

State attorney general rules again on development tax

By MICHELLE WILLARD, Post Staff Writer – Dec. 13, 2007 – 11:12 am

Rutherford County can't increase the development tax to fund new schools, according to Tennessee's Attorney General.

"Your request suggests amending these provisions to authorize planning commissions to require developers seeking approval of subdivision plats to fund certain school improvements," Attorney General Robert Cooper wrote in a recently released opinion.

"In our view, such a provision would conflict with both the spirit and express language of the County Powers Relief Act," he continued.

In June 2006, the General Assembly passed the County Powers Relief Act, which allows for county governments to charge developers \$1 per square foot for new homes and discontinues county development taxes.

However, Rutherford County had already enacted a \$1,500 per home development tax, with half going to the county education system and remainder is set aside for other infrastructure, Rutherford County Budget and Finance Director Lisa Nolen explained previously.

The county used the fee as an attempt to relieve some pressure from the budget by passing along infrastructure costs to developers and new homebuyers.

Nolen said the development tax is preferable to the county because it is a flat fee and is easily collectable.

The Relief Act tax is not required until one year after a house is built and the development fee is due at the beginning of construction, she continued. Also, it would require more county staff to inspect new homes and collect the tax.

The state law would fund the same projects but negates any new attempts by the county to increase its development tax. Meaning if the county needs more money for schools, it must use the structure set in the County Powers Relief Act and discard the current development tax.

Cooper's opinion clearly states any attempt by the county to increase its established development fee to fund school improvement projects "would create an irreconcilable conflict with the express limitations of the County Powers Relief Act."

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