

News Release



FOR IMMEDIATE RELEASE
March 31, 2026

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Landmark Legal Victory on Unlawful Permit Fees Secured *\$575,000 in Legal Fees Paid Back to HBAM by City of Troy*

LANSING, MI – The Home Builders Association of Michigan (HBAM) today announced the conclusion of a 15-year legal battle that solidifies protections for Michigan homeowners and builders against inflated permit fees that unfairly tax housing. Following this final ruling, the local defendant municipality has been permanently enjoined and held liable for 15 years of attorney and expert witness fees.

"This is a massive win for housing affordability and transparency in what local governments charge for housing-related permit fees," said Bob Filka, CEO of the HBA of Michigan. "Permit fees are intended to cover the cost of administering and enforcing the Michigan Residential Code, not to serve as a hidden profit center for local governments." The litigation centered on the privatization of a municipal building department through a "turnkey" contract with SafeBuilt of Michigan. Under this arrangement, the contractor received 75-80% of fees, while the city retained a 20-25% "surplus." The Michigan Supreme Court ruled this structure violated the Construction Code Act (CCA), which mandates that fees must "bear a reasonable relation to the cost" of providing the service.

The court also rejected "creative accounting" attempts to bypass this mandate by including ineligible costs or claiming dollars were needed to offset prior year building department deficits. After canceling its private contract, the municipality attempted to inflate its overhead by allocating costs from unrelated departments. The Court of Appeals found this violated both the CCA and the Headlee Amendment, clarifying that:

- **Exclusive Authority:** Only the designated "Enforcing Agency" (the Building Department) can oversee the code. While outsourcing inspections and services is allowed, management of these functions cannot be delegated.
- **Strict Overhead Limits:** While proportional shares of utilities or HR costs are allowed, local units cannot charge for statutory offices like the Clerk or Treasurer, as those costs exist regardless of the building code.
- **Revenue Restrictions:** Revenue derived from fees must be used **ONLY** for the operation of the Enforcing Agency.

Many jurisdictions still rely on an International Code Council (ICC) valuation template that bases fees on the total cost of a house or project rather than the actual cost of the permitting and inspection services. "These templates do not generally comport with Michigan law and local jurisdictions should immediately re-evaluate their fee structures to avoid future disputes," said Filka. "Arbitrary fees based on anything other than a jurisdiction's actual building department expenditures may result in injunctions or court-ordered refunds."

The Home Builders Association of Michigan is a professional trade association comprised of 16 local homebuilder associations around the state and their 5,000 builder, subcontractor, and supplier members. HBAM works to positively promote the building industry and impact legislative, regulatory and legal issues affecting housing attainability.

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