



CASE REPORT

LAND USE REGULATIONS — DEVELOPMENT CONDITIONS — SUBSTANTIAL EVIDENCE OF IMPACT REQUIRED. A city's development condition must be supported by substantial evidence of the proposed development's community impact. **The Benchmark Land Company v. City of Battleground, No. 70659-0 (July 11, 2002).**

I. Facts. As a condition of development approval, the City of Battleground required Benchmark Land Company to improve an existing street adjacent to Benchmark's proposed subdivision. The City based its condition upon a generally applicable ordinance requiring developers to construct half-width road improvements to adjoining access streets as a prerequisite to permit approval. Relevant studies, however, indicated that Benchmark's development would effect little or no impact upon the street at issue.

Benchmark challenged the City's subdivision condition in superior court. The case ultimately was heard by Division II of the Washington Court of Appeals, which invalidated the street improvement requirement as unconstitutionally disproportionate to the proposed subdivision's community impact. The City appealed the ruling to the Washington Supreme Court.

II. Applicable Law and Analysis. The Washington Supreme Court affirmed the appellate court's conclusion regarding the invalidity of the City's development condition, but on different grounds. Instead of analyzing the street improvement requirement under the otherwise-applicable constitutional standard of proportionality, the *Benchmark* Court evaluated the City's development condition under the Land Use Petition Act's (LUPA) "substantial evidence" test. Because no evidence demonstrated that Benchmark's subdivision would measurably impact the adjacent street, the Court concluded that the City's street improvement condition was not supported by the "substantial evidence" mandated under LUPA. The Supreme Court accordingly rejected the City's appeal.

III. Conclusion. The *Benchmark* decision underscores the Washington judiciary's recent emphasis upon the specific community impact of a proposed subdivision as the dispositive factor in evaluating the validity of municipal development conditions. Cities must accordingly justify their development conditions upon substantial evidence of the development's probable effect on the community, and may not rely solely upon generally-applicable ordinances in this regard.