

No. 22-1074

In The
Supreme Court of the United States

GEORGE SHEETZ,

Petitioner,

v.

COUNTY OF EL DORADO, CALIFORNIA

Respondent.

On Writ of Certiorari to the Court of Appeal of
California, Third Appellate District

JOINT APPENDIX

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Petition for Writ of Certiorari filed May 2, 2023

Petition for Writ of Certiorari granted September 29, 2023

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Relevant Docket Entries

California Superior Court
George Sheetz, et al. v. County of El Dorado
Case No. PC20170255

Action Date	Description
6/05/17	Petition for Writ of Mandate filed Receipt: 170605-0166 \$435.00
5/29/18	<p>RULING ON SUBMITTED MATTER (HDEM 05/25/18 8:30 COMPLETE D9)</p> <p>Dept.: 9 Time: 4:00</p> <p>Honorable JUDGE WARREN C STRACENER presiding.</p> <p>Clerk: Sherry Howe. Court Reporter: None.</p> <p>Having considered the submitted matter, the Court rules as follows:</p> <p>After careful review of the moving and opposing papers and further consideration of the arguments of the parties following oral argument, the Court adopts its tentative ruling as the final ruling on the submitted matter.</p> <p>Demurrer to PETITION of SHEETZ as to COUNTY OF EL DORADO overruled as to 1st cause(s) of action only.</p> <p>Demurrer to PETITION of SHEETZ as to COUNTY OF EL DORADO sustained</p>

Action Date	Description
	<p>without leave to amend as to 2nd through 7th cause(s) of action only.</p> <p>The minute order was placed for collection/mailing in Cameron Park, California, either through United States Post Office, Inter-Departmental Mail, or Courthouse Attorney Box to those parties listed herein.</p> <p>Executed on 05/29/18, in Cameron Park, California by S. Howe.</p> <p>cc: Paul Beard, II, Esq., 1121 L Street, #700, Sacramento, CA 95814</p> <p>cc: Glen C. Hansen, Esq., 2100 21st Street, Sacramento, CA 95818</p>
<p>11/30/20</p>	<p>RULING ON SUBMITTED MATTER (H2) COMPLETE</p> <p>Dept.: 9 Time: 4:00</p> <p>Honorable JUDGE DYLAN SULLIVAN presiding. Clerk: Sherry Howe. Court Reporter: None.</p> <p>Having considered the submitted matter, the Court rules as follows:</p> <p>After considering the administrative record, all of the papers submitted on the writ of mandate, the attorneys oral arguments and re-reading San Remo Hotel and Koontz, the court will adopt the tentative rulings and orders, and</p>

Action Date	Description
	<p>provide further rulings on the constitutional issues as follows.</p> <p>In San Remo Hotel the state constitution is congruent with the Takings clause of the Fifth Amendment on these facts. “By virtue of including “damage “tak [sic]</p> <p>does the corresponding federal provision. (Hensler v. City of Glendale (1994) 8 Cal.4th 1, 9, fn. 4, 32 Cal.Rptr.2d 244, 876 P.2d 1043; accord, Varjabedian v. City of Madera (1977) 20 Cal.3d 285, 298, 142 Cal.Rptr. 429, 572 P.2d 43; see Bacich v. Board of Control (1943) 23 Cal.2d 343, 350, 144 P.2d 818; Reardon v. San Francisco (1885) 66 Cal. 492, 501, 6 P. 317.) But aside from that difference, not pertinent here, we appear to have construed the clauses congruently. (See, e.g., Santa Monica Beach, Ltd. v. Superior Court (1999) 19 Cal.4th 952, 957, 962–975, 81 Cal.Rptr.2d 93, 968 P.2d 993 (Santa Monica Beach) discussion of the state clause]; Hensler v. City of Glendale, supra, at p. 9, fn. 4, 32 Cal.Rptr.2d 244, 876 P.2d 1043 “applies equally” to Cal. Const. art. I, ° 19].)</p> <p>Despite plaintiffs’ having sought relief in this court only for a violation of article I, section 19 of the California Constitution,</p>

Action Date	Description
	<p>therefore, we will analyze their takings claim under the relevant decisions of both this court and the United States Supreme Court.” (San Remo Hotel L.P. v. County and City of San Francisco (2002) 27 Cal. 4th 643, 644.)</p> <p>San Remo Hotel finds the constitution scrutiny tracts [sic] with the Government Code ° 66001. “Nor are plaintiffs correct that, without Nollan/Dolan/Ehrlich scrutiny, legislatively imposed development mitigation fees are subject to no meaningful means-ends review. As a matter of both statutory and constitutional law, such fees must bear a reasonable relationship, in both intended use and amount, to the deleterious public impact of the development. (Gov. Code, ° 66001; Ehrlich, supra, 12 Cal.4th at pp. 865, 867, 50 Cal.Rptr.2d 242, 911 P.2d 429 Ehrlich, supra, 12 Cal.4th at pp. 865, 867, 50 Cal.Rptr.2d 242, 911 P.2d 429 (plur. opn. of Arabian, J.); id. at p. 897, 50 Cal.Rptr.2d 242, 911 P.2d 429 (conc. opn. of Mosk, J.); Associated Home Builders etc., Inc. v. City of Walnut Creek (1971) 4 Cal.3d 633, 640, 94 Cal.Rptr. 630, 484 P.2d 606.)” [sic] (San Remo Hotel (2002) 27 Cal. 4th at 671.)</p> <p>The facts of this case are distinguishable from Koontz. In Koontz, the respondent</p>

Action Date	Description
	<p>would approve the permit if petitioner would give part of his land. The specific facts in Koontz trigger Nollan/Dolan. (Koontz 133 S.Ct. at p. 2596.). Our facts do not trigger Nollan/Dolan because this a mitigation fee program where the El Dorado County Board of Supervisors studied and approved this fee. “It is beyond dispute that” Brown, supra, at 243, n. 2, 123 S.Ct. 1406 (SCALIA, J., dissenting). We said as much in County of Mobile v. Kimball, 102 U.S. 691, 703, 26 L.Ed. 238 (1881), and our cases have been clear on that point ever since. United States v. Sperry Corp., 493 U.S. 52, 62, n. 9, 110 S.Ct. 387, 107 L.Ed. 2d 290 (1989); see A. Magnano Co. v. Hamilton, 292 U.S. 40, 44, 54 S.Ct. 599, 78 L.Ed. 1109 (1934); Dane v. Jackson, 256 U. S. 589, 599, 41 S.Ct. 566, 65 L.Ed. 1107 (1921); Henderson Bridge Co. v. Henderson City, 173 U.S. 592, 614–615, 19 S.Ct. 553, 43 L.Ed. 823 (1899). This case therefore does not affect the ability of governments to impose property taxes, user fees, and similar laws and regulations that may impose financial burdens on property owners.” (Koontz 133 S.Ct. at pp. 2600, 2601.)</p> <p>This court’s ruling on the demurrer cited the California Supreme Court’s finding Nollan/Dolan scrutiny did not apply to</p>

