the ordinance as it's phrased allowed the county to charge for the renovation of an existing facility even if the impact is less," he said. "Ultimately, I came down with a legal opinion that's probably not the right interpretation."

"There's case law on both sides. There aren't crystal clear sides on these impact fee issues," Hallman added. "There's something called the dual rational nexus test, which is as Byzantine as it sounds. There has to be a nexus between the people you collect the money from and the growth, and the way the money is collected and the way it's spent."

Hallman said he had completed his legal opinion and forwarded it to the Clerk of Court's Office with a request that a refund be issued. The check was issued Friday, according to the clerk of court's office.

Griffin said Friday that he was glad the refund battle was over, but was still upset at what he called Nassau County's anti-business attitude. "I don't fault the clerk's office. They just got the word a week ago," he said. "It's the way it was handled, and more importantly what it does to destroy business development and bringing small businesses to Nassau County. The real important thing in the big scope of things is that Nassau County is anti-business. The impact fee ordinance is anti-business, the concurrency ordinance is anti-business, the lack of growth planning is anti-business - and consequently, businesses go elsewhere."

rsmith@fbnewsleader.com