Bond Case Briefs

Municipal Finance Law Since 1971

SCOTUS Agrees to Hear Case Concerning the Scope of Constitutional Challenges to Land Use Permit Conditions: Salber

Saiber Real Estate & Land Use Alert

The Supreme Court of the United States has agreed to hear *Sheetz v. County of El Dorado, California*, a case that concerns whether land use permit conditions in the form of monetary exactions created by legislation are completely exempt from constitutional review.

As we summarized in a prior alert, the matter involves a property whose owner applied for a building permit to construct a single-family residence. The County of El Dorado agreed to issue the permit with one important condition: the property owner had to pay a $23,420 traffic impact mitigation fee. The County had authorized the traffic impact mitigation fee as part of a general road improvement program intended to offset the impact of new development on the surrounding road infrastructure. The property owner challenged the impact fee as unconstitutional in California state court and ultimately lost, with the California Supreme Court declining to consider the property owner's appeal. The Supreme Court recently agreed to hear the case.

The Court's decision has the potential to significantly impact local governments and development, by either green-lighting monetary exactions that are exempt from constitutional review, eliminating or curtailing them by making them subject to the constitutional takings analysis; or by some alternate holding that attempts to balance the competing interests at hand.

To be clear, all development has an impact on the surrounding environment, whether it is a single-family home or a large industrial complex. The reality of municipal budgeting is that local governments have limited methods to offset those impacts and keep up with the demand on infrastructure and government services caused by development. In Mr. Sheetz's case, the fee concerned road improvements. However, local governments also struggle to account for the increased demand on stormwater management and flood prevention systems, sanitary sewer capacity, and public transportation, among other things – all of which affect communities in significant ways. But the government's efforts to offset development impacts must at all times comply with property owners' constitutional rights.

Oral argument in the case is not scheduled yet but will likely occur after the Court's November sitting.

Saiber LLC – Justin R. Calta and Nino A. Coviello

October 9 2023

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com