

Bond Case Briefs

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Church of Divine Earth v. City of Tacoma

Supreme Court of Washington - September 19, 2019 - P.3d - 2019 WL 4508496

Church brought action against city for damages, based on city requiring an eight-foot right-of-way dedication for a permit to build a parsonage, and for a violation of the Public Records Act (PRA).

After church's separate Land Use Petition Act (LUPA) petition was resolved in its favor, and after a bench trial, the Superior Court entered a judgment in favor of city. Church appealed. The Court of Appeals affirmed, and church petitioned for further review.

The Supreme Court held that:

- Trial court erred in permitting testimony of reasons for city imposing eight-foot right-of-way dedication requirement on permit for church to build parsonage that had not informed the city's final decision to impose the permit condition, and
- City's subjective belief that City eight-foot right-of-way dedication requirement on permit for church to build parsonage was lawful was insufficient to avoid incurring liability for damages based on an unlawful permitting decision.

To show that a permit condition for an uncompensated dedication of land is lawful, the government must: first, show the development will create or exacerbate an identified public problem; second, the government must show that the proposed condition will tend to solve or alleviate the public problem; finally, the government must show that the condition is roughly proportional to the development's anticipated impact; and in fulfilling these requirements, the government must, to some degree, quantify its findings, and cannot rely on speculation regarding the impacts or mitigation of them.

City's subjective belief that City eight-foot right-of-way dedication requirement on permit for church to build parsonage was lawful was insufficient to avoid incurring liability for damages based on an unlawful permitting decision, when the statute required an objective standard, asking instead whether the city's final decision should reasonably have been known to be unlawful.