

Shakopee, builders settle fee dispute

In settlement, city agrees to adjust its fees to better reflect the cost of providing building-related services

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The city of Shakopee overcharged residential building permit applicants by more than \$1.4 million last year, according to an independent study that examined the cost of services provided by the city.

The study was the basis for last week's settlement of a longstanding tiff that pitted two home-builder groups against the city.

Two years ago, the Builders Association of the Twin Cities (BATC) and the Builders Association of Minnesota (BAM) sued the city, accusing it of violating state law by charging what the associations viewed as excessive fees for building permits.

No money changed hands as part of the Oct. 5 settlement, but the city agreed to adjust its fees to better reflect the cost of providing building-related services. The reduced fees — up to 91 percent lower than pre-settlement fees — apply to building permits issued after Aug. 1, 2006.

In addition, the settlement calls for improved communication between the builders and the city, and the city said it would try to approve building permits within 14 days and provide inspections within two business days.

The settlement terms were based, in part, on an independent study of the cost of some city services.

The study, commissioned by the city after the builder groups filed their lawsuit, took a year to complete and was finalized in July. It concluded that some of the city's fees were too high relative to cost, and some were too low.

Joseph Springer, an attorney who represented the associations, said the study found that the city was undercharging for some services not directly related to homebuilding. Examples include fees for splitting a lot, or plumbing permits for installing lawn sprinklers.

But all of the fees within the scope of the lawsuit were found to be too high and have been reduced, according to Springer.

"That study determined what we were alleging in our lawsuit was true, that Shakopee had been overcharging for permits and using that for other

activities," said Springer, of the Minneapolis law firm Fredrickson & Byron.

Mark McNeill, Shakopee's city administrator, said in a statement that the city would "continue to comply with all state laws and regulations regarding building permit fees."

In a phone interview, McNeill said the city has a \$1.479

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— Mark McNeill, Shakopee's city administrator

Fee Dispute: The city has a \$1.479 million surplus from building permit fees taken in during 2005.

Continued from page 1

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"As part of our settlement, we have set that into a segregated account and will only use that for building-permit-related activities," McNeill said. "At the end of the year, after adjusting our building permits down, if we still have a surplus, we will need to further reduce building permit fees."

The southwest metro city of Shakopee (population 35,000) has been a mainstay on BATC's monthly list of fastest growing metro cities as measured by residential building permits.

This year, through September, Shakopee has issued 207 permits, trailing only Woodbury (315), Brooklyn Park (285), Otsego (247) and Lakeville (226).

"We have a lot of land yet to develop in Shakopee, and even with the current slowdown in the housing market, we are still very busy compared to most other cities," McNeill said. "We want to make certain that we continue to have a good relationship [with builders] go-

ing forward."

Other cities

Shakopee isn't the only city that has been accused of inflating building permit fees.

No other lawsuits are pending, but Springer said the associations would continue to monitor building permit fees in other cities.

"We don't think that the overcharging is limited just to Elk River and Shakopee," Springer said.

A previous lawsuit, settled last January, involved the Builders Association of the Twin Cities, the Builders Association of Minnesota, the Suburban Northwest Builders Association and the city of Elk River.

In the Elk River settlement, the city and the three associations agreed that the city's fee payers are "getting the services for which they are paying," and the city did not pay any money to the associations.

But the settlement required the city

to "more clearly explain" in financial reports "that the amount and use of its building permit fees fully comply with all legal requirements," according to a joint statement released by the associations and the city.

Minnesota law states that building permit fees must be "fair, reasonable and proportionate."

The law, passed in 2001, also requires cities to use the permit fees only for services related to the building project, such as infrastructure work and inspections.

Homebuilders may seek further relief from the Legislature as they try to keep building permit fees in check.

"Rather than settle it on a lawsuit-by-lawsuit basis, we are attempting to settle this on a more global basis," Springer said.

"And this consent decree [with Shakopee] helps to hash out a lot of very good ideas that could be taken on a statewide basis."

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