

Ruling on an issue closely watched by the real estate industry, a judge blocked hundreds of residents of a Long Beach condominium association from being forced to pay what plaintiffs' lawyers said would have amounted to more than \$90 million in special assessment fees over the next 30 years.

Los Angeles County Superior Court Judge Patrick T. Madden overturned the monthly fee residents of the Marina Pacifica Homeowners Association paid to a developer. He found it constituted a "transfer fee" that ran afoul of recently enacted legislation requiring officials to provide proper notification of such assessments.

According to legal observers, residents sometimes pay the costs in addition to fees such as homeowner's association dues or certain types of rent. Developers occasionally include the fee in contracts when units are purchased and can collect it in installments or in one lump sum.

Lawyers representing the association said that homeowners, under the defendants' calculations, could have been on the hook for more than \$90 million in future fees by the time the fee agreement expired in 2041.

In the case of Marina Pacifica, developers of the 570-unit oceanfront project imposed the fee on condominium buyers when the project began selling in the early 1970s. For more than 30 years, the assessment hovered at around \$15 to \$25, according to court testimony, because the developers wanted to keep it affordable for residents.

Along the way, the original property owner sold the development to the Marina Pacifica Homeowners Association, and two of three partners in the development company sold their interests in the fee to the association.

But one of the original developers, William Lansdale, retained a 43.75 percent interest in the assessment. In 2006, the property value was reassessed to \$60.6 million under an "escalator clause" in the fee contract. In late 2008, in a calculation based on the reassessment, a Lansdale company handling the fee payments began billing homeowners \$387.70 per month.

In 2009, the homeowners association sued Lansdale and his company, Southern California Financial Corporation, alleging, among other things, that the fee was invalid and violated California Civil Code sections 1098 and 1098.5. Lawmakers enacted the statutes in 2008 after groups including the California Association of Realtors voiced concern that such fees were further depressing the real estate market. The code sections require those with the right to collect recurring property fees legally record notice of their right and intent to do so.

Ruling Nov. 14 after a March bench trial, Madden overturned the fee, agreeing with Marina Pacifica that the defendants failed to record documents notifying residents of the fee throughout its term.

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Madden will issue a final ruling on all issues in the litigation after the parties sort out how much residents were overbilled and the proper fee amount the defendants should have received before lawmakers enacted the legislation under which the judge nullified the assessment.