



CASE REPORT

LAND USE REGULATIONS — DEVELOPMENT CONDITIONS — NECESSITY OF DIRECT, IDENTIFIABLE IMPACT. A municipal corporation may not justify development conditions upon general legislative determinations of need. **Isla Verde Int'l Holdings, Inc. v. City of Camas, No. 69475-3 (July 11, 2002).**

I. Facts. The City of Camas approved Isla Verde's preliminary subdivision application subject to two conditions: (1) a 30 percent open space set-aside, and (2) construction of a secondary access road. The set-aside condition derived from the City's open space ordinance, which established a blanket 30 percent preservation requirement for all new subdivisions, regardless of a particular development's actual impact. The access road condition was based upon substantial testimony concerning fire protection concerns specific to Isla Verde's proposed subdivision.

Isla Verde challenged the City's subdivision conditions in superior court, and the case was ultimately appealed to Division II of the Washington Court of Appeals. The appellate court invalidated the City's blanket set-aside condition as an unconstitutional taking of Isla Verde's property, but upheld the secondary access road requirement. The City appealed the decision to the Washington Supreme Court.

II. Applicable Law and Analysis. On appeal, the Supreme Court affirmed the Court of Appeals' decision invalidating the open space requirement, but on different grounds. Declining to address the constitutional "takings" issue, the *Isla Verde* Court instead held that the City's open space condition violated RCW 82.02.020 as a statutorily invalid "tax, fee or charge" on new development. Because the City had based its set-aside condition upon a generally applicable open space ordinance rather than an individualized, project-specific determination of necessity, the Supreme Court reasoned the condition was not shown "necessary to mitigate a direct impact that is a consequence of the proposed subdivision." The City had thus failed to satisfy its mandate under RCW 82.02.020 of demonstrating that the desired open space set aside was "tied to a specific, identified impact of a development."

The *Isla Verde* Court affirmed the validity of the City's secondary access road condition, however, reasoning that the record sufficiently established the public safety rationale for the road. The developer had argued that construction of the road was economically impossible due to the neighboring landowner's refusal to grant an easement for this purpose. In rejecting this argument, the Supreme Court emphasized Isla Verde's failure to demonstrate the absence of alternative locations for the road.

III. Conclusion. *Isla Verde* establishes that a City’s general legislative determination regarding the need for a particular development condition is, without more, insufficient to satisfy RCW 82.02.020. Instead, “development conditions must be tied to a specific, identified impact of a development on a community.” Cities should accordingly ensure that all conditions imposed upon new subdivisions are adequately supported by clear and specific determinations regarding the proposed development’s community impact.