Action Date	Description
	<p>legislative enactments of generally applicable development fees even considering Koontz. After reviewing the administrative record, the court still finds Koontz does not apply.</p> <p>The California Supreme Court has held the Koontz opinion did not disturb the case authorities that held legislative enactment of generally applicable development fees were not subject to the Nollan/Dolan test. The California Supreme Court stated: “An additional ambiguity arises from the fact that the monetary condition in Koontz, like the conditions at issue in Nollan and Dolan, was imposed by the district on an ad hoc basis upon an individual permit applicant, and was not a legislatively prescribed condition that applied to a broad class of permit applicants. In this respect, the money payment at issue in Koontz was similar to the monetary recreational-mitigation fee at issue in this court’s decision in Ehrlich v. City of Culver City (1996) 12 Cal.41th 854, 50 Cal.Rptr.2d 242, 911 P.2d 429 (Ehrlich), where we held that because of the greater risk of arbitrariness and abuse that is present when a monetary condition is imposed on an individual permit applicant on an ad hoc basis, the validity of the ad hoc fee imposed in that case</p>

Action Date	Description
	<p>should properly be evaluated under the Nollan/Dolan test, (Ehrlich, supra, at pp. 874–885, 50 Cal.Rptr. 2d 242, 911 P.2d 429 (plur. opn. of Arabian, J.); id. at pp. 899–901, 50 Cal.Rptr.2d 242, 911 P.2d 429 (conc. on. [sic] of Mosk, J.); id. at pp. 903, 907, 50 Cal.Rptr.2d 242, 911 P.2d 429 (conc. & dis. opn. of Kennard, J.); id. at p. 912, 50 Cal.Rptr.2d 242, 911 P.2d 429 (conc. & dis. opn. of Werdegar, J.)) The Koontz decision does not purport to decide whether the Nollan/Dolan test is applicable to legislatively prescribed monetary permit conditions that apply to a broad class of proposed developments. (See Koontz, supra, 570 U.S. at p. ----, 133 S.Ct. at p. 2608, 186 L.Ed.2d at p. 723 (dis. opn. of Kagan, J.)) Our court has held that legislatively prescribed monetary fees that are imposed as a condition of development are not subject to the Nollan/Dolan test. (San Remo Hotel, supra, 27 Cal.4th at pp. 663–671, 117 Cal.Rptr.2d 269, 41 P.3d 87; see Santa Monica Beach, Ltd. v. Superior Court (1999) 19 Cal.4th 952, 966–967, 81 Cal.Rptr.2d 93, 968 P.2d 993 (Santa Monica Beach).)” (Emphasis added.) (California Bldg. Industry Assn. v. City of San Jose (2015) 61 Cal.4th 435, 461, fn 11.).</p> <p>The Petition for Writ of Mandate is</p>

Action Date	Description
	<p>denied.</p> <p>All parties, complaints and case now dispositioned</p> <p>The minute order was placed for collection/mailing in Cameron Park, California, either through United States Post Office, Inter-Departmental Mail, or Courthouse Attorney Box to those parties listed herein.</p> <p>Executed on 12/08/20, in Cameron Park, California by S. Howe.</p> <p>CC: Paul J. Beard, II, Esq., 1121 L Street, #700, Sacramento, CA 95814</p> <p>cc: David Livingston, County Counsel, 330 Fair Lane, Placerville, CA 95667</p> <p>cc: Glen C. Hansen, Esq., 2100 21st Street, Sacramento, CA 95818</p> <p>cc: William Abbott, Esq., 2100 21st Street, Sacramento, CA 95818</p> <p>cc: Kathleen Markham, Esq., 330 Fair Lane, Placerville, CA 95667</p>
2/04/21	<p>Judgment entered on 02/04/21 as follows:</p> <p>Judgment entered on PETITION of SHEETZ for COUNTY OF EL DORADO</p> <p>Judgment entered on PETITION of SHEETZ against GEORGE SHEETZ,</p>

Action Date	Description
	<p data-bbox="359 319 932 349">FRIENDS OF EL DORADO COUNTY</p> <p data-bbox="359 372 969 481">The verified petition for writ of mandate; complaint for declaratory and injunctive relief is denied.</p> <p data-bbox="359 504 959 613">Petitioners and Plaintiffs George Sheetz and Friends of El Dorado County shall take nothing against the County.</p> <p data-bbox="359 636 939 746">The County is the prevailing party and entitled to its costs pursuant to the memorandum of costs procedure.</p>

Relevant Docket Entries

California Court of Appeals
Sheetz et al. v. County of El Dorado
Case No. C093682

Date	Description	Notes
10/19/2022	Opinion filed.	(Signed Published) The judgment is affirmed. The County shall recover its costs on appeal. (Cal. Rules of Court, rule 8.278(a).)

Relevant Docket Entries

California Supreme Court
Sheetz v. County of El Dorado
Case No. S277509

Date	Description	Notes
02/01/2023	Petition for review denied	

[George Sheetz, et al. v. County of El Dorado, et al.]
[Case No. PC20170255]

EL DORADO CO. SUPERIOR CT.

FILED JUN 05 2017

BY Randi Corrasa

Deputy

Assigned to
Judge Warren C. Stracener
For all purposes

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**GEORGE SHEETZ AND FRIENDS OF
EL DORADO COUNTY**

**SUPERIOR COURT OF THE STATE OF
CALIFORNIA**

FOR THE COUNTY OF EL DORADO

GEORGE SHEETZ and
FRIENDS OF EL
DORADO COUNTY,

Petitioners and
Plaintiffs,

v.

COUNTY OF EL
DORADO; and DOES 1
to 20, inclusive,

Respondents and
Defendants.

Case No.: PC 20170255

**VERIFIED PETITION
FOR WRIT OF
MANDATE;
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

[Code of Civil Procedure
§§ 1085, 1094.5, 1060,
526]

FILED BY FAX

Petitioner and Plaintiff George Sheetz, and Plaintiff Friends of El Dorado County, seek relief against Respondent and Defendant County of El Dorado, and allege as follows:

THE PARTIES

1. Petitioner and Plaintiff George Sheetz is a California citizen and taxpayer, who owns property in the County. In 2016, he applied for and obtained a permit to construct a manufactured house on his

property. As a condition of obtaining that permit, the County demanded that he pay a fee to fund improvements to state and local roads, in the amount of \$23,420. He protested the fee under the Mitigation Fee Act, which went unanswered. To date, he has not obtained a substantive response to his protest or a refund from the County. Mr. Sheetz brings this action, not only to vindicate his own rights, but to vindicate the rights of his fellow County residents to be free from unlawful and unconstitutional exactions.

