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Michigan Supreme Court Lets Prior Ruling Stand that the City of Troy Charged Excessive Permit Fees

Application to Appeal Denied

Headlee Violation Means City of Troy Must Repay Home Builder's Legal Fees

Lansing, MI – Today the Home Builders Association of Michigan (HBAM) announced that it took a giant step toward completing its decades long lawsuit against Troy to enforce Michigan's Construction Code Act (CCA), with the Supreme Court handing down a ruling denying Troy's Application for Leave to Appeal. The CCA sets limits on what communities can charge for residential building permit fees. Last fall the city lost a 3-0 unanimous decision by the Michigan Court of Appeals (COA) in the case. The city then filed an application to Appeal the COA decision to the Michigan Supreme Court. That appeal was denied on Wednesday.

"This is not only a win for our members, and others in the building industry, it is a victory for homeowners and will be for years to come. Permit fees in some communities have escalated well beyond the limits set by state lawmakers and that ends up increasing the cost of housing," noted HBAM CEO Bob Filka.

Michigan law says local governments can only charge reasonable fees that cover the costs of operating a building department. Anything more than that is not a fee but a tax. Michigan's Headlee Amendment to the Constitution prohibits local governments from imposing taxes - in this case excessive permit fees - without a vote of its citizens. While most communities operate in a lawful manner, a number of communities across the state use the value of construction projects or other methods to determine what they charge for permit fees. This precedent-setting decision clarifies that arbitrary permit fees generating revenue in excess of building department expenses are unlawful.

HBAM originally filed suit against the city in December 2010, after the city outsourced its permitting activities and received a 20% to 25% kickback on every permit that was issued by their contractor. "Our association leaders never gave up on this litigation and this decision should put other communities on notice. If you have a permit fee structure that generates revenue in excess of what it costs you to run your building department, those fees need to be restructured. They are hidden and unlawful taxes on housing," said Filka.

The Home Builders Association of Michigan, a professional trade association comprised of 16 local homebuilder associations around the state and their 4,500 builder, subcontractor and supplier members. As the state's largest association representing construction-related sectors, the HBA of Michigan works to positively promote the building industry and impact legislative, regulatory and legal issues affecting housing attainability.