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victory for school District

Judge Guts Suit Against Impact Fees

Major portion of builders' association challenge of funding rule is dismissed.

By [John Chambliss](#)
The Ledger

BARTOW | A judge has dismissed a major portion of a lawsuit by the Polk County Builders Association that contended an \$8,596 impact fee for Polk schools was unjustified.

The builders wanted the fee on new homes reduced by \$5,757 - the amount the group said was devoted to construction needs for class-size reductions and should be paid for by the state.

But in a victory for the School District, Circuit Judge Dennis Maloney said in a Dec. 6 ruling that the class-size amendment passed by Florida voters does not prohibit local funding.

A part of the lawsuit remains alive, but Polk County School Board Attorney Wes Bridges said it is a minor portion and the central issue has been addressed.

"It was a major, major ruling in our favor," Bridges said. "For all intents and purposes this order tears the heart out of the lawsuit."

School Board members and school officials were pleased.

"It's a great relief to this district and other districts," said Bob Williams, assistant superintendent of facilities and operations for the district. "The gist of the lawsuit has been won."

"It's good news for the kids and needs of the school," Polk County School Board member Kay Fields said.

Scott Coulombe, executive director of the Polk County Builders Association, said a decision hasn't been made on whether the association will appeal Maloney's ruling.

"I'm disappointed but not really surprised," Coulombe said. "We didn't think a district judge would sanction it."

Maloney's ruling could have statewide impact because of challenges in other counties on the use of impact fees to pay for school construction for the class size amendment. His is the first ruling to address that issue.

In the coming days, Coulombe said he will meet with the Florida Homebuilders Association and other builders, such as Hickman Homes and Tyler Homes, to determine whether an appeal will be filed.

At one time, Polk had the highest impact fee in the state at \$8,596 for a single-family home.

But since the lawsuit was filed, impact fees have been reduced, at least for now, to about \$3,400 because of an increase in state funding for the district this year.

At a School Board meeting Tuesday, board member Frank O'Reilly told Bridges to ask the PCBA to drop the remainder of its lawsuit and referred to the lower impact fee now being charged.

"Aren't we down to where they (builders) were moaning and groaning about," O'Reilly said. "I have no respect for the home builders association."

Polk County commissioners, who implemented the new fee in 2006, were actually the target of the builders' lawsuit, not the School Board. The county collects impact fees then distributes money to the district.

If Maloney rules favorably for the district on the second part of the case, it will free up \$22 million the district set aside in an escrow account in case the builders prevailed in the case. Those funds will be used for building schools, Williams said.

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