2. Plaintiff Friends of El Dorado County (hereinafter, "Friends") is a nonprofit, section 501(c)(3) organization incorporated in 1994 for the purpose of promoting and protecting the rights of property owners who have been and are required to pay impact fees to the County as the condition of obtaining permits. Friends represents the interests of citizens and taxpayers who live and work in the County of El Dorado, at least one of whom has been required to pay impact fees to the County in the course of obtaining a permit. Consistent with its mission, Friends brings this action in the public interest, in order to vindicate the rights of property owners to be free from unlawful and unconstitutional exactions.

3. Respondent and Defendant County of El Dorado is a county organized under the laws, and is a political subdivision, of the State of California. It can sue and be sued. The County acts through and is ultimately responsible for the official acts and decisions of its agencies and employees.

4. Sheetz and Friends do not know the true names or capacities of the persons or entities sued as Respondents and Defendants DOES 1 through 20,

inclusive, and therefore sue those parties by their fictitious names. Sheetz and Friends will amend this pleading to set forth the names and capacities of the DOE Respondents and Defendants, along with any additional appropriate allegations, if and when such information is ascertained.

JURISDICTION AND VENUE

5. This Court has jurisdiction in this case pursuant to Code of Civil Procedure sections 1085, 1094.5, 1060, and 526, and section 66000, et seq. of the Government Code.

6. All of the actions or events described herein occur or have occurred in the County of El Dorado, and this is an action against the County. Therefore, venue is proper in the Superior Court for the County of El Dorado. Code of Civ. Proc. § 394(a).

LEGAL BACKGROUND

7. Under the Takings Clause of the Fifth Amendment to the United States Constitution, no government agency may take private property for a public use without paying just compensation. U.S. Const. amend. V (Takings Clause); XIV (applying Takings Clause to state and local governments). As the United States Supreme Court famously held, the Takings Clause is “designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v. U.S.*, 364 U.S. 40, 49 (1960). Consequently, a government agency imposing a land-use permit condition that requires the dedication of private property, including money,

“must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development.” *Dolan v. City of Tigard*, 512 U.S. 374, 391; *see also Koontz v. St. Johns River Water Mngmt. Dist.*, 133 S.Ct. 2586 (2013) (holding that monetary exactions are subject to the same constitutional requirement). Specifically, the agency has the burden of showing that the exaction bears an “essential nexus” and “rough proportionality” to the public impacts of the proposed project, or the exaction is nothing more than “out-and-out plan of extortion” and unconstitutional. *Nollan v. California Coastal Comm’n*, 483 U.S. 825, 837 (1987); *Dolan*, 512 U.S. at 391.

8. Property owners have protection against unlawful exactions, not just under federal constitutional law, but under California law as well. The California Legislature passed the Mitigation Fee Act “in response to concerns among developers that local agencies were imposing development fees for purposes unrelated to development projects.” *Ehrlich v. City of Culver City*, 12 Cal. 4th 854, 864 (1996) (internal citation and quotation marks omitted). The Act defines a development fee as “a monetary exaction other than a tax or special assessment that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.” Gov’t Code § 66000(b). The Act creates uniform procedures for local agencies to follow in establishing, imposing, collecting, using and accounting for development fees. *Id.* § 66000, *et seq.*

9. For example, under the Act, “[a] fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.” *Id.* § 66001(g). “Public facilities’ includes public improvements, public services, and community amenities.” *Id.* § 66000(d).

10. To establish a development fee a local agency must identify “the purpose of the fee” and “the use to which the fee is to be put.” *Id.* § 66001(a). The agency also must determine that both “the fee’s use” and “the need for the public facility” are reasonably related to “the type of development project on which the fee is imposed.” *Id.* “The Act thus codifies, as the statutory standard applicable by definition to nonpossessory monetary exactions, the ‘reasonable relationship’ standard employed in California and elsewhere to measure the validity of required dedications of land (or fees in lieu of such dedications) that are challenged under the Fifth and Fourteenth Amendments.” *Ehrlich*, 12 Cal. 4th at p. 865.

11. To impose a development fee as the condition of approval for a specific development project, a local agency must “determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.” Gov’t Code § 66001(b). The agency also must “identify the public improvement that the

fee will be used to finance.” *Id.* § 66006(f).

12. A party may protest a local agency’s decision to establish or impose a development fee by tendering any required payment and serving the agency with notice of the protest within 90 days of the fee being established or imposed. *Id.* § 66020(a), - (d)(1). Any party who timely serves a protest may file an action to “attack, review, set aside, void, or annul” the fee within 180 days of serving that protest. *Id.* § 66020(d)(2). The Act allows an applicant to “challenge a permit condition . . . while proceeding with development.” *Hensler v. City of Glendale*, 1 Cal. 4th 1, 19–20 (1994).

13. The 90-day and 180-day periods do not begin to run until the agency complies with the statutory notice requirement under the Act. Specifically, “[e]ach local agency shall provide to the project applicant a notice in writing at the time of the approval of the project or at the time of the imposition of the fees, dedications, reservations, or other exactions, a statement of the amount of the fees or a description of the dedications, reservations, or other exactions, and notification that the 90-day approval period in which the applicant may protest has begun.” *Id.* § 66020(d)(1). The requirement of written notice exists to ensure that an applicant is made fully aware of his rights and the time within which to assert those rights. Consequently, the running of that 90-day protest period is entirely contingent on the local government’s first providing timely written notice that the time within which to file a protest has begun to run. Without timely written notice, as the Act mandates, neither the 90-day protest period, nor the

180-day limitations period, begins to run. *See, e.g., Branciforte Heights, LLC v. City of Santa Cruz*, 138 Cal. App. 4th 914, 925 (2006) (“[T]he 180–day limitations period under section 66020 does not commence running until written notice of the 90–day protest period has been delivered to a party complying with the protest provisions.”).

GENERAL ALLEGATIONS

A. Measure Y, the General Plan, and the County’s Traffic Impact Mitigation Fee Program

14. When issuing building permits, the County does not make “individualized determinations” about the nature and extent of each particular project’s traffic impacts to state and local roads. Instead, the County looks to its non-individualized, Traffic Impact Mitigation (“TIM”) Fee Program, which is a part of its General Plan. The TIM Fee Program finances the County’s construction of new roads and widening of existing roads.

