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Sheetz v. County of El Dorado

Court of Appeal, Third District, California - October 19, 2022 - Cal.Rptr.3d - 2022 WL 10993726

Landowner filed petition for writ of mandate and complaint for declaratory and injunctive relief to challenge $23,420 traffic impact mitigation fee imposed by county as a condition of issuing him a building permit for the construction of a single-family residence on his property.

The Superior Court sustained county's demurrer in part and denied the petition for writ of mandate, and landowner appealed.

The Court of Appeal held that:

- Fee was not subject to the heightened scrutiny of the Nollan/Dolan test;
- County was not required by the Mitigation Fee Act to evaluate the specific traffic impacts attributable to landowner's development before imposing fee; and
- Fee was reasonably related to the burden imposed by the development.

The requirements of *Nollan v. California Coastal Comm'n*, 483 U.S. 825, and Dolan v. City of Tigard, 512 U.S. 374, do not extend to development fees that are generally applicable to a broad class of property owners through legislative action; legislatively prescribed monetary fees, as distinguished from a monetary condition imposed on an individual permit application on an ad hoc basis that are imposed as a condition of development are not subject to the Nollan/Dolan test for an unconstitutional monetary exaction.

Traffic impact mitigation fee $23,420 which county imposed on landowner as a condition of issuing a building permit for the construction of a single-family residence on his property was not subject to the heightened scrutiny of the *Nollan/Dolan* test for assessing takings claims in the context of land-use exactions; fee was not an "ad hoc exaction" imposed on a property owner on an individual and discretionary basis, but was a development impact fee imposed pursuant to a legislatively authorized fee program that generally applied to all new development projects within the county, and fee was calculated using a formula that considered various factors.

Landowner could not maintain claim for declaratory relief that county's policy of requiring new development to pay the full cost of constructing new roads and widening of existing roads without regard to the cost specifically attributable to the particular project on which the fee is imposed resulted in an unlawful exaction of $23,420, which was required as condition for landowner to obtain permit to construct single-family residence, as landowner's sole remedy was administrative mandamus, not declaratory relief.

Traffic impact mitigation fee of $23,420, which county imposed as a condition for issuing a building permit for the construction of a single-family residence, was reasonably related to the burden imposed by the development, and thus was valid under the Mitigation Fee Act, where county considered the information contained in a technical report prepared by the Department of

Transportation (DOT) and studies analyzing the impacts of contemplated future development on existing public roadways and the need for new and improved roads as a result of new development, and amended fee rates were adopted after DOT prepared a detailed memorandum explaining the purpose of the fee, the use to which the fee was to be put, and the methodology used to calculate the fee rate for each type of new development.

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