



JUDGE RULES AGAINST BUILDERS' MOTION TO HALT IMPACT FEES, ENHANCED DESIGN STANDARDS

BRYAN COUNTY, GA – August 13, 2019 – A superior court judge has ruled against the Home Builders Association of Greater Savannah's motion to stop Bryan County from operating under its Interim Development Ordinance (IDO) and implementing the Transportation Impact Fee Ordinance, which is also known as the Development Impact Fee Ordinance or DIFO.

Last week, Chief Judge Robert L. Russell III denied the plaintiff's May 2019 request to halt collection of the impact fees, which were passed by the Bryan County Commission Jan. 8 and went into effect April 1. The fees are applicable to all new residential and certain new non-residential construction in unincorporated South Bryan County and are collected from developers who submit building plans and apply for building permits. The money is due at the same time as the building permit fee.

Under the Development Impact Fee Ordinance, fees are based on the cost of the construction necessary for providing transportation system capital improvements needed to adequately serve the area as a result of the growth coming from the new development. The fees were designed to help the county keep up with the growth and its effect on the roadways while not placing any additional property tax burden on current property owners.

Builders, however, did not see it that way. The association filed suit in February, alleging that the county went too far with the IDO and the DIFO, which they claim restricts private property rights and makes new homes unaffordable.

The impact fees add a little more than \$3,000 to the price of a newly built home, and it's up to the builder to either pay the fee or pass it on to the homebuyer. The money generated will go toward road improvements, to help ensure that the transportation infrastructure can keep up with the steady stream of new residents settling in Bryan County.

The Interim Development Ordinance also created new design standards for new construction homes, mandating adherence to enhanced building safety standards – such as using construction materials with higher wind-zone resistance – as well as guidelines for aesthetic considerations, which help to keep existing communities' character. In addition, the IDO is an objective set forth in the county's

Comprehensive Land Use Plan, which was developed using a great deal of input from local citizens who weighed in on the process.

Bryan County Commission Chairman Carter Infinger expressed satisfaction with the judge's ruling, reiterating the county's stance that impact fees are a solid solution to a problem that could affect the area's residents in more ways than one.

"We don't want to increase taxes, but we did need a way to handle the influx of new residents Bryan County welcomes annually. Major roadwork and road creation cost a lot and there's not much debate on whether it's needed. Where the population expands, new infrastructure is absolutely necessary. Impact fees basically allow for growth to help pay its own way. We're proud of our expanding community and we know people come here to enjoy a great quality of life. Access to plenty of well-maintained and convenient roads is a big part of that."

In his ruling Russell stated that the county's Interim Development Ordinance is valid and "can only be proven otherwise if the Builders Association presents clear and convincing evidence that the IDO presents a significant detriment to the landowner and that it is insubstantially related to the public health, safety, morality and public welfare." The Home Builders Association of Greater Savannah failed to meet this burden of proof.

Furthermore, the ruling states that, "The IDO does not exceed the police power just because it restricts the use of property, diminishes value, or imposes additional costs to develop the property. An ordinance is not unreasonable even if designed only to improve aesthetics.

"There are several interests that will support a restriction on land use, including, but not limited to, 'aesthetics, environmental impact, injury to neighboring property, traffic impacts and potential hazards to pedestrians, and the long-range planning goals for the area,'" according to the judge's order.

"Collection of impact fees by local governments in Georgia is now a commonly employed method to fund capital improvements, including road improvements. No evidence was presented by the plaintiff that any member of the plaintiff's association would suffer a loss of opportunity to build residential units in south Bryan County or that the county's impact fee schedule would impair the ability of a developer to construct new residential units. Thus, there was no evidence of an unconstitutional taking of property as a result of the adoption by the county of its impact fee ordinance."

"We're happy to put this matter behind us and continue on with the important work of building Bryan County up to be a top-notch community, giving our residents the services and great quality of life they deserve," Infinger said.

For more information about Bryan County, please visit www.bryancountyga.org.

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