15. Among other things, the TIM Fee Program authorizes the County to impose a traffic-impact fee on a project applicant, as the condition of pulling a building permit, without regard to the specific nature or extent of the proposed project’s actual traffic impacts (if any). Rather, the applicable fee is based on (1) the geographic zone of the County in which the property lies (Fee Zones Nos. 1–8) and (2) the general category of development being applied for (e.g., single-family residential, multi-family residence, general commercial, etc.). The fee is comprised of two components: the Highway 50 Component and the

Local Road Component.

16. Significantly, the TIM Fee Program requires that all new development will pay *the full cost* of constructing new roads and widening existing roads—regardless of the fact that existing residents of the County and that non-resident motorists from outside the County use and benefit from new and/or widened roads.

17. On information and belief, the TIM Fee Program's requirement that all new development fund the full cost of traffic improvements, as described above, originated with the passage in 1998 of Measure Y ("Control Traffic Congestion Initiative"). The County implemented Measure Y's mandate that new development bear the full cost of new roads and the widening of existing roads through amendments to its General Plan, including General Plan Policy TC-X and TC-Xf, which was given specific expression in the TIM Fee Program.

B. Mr. Sheetz Is Forced to Pay a Fee of \$23,420 As the Condition of a Permit To Build His House

18. Mr. Sheetz owns the property located at 3699 Fort Jim Road, Placerville, California. The property is located in the Fee Zone No. 6. Under the TIM Fee Program in effect at the time of Mr. Sheetz's application, a single-family project triggered a traffic-impact fee of \$23,420–\$2,260 for Highway 50 improvements and \$21,160 for local road improvements.

19. On July 13, 2016, Mr. Sheetz applied for a

building permit from the County to construct a modest 1,854-square-foot manufactured house on his property for his family. The permit issued on August 25, 2016.

20. As a condition of issuing the building permit, the County demanded that Mr. Sheetz first pay the \$23,420 fee, ostensibly to mitigate for the manufactured house's alleged traffic impacts on state and local roads. He reluctantly paid the fee and obtained the permit.

21. The County did not make, and has not ever made, an individualized determination that the public impacts of Mr. Sheetz's manufactured house bears any relationship, let alone an essential nexus and rough proportionality, to the need for improvements to state and local roads. Nor can it. Mr. Sheetz' construction of one manufactured house on his property did not cause public impacts that justify imposition of the \$23,420 fee demanded by and paid to the County.

22. The County did not provide, and has not ever provided, Mr. Sheetz with written or oral notice of his right to administratively protest the fee or to challenge the fee in Court.

23. Nevertheless, Mr. Sheetz ultimately did learn (not from the County or any of its agencies or officials) that state law guaranteed his right to protest the fee and, ultimately, to challenge it in Court. As soon as he learned of his rights, he asked the County to whom he should direct his protest. He was told that he should direct his protest to Ms. Sheri Woodford, with the El Dorado County Department of Transportation.

24. Mr. Sheetz sent a protest letter to Ms. Woodford, dated December 7, 2016. The letter protests the validity of the fee under the Mitigation Fee Act on various grounds and demands that the \$23,420 paid to the County be refunded. A true and correct of the December 7, 2016, protest letter is attached hereto as Exhibit A and incorporated by reference herein.

25. Mr. Sheetz sent a follow-up protest letter to Ms. Woodford, dated December 13, 2016, that reiterated his challenge to the fee, but clarified that “he was NOT given notice of the right to protest or appeal the transportation impact fees.” A true and correct of the December 13, 2016, protest letter is attached hereto as Exhibit B and incorporated by reference herein.

26. Receiving no response to his protest letters from anyone at the County, Mr. Sheetz followed up with a letter dated May 22, 2017, demanding a refund or at least *some* substantive response to his protest. A true and correct of the May 22, 2017, letter is attached hereto as Exhibit C. As of the date of the filing of this lawsuit, the County has provided no substantive response to any of Mr. Sheetz’s communications.

C. Standing Allegations

27. Mr. Sheetz has standing as a permit applicant who has been subjected to the County’s unlawful policy of requiring new development to fully fund new roads and/or the widening of existing roads, and as a result of that policy has been forced to pay an unlawful fee as the condition of obtaining a building permit for a modest project.

28. Further, as taxpayers, Mr. Sheetz and Friends' members have the right to restrain or prevent an illegal expenditure of public money by the County in its application and enforcement of unlawful County policies, including the County policy requiring new development to fully fund new roads and/or the widening of existing roads. Civ. Proc. Code § 526a; *Connerly v. State Personnel Bd.*, 92 Cal. App. 3d 16, 29 (2001).

29. Moreover, as citizens, Mr. Sheetz and Friends' members have a clear, present, and beneficial right to the County's performance of its public duty to apply only lawful policies within its jurisdiction, including lawful policies related to traffic-impact mitigation. *Connerly*, 92 Cal. App. 3d at 29.

30. Mr. Sheetz and Friends have no plain, speedy, or adequate remedy at law available for the County's unlawful actions other than mandamus (with respect to Mr. Sheetz), and/or declaratory and injunctive relief (with respect to Mr. Sheetz and Friends). With respect to the non-writ claim below, Mr. Sheetz will be irreparably injured if the property that was unlawfully taken from him (\$23,420) is not returned. Moreover, if the County is not permanently enjoined from enforcing its illegal policy requiring new development to fully fund construction of new roads and the widening of existing roads, without regard to the standards set forth in the Mitigation Fee Act or under the unconstitutional conditions doctrine, it will result in a waste and illegal expenditure of taxpayer money, and cause Mr. Sheetz and Friends to suffer great and irreparable injury that cannot be adequately remedied by pecuniary compensation.

FIRST CAUSE OF ACTION
FOR WRIT OF MANDATE

(by Petitioner Sheetz)

31. Mr. Sheetz incorporates herein by reference each of the preceding paragraphs.

32. As set forth above, the County imposed a fee of \$23,420 as the condition of issuing Mr. Sheetz a building permit to construct a manufactured house on his property.

