

EXACTIONS AND SUBDIVISIONS

Methods and Requirements Related to Developer
Participation Toward the Costs of Public Improvements

By
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Historical truth:

Those that arrive later in time benefit from the efforts
of those that arrived earlier

. . . and those that arrived earlier need to get over it.

Exactions and Rough Proportionality:

The law's attempt to find the appropriate balance between a new development's impact and the financial contribution that should be exacted from the development by reason of that impact.

Federal Cases of Importance:

Nollan v. Calif. Coastal Comm. (U.S. 1987):

Requiring an uncompensated, permanent, public access easement violates the Takings Clause.

Federal cases cont.

Dolan v. City of Tigard, (U.S. 1994):

Desire to reduce flooding and traffic congestion are legitimate governmental interests, but the city must quantify its findings. No precise mathematical calculation is required but the city must make an individualized determination that the required dedication is related in nature and the extent to the proposed development = “rough proportionality.”

Federal cases cont.

Koontz v. St. Johns River Mgmt. Dist. (U.S. 2013):

The denial of a permit can be a taking:

“Extortionate demands for property in the land-use permitting context run afoul of the Takings Clause, not because they take property but because they impermissibly burden the right not to have property taken without just compensation.”

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