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FOR IMMEDIATE RELEASE

Home Builders Association of Delaware Files Lawsuit Challenging Legality of City of Lewes’s Building Permit Fee Structure

LEWES, Del. — The Home Builders Association of Delaware (HBADE) has filed a lawsuit in Delaware Superior Court challenging the legality of the City of Lewes’s building permit fee structure, arguing the city is unlawfully using building permit fees as a revenue-generating tool in violation of Delaware law, the city’s own charter, and constitutional protections.

The lawsuit alleges that the City of Lewes doubled its building permit fee from 1.5% to 3% of construction costs specifically to generate additional municipal revenue, despite already collecting permit fees far exceeding the actual cost of administering its building department.

“At a time when Delaware families are struggling through a housing affordability crisis, local governments should be focused on removing barriers to housing production, not making housing even more expensive,” said Katie Dodge Gillis, Executive Officer of HBADE “Every unnecessary regulatory cost imposed on home construction ultimately gets passed on to homebuyers, renters, and working families, or is absorbed by builders already dealing with rising costs.”

According to the complaint, publicly available city budget documents show building permit fees consistently exceeded building department expenditures by substantial margins for years, generating more than \$1.6 million in cumulative surpluses even before the city voted to double the fee. The lawsuit further alleges Lewes officials openly discussed the fee increase as a mechanism to generate additional revenue for the city budget.

HBADE argues the city is attempting to balance its budget on the backs of businesses and home buyers working and living in Lewes.

“Lewes cannot use aspiring homeowners, builders, and property owners as an unlimited source of revenue to fund municipal operations,” said Gillis. “These kinds of unlawful fees directly increase the cost of housing and make it harder for Delawareans to afford to live in the communities where they work.”

The lawsuit alleges the city's fee structure violates Delaware law because municipalities may only impose taxes expressly authorized by state law or municipal charter. HBADE contends the permit fee operates as an unlawful tax rather than a legitimate regulatory fee because it bears no reasonable relationship to the actual cost of issuing permits or regulating construction activity.

The complaint also challenges the city's methodology for calculating permit fees, alleging Lewes improperly includes land value and contractor profit in its calculation of actual construction costs, producing irrational and excessive fee amounts unrelated to any legitimate governmental purpose.

HBADE further alleges the fee structure violates the Delaware Constitution and United States Constitution by imposing excessive and disproportionate exactions without the legally required nexus to actual impacts caused by development.

The association emphasized that this lawsuit is part of a broader effort to protect housing affordability across Delaware.

"The Home Builders Association of Delaware is prepared to stand up against unlawful attempts to increase the cost of housing anywhere in this state," said Gillis. "We will continue to investigate and pursue meritorious cases against jurisdictions that seek to unlawfully inflate housing costs through excessive permit fees, impact fees, or other regulatory mechanisms."

As Delaware confronts a growing housing shortage, policymakers should be working to reduce unnecessary costs and expand housing opportunities, not implementing policies that make housing more expensive for everyone.

The lawsuit asks the Superior Court to prohibit Lewes from enforcing the challenged fee policy.

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The Home Builders Association of Delaware (previously the Builders and Remodelers Association of Delaware) strives to protect and preserve housing as a symbol of America. It has been an integral part of the growth and economic development of the State since 1947. Founded as a non-profit state affiliate of the National Association of Home Builders, our organization advocates for Delaware Home Builders, Remodelers, and Associates (supporting businesses in the building industry). Representing tens of thousands of employees in the housing, development, and real estate communities, our membership makes up a substantial portion of the workforce and touches virtually every aspect of the Delaware economy.