33. The County's decision to impose said fee constitutes a prejudicial abuse of discretion including, without limitation, for the following reasons:

- a. Respondent failed to proceed in the manner required by law, because a development fee may be imposed as a permit condition under the Mitigation Fee Act, only if there is a reasonable relationship between the public impacts of Mr. Sheetz's proposed project and the need for improvements to state and local roads. Here, there is no reasonable relationship between the public impacts of Mr. Sheetz's construction of a manufactured house and the need for improvements to state and local roads.
- b. Respondent failed to proceed in the manner required by law, because a development fee may be imposed as a permit condition under the federal unconstitutional conditions doctrine, as applied in the context of the Fifth and Fourteenth Amendments to the

U.S. Constitution, only if Respondent makes an individualized determination that an essential nexus and rough proportionality exist between the public impacts of Mr. Sheetz's proposed project and the need for improvements to state and local roads. Here, Respondent failed to make such an individualized determination and, even if it had done so, it could not have demonstrated the requisite essential nexus and rough proportionality.

- c. Respondent's decision to impose a fee of \$23,420 as a condition of Mr. Sheetz's building permit is not supported by legally sufficient findings, and the findings are not supported by legally sufficient evidence.

34. In the alternative, the County has a clear, present, and ministerial duty to conform its actions to the standards and requirements of the law. Exacting \$23,420 from Mr. Sheetz as the condition of building one manufactured house on his property does not conform to the Mitigation Fee Act or the unconstitutional conditions doctrine. As the victim of the County's unlawful action, Mr. Sheetz has a clear, present, and beneficial right in the performance of the County's lawful obligation to conform to the law and refund said fee.

35. The County's decision to require payment of \$23,420 in exchange for Mr. Sheetz's building permit for one manufactured house is final. Mr. Sheetz either has exhausted all available administrative remedies or the County has offered no remedies for him to exhaust, making his challenge to the fee ripe for

judicial review.

36. Mr. Sheetz's action is timely. The 180-day statute of limitations for challenging a fee under the Mitigation Fee Act begins to run from the date of delivery of the permit agency's written notice of an applicant's right to protest and sue over the fee. Gov't Code § 60020(d)(2); *Branciforte*, 138 Cal. App. 4th at 925. Here, the County never delivered the statutory required notice, so the limitations period has not begun to run. In the alternative, this action was brought within 180 days of the date when Mr. Sheetz filed his first protest letter.

37. Mr. Sheetz has no plain, speedy, or adequate remedy in the ordinary course of law. Mr. Sheetz therefore is entitled to a writ of mandate, pursuant to Code of Civil Procedure section 1085 and/or section 1094.5, directing and commanding the County to refund the unlawfully exacted fee to Mr. Sheetz.

SECOND CAUSE OF ACTION

**FOR A DECLARATION THAT THE EXACTION
VIOLATES GOV. CODE § 66001**

(By Plaintiff Sheetz)

38. Mr. Sheetz incorporates herein by reference each of the preceding paragraphs.

39. To impose a development fee as the condition of approval for a specific development project, a local agency must "determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the

fee is imposed.” Gov’t Code § 66001(b). Moreover, “[a] fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.” *Id.* § 66001(g).

40. The County exacted from Mr. Sheetz a fee in the amount of \$23,420 as the condition of issuing a building permit.

41. The County failed to establish, and cannot establish, that the fee bears a reasonable relationship to traffic impacts purportedly caused by Mr. Sheetz’s manufactured house. Moreover, the fee includes costs attributable to existing deficiencies in the traffic infrastructure that the County required Mr. Sheetz to fund.

42. As a consequence, the County’s imposition of the \$23,420 fee violates section 66001 of the Government Code.

43. An actual controversy has arisen and now exists between Mr. Sheetz and the County concerning the validity of the exaction. Mr. Sheetz contends that the exaction violates section 66001 of the Government Code. He is informed and believes, and on that basis alleges, that the County contends otherwise. A judicial determination and declaration as to the legality and validity of the exaction are therefore necessary and appropriate. Civ. Proc. Code § 1060.

THIRD CAUSE OF ACTION
FOR A DECLARATION THAT THE
EXACTION VIOLATES THE
UNCONSTITUTIONAL CONDITIONS
DOCTRINE (U.S. CONST. AMENDS. V & XIV)

(By Plaintiff Sheetz)

44. Mr. Sheetz incorporates herein by reference each of the preceding paragraphs.

45. The County has the burden of making an individualized determination that a permit exaction bears an “essential nexus” and “rough proportionality” to the public impacts caused by the proposed project. *Nollan v.*, 483 U.S. at 837; *Dolan*, 512 U.S. at 391. If no such finding is or can be made, the exaction violates the unconstitutional conditions doctrine, as applied in the context of the Takings Clause of the Fifth Amendment to the United States Constitution (as applied to local government via the Fourteenth Amendment’s Due Process Clause).

46. The County exacted from Mr. Sheetz a fee in the amount of \$23,420 as the condition of issuing a building permit.

47. The County failed to make an individualized determination (and cannot make an individualized determination) that the fee bears an essential nexus or rough proportionality to the public impacts caused by the proposed project.

48. As a consequence, the County’s imposition of the \$23,420 fee violates the unconstitutional conditions doctrine, as applied in the context of the

Takings Clause of the Fifth Amendment to the United States Constitution (as applied to local government via the Fourteenth Amendment's Due Process Clause).

49. An actual controversy has arisen and now exists between Mr. Sheetz and the County concerning the validity of the exaction. Mr. Sheetz contends that the exaction violates the unconstitutional conditions doctrine. He is informed and believes, and on that basis alleges, that the County contends otherwise. A judicial determination and declaration as to the legality and validity of the exaction are therefore necessary and appropriate. Civ. Proc. Code § 1060.

FOURTH CAUSE OF ACTION

**FOR A DECLARATION THAT THE COUNTY
POLICY AND AUTHORIZING LAWS
RE: NEW DEVELOPMENT VIOLATE GOV'T
CODE § 66001**

(As-Applied Challenge by Plaintiff Sheetz)

50. Mr. Sheetz incorporates herein by reference each of the preceding paragraphs.

51. To impose a development fee as the condition of approval for a specific development project, a local agency must “determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.” Gov’t Code § 66001(b). Moreover, “[a] fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public

facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.” *Id.* § 66001(g).

52. The County enforces a policy that new development bear the **full cost** of constructing new roads and/or widening of existing roads without regard to the cost specifically attributable to the development on which the fee is imposed (hereinafter, “County Policy”). As long as *some* causal connection between a new development and the need for a new road or roads, or widening of an existing road or roads, is found, the County requires the new development to pay ***the entire cost*** of the improvement(s).

53. That County Policy is purportedly authorized by Measure Y’s mandate that new development fund the full cost of new roads and the widening of existing roads, regardless of the cost specifically attributable to the development on which the fee is imposed; County General Plan Policies that implement Measure Y’s mandate, including General Plan Policy TC-X and TC-Xf; and the TIM Fee Program.

