

Bond Case Briefs

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Westridge-Issaquah II LP v. City of Issaquah

Court of Appeals of Washington, Division 1 - December 6, 2021 - P.3d - 2021 WL 5768395

Property owners filed suit pursuant to Land Use Petition Act (LUPA), seeking review of city's imposition of general facility charges (GFC) for utility connections on property being developed.

The Superior Court granted property owners' petition, ordered city to refund water and stormwater GFCs, which were waived under a land development agreement, and refund the difference in the sewer GFC charged from amount set forth in development agreement. City appealed.

The Court of Appeals held that:

- GFCs imposed by city for utility connections did not invoke vesting statute;
- Building permit applications were not inextricably linked to later-filed preliminary plat application, as would invoke vested rights; but
- Even if vested rights were at issue, GFCs could not be assessed at any particular amount until developer both applied for utility connections and paid applicable fees; and
- City's GFCs were reasonable, as required to comply with authorizing statute.

Water, sewer, and stormwater general facility charges (GFC) imposed by city for utility connections on property being developed as single-family housing were not "land use control ordinances," and thus not subject to vesting statute for such ordinances, under which a proposed division of land was considered under ordinances in effect on land at time of submission of land use application; GFCs did not limit current owners' use of the properties or the development thereon, but instead were merely fees that increased developer's costs.

Single-family residential developer's building permit applications, which were filed prior to city's modification of terms of development agreement governing subject land, were not inextricably linked to its preliminary plat application, which was filed after changes were made to development agreement, such that preliminary plat application could not be approved unless the building permit application was also approved, thus, developer did not have a right to have its building permit applications vest to the land use laws in effect when it submitted its preliminary plat application.

Single-family residential developer did not have a vested right to have general facility charges (GFC) imposed for utility connections on its property assessed at any particular amount until it both applied to connect to city's utility systems and paid the applicable fees.

General facility charges (GFC) to be imposed by city upon single-family residential property developer for water, sewer, and stormwater utility connections, pursuant to city ordinance, were reasonable, as required to comply with authorizing statute; statute required only that connection charges established by ordinance be reasonable, such that property owners would bear their equitable share of the cost of the city's utility system, and there was no indication that the GFCs imposed were not generally proportionate to property's share of the utility system's cost.

