



Friday, October 19, 2007

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LATEST NEWS

Foundation sues North Port over road repair fee

(Last updated: October 18, 2007 5:29 PM)

By SUSAN E. HOFFMAN
North Port Assistant Editor

NORTH PORT -- The Pacific Legal Foundation filed a lawsuit today against North Port, charging the city's "road rehabilitation fee" is really an unlawful impact fee that violates the state constitution.

The suit, filed in the 12th Circuit Court in Sarasota County, was brought in the name of the North Port Contractors Association Inc. and Sarasota County Homebuilders Association Inc. as plaintiffs, not only because the individual members have to pay fees, but also because the North Port contractors group owns property for its "Project C House," a charitable community fundraiser for which the association had to pay a \$1,294 "road rehabilitation fee."

Valerie Fernandez, lead attorney on the suit for Pacific Legal Foundation, said, "Under the Florida constitution and case law, to be lawful an impact fee must be directly related to the new impact or future burden caused by the development. So if there is a need for new sewers or new roads, you could assess an impact fee for that.

"But it's unlawful to charge an impact fee for existing damage, which is what North Port's 'road rehabilitation fee' attempts to do," she added.

The road rehabilitation fee ordinance was adopted in a 3-2 commission vote (commissioners Dick Lockhart and Vanessa Carusone voting against it) on Oct. 10, 2006. The new fee would be used to repair existing roads in disrepair.

At the time, Paul Morgan, a North Port builder, said, "What they're really doing is trying to make newcomers pay for the actions -- or inactions -- of the city from 20 years ago. They didn't fix the roads back then when they should have, so now they want all the new people to do it."

In May, 2006, when commission began discussing the ordinance, City Attorney Rob Robinson warned the road rehabilitation fee could be challenged.

Commissioner Dick Lockhart said, "We were told (by Robinson) to set aside at least \$100,000 because we (the city) might get sued over this."

The city has 20 days to file a formal answer to the lawsuit.

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