54. On information and belief, the County applied the County Policy, including the authorizing laws and program authorized above, to Mr. Sheetz’s application for construction of a manufactured house, which resulted in an exaction of \$23,420. As applied to Mr. Sheetz, the County Policy, and authorizing provisions of Measure Y, the General Plan, and the TIM Fee Program, violate section 66001 of the Government Code.

55. An actual controversy has arisen and now exists between Mr. Sheetz and the County concerning the validity of the County Policy, including Measure Y, the General Plan, and the TIM Fee Program to the extent that they authorize said County Policy, as applied to Mr. Sheetz. Mr. Sheetz contends that, as applied to him, they violate section 66001 of the Government Code. He is informed and believes, and on that basis alleges, that the County contends otherwise. A judicial determination and declaration as to the legality and validity of the County Policy and authorizing provisions of County law are therefore necessary and appropriate. Civ. Proc. Code § 1060.

FIFTH CAUSE OF ACTION

**FOR A DECLARATION THAT THE COUNTY
POLICY AND AUTHORIZING LAWS RE: NEW
DEVELOPMENT VIOLATE THE
UNCONSTITUTIONAL CONDITIONS
DOCTRINE (U.S. CONST. AMENDS. V & XIV)**

(As-Applied Challenge by Plaintiff Sheetz)

56. Mr. Sheetz incorporates herein by reference each of the preceding paragraphs.

57. The County has the burden of making an individualized determination that a permit exaction bears an “essential nexus” and “rough proportionality” to the public impacts caused by the proposed project. *Nollan v*, 483 U.S. at 837; *Dolan*, 512 U.S. at 391. If no such finding is or can be made, the exaction violates the unconstitutional conditions doctrine, as applied in the context of the Takings Clause of the Fifth Amendment to the United States Constitution (as applied to local government via the Fourteenth

Amendment's Due Process Clause).

58. The County enforces a policy that new development bear the **full cost** of constructing new roads and/or widening of existing roads without regard to the cost specifically attributable to the development on which the fee is imposed (hereinafter, "County Policy"). As long as *some* causal connection between a new development and the need for a new road or roads, or widening of an existing road or roads, is found, the County requires the new development to pay ***the entire cost*** of the improvement(s).

59. That County Policy is purportedly authorized by Measure Y's mandate that new development fund the full cost of new roads and the widening of existing roads, regardless of the cost specifically attributable to the development on which the fee is imposed; County General Plan Policies that implement Measure Y's mandate, including General Plan Policy TC-X and TC-Xf; and the TIM Fee Program—which authorizing laws and program violate the unconstitutional conditions doctrine.

60. On information and belief, the County applied the County Policy to Mr. Sheetz's application for construction of a manufactured house, which resulted in an exaction of \$23,420. As applied to Mr. Sheetz, the County Policy, and authorizing provisions of Measure Y, the General Plan, and the TIM Fee Program, violate the unconstitutional conditions doctrine.

61. An actual controversy has arisen and now exists between Mr. Sheetz and the County concerning the validity of the County Policy, including Measure

Y, the General Plan, and the TIM Fee Program to the extent that they authorize said County Policy, as applied to Mr. Sheetz. Mr. Sheetz contends that, as applied to him, they violate the unconstitutional conditions doctrine. He is informed and believes, and on that basis alleges, that the County contends otherwise. A judicial determination and declaration as to the legality and validity of the County Policy and authorizing provisions of County law are therefore necessary and appropriate. Civ. Proc. Code § 1060.

SIXTH CAUSE OF ACTION
FOR A DECLARATION THAT THE COUNTY
POLICY AND AUTHORIZING LAWS
RE: NEW DEVELOPMENT VIOLATE GOV'T
CODE § 66001

(Facial Challenge by Plaintiffs Sheetz and Friends)

62. Mr. Sheetz and Friends incorporate herein by reference each of the preceding paragraphs.

63. To impose a development fee as the condition of approval for a specific development project, a local agency must “determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.” Gov’t Code § 66001(b). Moreover, under the Act, “[a] fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent

with the general plan.” *Id.* § 66001(g).

64. The County enforces a policy that new development bear the **full cost** of constructing new roads and/or widening of existing roads without regard to the cost specifically attributable to the development on which the fee is imposed (hereinafter, “County Policy”). As long as *some* causal connection between a new development and the need for a new road or roads, or widening of an existing road or roads, is found, the County requires the new development to pay ***the entire cost*** of the improvement(s).

65. That County Policy is purportedly authorized by Measure Y’s mandate that new development fund the full cost of new roads and the widening of existing roads, regardless of the cost specifically attributable to the development on which the fee is imposed; County General Plan Policies that implement Measure Y’s mandate, including General Plan Policy TC-X and TC-Xf; and the TIM Fee Program.

66. The County Policy, and authorizing provisions of Measure Y, the General Plan, and the TIM Fee Program, on their face violate section 66001 of the Government Code. There are no circumstances under which such a policy and authorizing provisions can be applied lawfully.

67. An actual controversy has arisen and now exists between Mr. Sheetz and Friends, on the one hand, and the County, on the other, concerning the validity of the County Policy, including Measure Y, the General Plan, and the TIM Fee Program to the extent that they authorize said County Policy. Mr. Sheetz and Friends contend that they facially violate

section 66001 of the Government Code. Mr. Sheetz and Friends are informed and believe, and on that basis allege, that the County contends otherwise. A judicial determination and declaration as to the facial legality and validity of the County Policy and authorizing provisions of County law are therefore necessary and appropriate. Civ. Proc. Code § 1060.

SEVENTH CAUSE OF ACTION
FOR A DECLARATION THAT THE COUNTY
POLICY AND AUTHORIZING LAWS RE: NEW
DEVELOPMENT VIOLATE THE
UNCONSTITUTIONAL CONDITIONS
DOCTRINE

(Facial Challenge by Plaintiffs Sheetz and Friends)

68. Mr. Sheetz and Friends incorporate herein by reference each of the preceding paragraphs.

69. The County has the burden of making an individualized determination that a permit exaction bears an “essential nexus” and “rough proportionality” to the public impacts caused by the proposed project. *Nollan v.*, 483 U.S. at 837; *Dolan*, 512 U.S. at 391. If no such finding is or can be made, the exaction violates the unconstitutional conditions doctrine, as applied in the context of the Takings Clause of the Fifth Amendment to the United States Constitution (as applied to local government via the Fourteenth Amendment’s Due Process Clause).

70. The County enforces a policy that new development bear the **full cost** of constructing new roads and/or widening of existing roads without regard to the cost specifically attributable to the

development on which the fee is imposed (hereinafter, "County Policy"). As long as *some* causal connection between a new development and the need for a new road or roads, or widening of an existing road or roads, is found, the County requires the new development to pay *the entire cost* of the improvement(s).

