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Sheetz v. El Dorado County: Death Knell for Development Fee Programs or Harbinger of Judicial Deference?

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The United States Supreme Court's most recent Takings case, Sheetz v. El Dorado County, California1 enunciated a seemingly simple holding, that legislatively-imposed development fees are not, as such, exempt from analysis under the Court's "unconstitutional conditions doctrine" under Nollan v. Cali-fornia Coastal Commission2 and Dolan v. City of Tigard.3 The Nollan/Dolan test requires that there be an "essential nexus" between the condition imposed and the impacts of the particular development that the condition seeks to ameliorate (the Nollan prong), and that the amount or extent of the exaction must bear a reasonable relationship to the degree or quantum of the impact sought to be ameliorated (the Dolan prong).4 Before Sheetz, the Nollan/Dolan test had been applied to ad hoc development conditions imposed by local planning officials and legislative bodies in exchange for discretionary approvals of individual development projects, but not to legislatively imposed fee programs imposed on a class of development projects.5 In Sheetz, the Supreme Court held that the California rule that the Nollan/Dolan test does not apply to a legislatively-enacted fee program for a broad class of development projects, was incorrect, and remanded the matter to the state courts for further consideration.6

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