71. That County Policy is purportedly authorized by Measure Y's mandate that new development fund the full cost of new roads and the widening of existing roads, regardless of the cost specifically attributable to the development on which the fee is imposed; County General Plan Policies that implement Measure Y's mandate, including General Plan Policy TC-X and TC-Xf; and the TIM Fee Program.

72. The County Policy, and authorizing provisions of Measure Y, the General Plan, and the TIM Fee Program, on their face violate the unconstitutional conditions doctrine. There are no circumstances under which such a policy and authorizing provisions can be applied lawfully.

73. An actual controversy has arisen and now exists between Mr. Sheetz and Friends, on the one hand, and the County, on the other, concerning the validity of the County Policy, including Measure Y, the General Plan, and the TIM Fee Program to the extent that they authorize said County Policy. Mr. Sheetz and Friends contend that they facially violate the unconstitutional conditions doctrine. Mr. Sheetz and Friends are informed and believe, and on that basis allege, that the County contends otherwise. A judicial determination and declaration as to the facial legality and validity of the County Policy and authorizing provisions of County law are therefore

necessary and appropriate. Civ. Proc. Code § 1060.

PRAYER FOR RELIEF

WHEREFORE, Sheetz and Friends respectfully request relief as follows:

1. Issuance of a peremptory writ of mandate, directing and commanding the County to refund to Mr. Sheetz the \$23,420 that it unlawfully exacted from him.

2. A declaration that the County has failed to demonstrate a reasonable relationship, and/or an essential nexus and rough proportionality, between its \$23,420 exaction and any adverse traffic impact caused by Mr. Sheetz's project;

3. A mandatory injunction requiring the County to refund to Mr. Sheetz the \$23,420 that it unlawfully exacted from him.

4. A declaration that the County Policy referenced above, and those provisions of Measure Y, the General Plan, and the TIM Fee Program that authorize it, are invalid and of no force and effect as against Mr. Sheetz;

5. An injunction preventing enforcement against Mr. Sheetz of the County Policy referenced above, and those provisions of Measure Y, the General Plan, and the TIM Fee Program that authorize it;

6. A declaration that the County Policy referenced above, and those provisions of Measure Y, the General Plan, and the TIM Fee Program that

authorize it, are facially invalid and of no force and effect;

7. An injunction preventing enforcement of the County Policy referenced above, and those provisions of Measure Y, the General Plan, and the TIM Fee Program that authorize it, both now and in the future;

8. For costs of suit and attorneys' fees under CCP § 1021.5 or any other applicable statute; and

9. For such other and further relief as the Court deems just and equitable.

DATED: June 5, 2017

PAUL BEARD
CLYNTON NAMUO
ALSTON & BIRD LLP

/s/ Paul Beard
Paul Beard
Petitioners and Plaintiffs
**GEORGE SHEETZ AND
FRIENDS OF EL
DORADO COUNTY**

VERIFICATION

I, George Sheetz, declare as follows:

1. I am a resident of El Dorado County, and make this verification on my behalf. I have read the foregoing Verified Petition for Writ of Mandate; Complaint for Declaratory and Injunctive Relief (“Petition”) and know the contents thereof. I certify that the allegations contained in the Petition are true of my own knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 2nd day of June, 2017, in El Dorado County, California.

/s/ George Sheetz
George Sheetz

June 2 - 2017

VERIFICATION

I, Bernard Carlson, Jr., declare as follows:

1. I am the CEO of Friends of El Dorado County, and am authorized to make this verification on its behalf. I have read the foregoing Verified Petition for Writ of Mandate; Complaint for Declaratory and Injunctive Relief (“Petition”) and know the contents thereof. I certify that the allegations contained in the Petition are true of my own knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 5th day of June, 2017, in El Dorado County, California.

/s/ Bernard Carlson, Jr.
Bernard Carlson, Jr.

JA-41

Exhibit A

Transportation Impact Fees Protest Letter

Date 12-7-2016

Sheri Woodford
Sheri.Woodford@edcgov.us
El Dorado County
Department of
Transportation
2850 Fairlane Court
Placerville, CA 95667

RECEIVED
DEC 07 2016
EL DORADO
COUNTY
BUILDING
DEPARTMENT

Dear Mrs. Woodford,

The County DOT staff was contacted regarding how to submit impact fee protest letters and claims. You were given as the contact person. I also inquired about a form to submit with the letter and was informed there are no forms to submit. Attached is a generic government claim form used for making claims in California.

I am protesting the transportation impact fees for local and state highways for the following reasons:

- 1) The county has not completed the required 5-year update required by mitigation law government code 66001 (see Walker v. City of San Clemente). The county is not justified in collecting impact fees without a valid nexus update.
- 2) The county charges impact fees for existing deficiencies such as parallel capacity, bike lanes, auxiliary lanes, and replacing a 46 year old freeway interchange (functionally obsolete

and structurally deficient in 2012- CalTrans bridge inspection for Cameron Park Interchange) at the entire expense of new development. The county wishes new residents to fully fund deficiencies created by depreciation or regulatory changes such as fixing underpass clearance hazards. I think this is a violation of the Mitigation Fee Act.

- 3) The Level of Service (LOS) on our roads determines transportation impact fees at 2035. The total of existing residents trips, external trips, and new development's trips triggers fees based on capacity thresholds - LOS. External trips should be removed from calculating LOS for impact fee purposes. (External trips are removed from LOS calculations in Rancho Cordova's nexus study). Even though the county funds externals to LOS "E" on state highways, external trips do consume significant capacity (over 50% near Placerville) of the available total capacity. If external trips were mitigated to LOS "A", then space would be available for new development on the highways. The county mitigates external trips only to LOS "E" which burdens new residents with the LOS "E" hurdle predominately created by external impacts. If external impacts were removed from LOS computations it would allow for additional capacity likely reducing fees. I believe this is a regulatory takings and a violation of the Mitigation Fee Act.

This letter contains the reason for the protest and the legal theories associated with it. The amount of \$ 23,420.00 was tendered for the impact fees for state

and local roads and is submitted with the protest letter.

Address of this property is: 3699 Fort Jim Rd.
Placerville Ca.

APN for this property is: 077-030-49-1

This document is signed under penalty of perjury and the information within is true and correct to the best of my knowledge.

Signed /s/ George Sheetz

Date 12-7-2016

EL DORADO COUNTY
DEVELOPMENT
SERVICES

RECEIPT#: 203065
PAYMENT DATE:
08/25/2016

RECEIVED FROM:	PERMIT ID: 249873
GEORGE SHEETZ	
PARCEL :ID: 077-030-49-1	
BLD PEB-PERMMD	1,591.31
PLNG SFD SITE REV	0.00
DEVELOPMENT SERVICES - PLACERVILLE	\$ 1,591.31
FIRB-EDC-SPRINK	2,225.30
EL DORADO COUNTY FIRE PROTECTION DISTRICT	\$ 2,225.30
SEPTIC-NEW SF	820.00
ENVIRONMENTAL MANAGEMENT	\$ 820.00
GEN PLAN IMPL FEE	59.65
LONG RANGE PLANNING	\$ 59.65
SMIP	29.82
STRONG MOTION INSTITUTE	\$ 29.82
CA GREEN FEE	10.00
STATE OF CALIFORNIA GREEN BUILDING FEE	\$ 10.00
TECH FEE	80.30
CDA ADMINISTRATION	\$ 80.30

DOT 04GP TIM ZN 1	21,160.00
TRAFFIC IMPACT	\$21,160.00
MITIGATION FEES	

DOT 04GP HWY50 TI	2,260.00
TRAFFIC IMPACT	\$2,260.00
MITIGATION FEES HWY 50	

RECEIPT TOTAL:	\$28,236.38
CHECK# 1014	\$28,236.38
CASH	\$0.00

RECEIVED BY: BLLLW
BLLLW-08/25/2016-09:20:25

**** ATTENTION APPLICANT****

THIS PERMIT APPLICATION IS AUTOMATICALLY ROUTED TO OTHER AGENCIES WHOSE APPROVAL MAY BE REQUIRED PRIOR TO ISSUANCE OF YOUR PERMIT. AFTER ALL AGENCIES HAVE ENTERED EITHER "APPROVED" OR "NOT APPLICABLE", YOUR PERMIT IS READY TO BE ISSUED. YOU CAN CHECK THE STATUS OF YODR PERMIT ON OUR WEBSITE AT [HTTP://EDCAPPS.EDCGOV.US/BUILDING/STATUS_REQUEST.ASP](http://EDCAPPS.EDCGOV.US/BUILDING/STATUS_REQUEST.ASP)

EL DORADO COUNTY
DEVELOPMENT
SERVICES

RECEIPT#: 203065
PAYMENT DATE:
08/25/2016

RECEIVED FROM: GEORGE SHEETZ PARCEL :ID: 077-030-49-1	PERMIT ID: 249873
---	-------------------

BLD PEB-PERMMD	1,591.31	
PLNG SFD SITE REV	0.00	
DEVELOPMENT SERVICES - PLACERVILLE		\$ 1,591.31
FIRB-EDC-SPRINK	2,225.30	
EL DORADO COUNTY FIRE PROTECTION DISTRICT		\$ 2,225.30
SEPTIC-NEW SF	820.00	
ENVIRONMENTAL MANAGEMENT		\$ 820.00
GEN PLAN IMPL FEE	59.65	
LONG RANGE PLANNING		\$ 59.65
SMIP	29.82	
STRONG MOTION INSTITUTE		\$ 29.82
CA GREEN FEE	10.00	
STATE OF CALIFORNIA GREEN BUILDING FEE		\$ 10.00
TECH FEE	80.30	
CDA ADMINISTRATION		\$ 80.30

DOT 04GP TIM ZN 1 21,160.00
TRAFFIC IMPACT \$21,160.00
MITIGATION FEES

DOT 04GP HWY50 TI 2,260.00
TRAFFIC IMPACT \$2,260.00
MITIGATION FEES HWY 50

RECEIPT TOTAL: \$28,236.38

CHECK# 1014 \$28,236.38

CASH \$0.00

RECEIVED BY: BLLLW
BLLLW-08/25/2016-09:20:25

**** ATTENTION APPLICANT****

THIS PERMIT APPLICATION IS
AUTOMATICALLY ROUTED TO OTHER
AGENCIES WHOSE APPROVAL MAY BE
REQUIRED PRIOR TO ISSUANCE OF YOUR
PERMIT. AFTER ALL AGENCIES HAVE ENTERED
EITHER "APPROVED" OR "NOT APPLICABLE",
YOUR PERMIT IS READY TO BE ISSUED. YOU
CAN CHECK THE STATUS OF YODR PERMIT ON
OUR WEBSITE AT
[HTTP://EDCAPPS.EDCGOV.US/BUILDING/STATUS_REQUEST.ASP](http://EDCAPPS.EDCGOV.US/BUILDING/STATUS_REQUEST.ASP)

JA-49

Exhibit B

Transportation Impact Fees Protest Letter

Date: 12-13-2016

Sheri Woodford
Sheri.Woodford@edcgov.us
Et Dorado County Department of Transportation
2850 Fairlane Court
Placerville, CA 95667

Dear Mrs. Woodford,

The County DOT staff was contacted regarding how to submit impact fee protest letters and claims. You were given as the contact person. I also inquired about a form to submit with the letter and was informed there are no forms to submit. Attached is a generic government claim form used for making claims in California.

I am protesting the transportation impact fees for local and state highways for the following reasons:

- 1) The county has not completed the required 5-year update required by mitigation law government code 66001 (see Walker v City of San Clemente). The county is not justified in collecting impact fees without a valid nexus update.
- 2) The county charges impact fees for existing deficiencies such as parallel capacity, bike lanes, auxiliary lanes, and replacing a 46 year old freeway interchange (functionally obsolete and structurally deficient in 2012- CalTrans bridge inspection for Cameron Park

Interchange) at the entire expense of new development. The county wishes new residents to fully fund deficiencies created by depreciation or regulatory changes such as fixing underpass clearance hazards. I think this is a violation of the Mitigation Fee Act.

- 3) The Level of Service (LOS) on our roads determines transportation impact fees at 2035. The total of existing residents trips, external trips, and new development's trips triggers fees based on capacity thresholds - LOS. External trips should be removed from calculating LOS for impact fee purposes. (External trips are removed from LOS calculations in Rancho Cordova's nexus study). Even though the county funds externals to LOS "E" on state highways, external trips do consume significant capacity (over 50% near Placerville) of the available total capacity. If external trips were mitigated to LOS "A" then space would be available for new development on the highways. The county mitigates external trips only to LOS "F" which burdens new residents with the LOS hurdle - predominately created by external impacts. If external impacts were removed from LOS computations it would allow for additional capacity reducing fees. I believe this is a regulatory takings and a violation of the Mitigation Fee Act.
- 4) By signing this line George Sheetz the fee payer states he was NOT given notice of the right to protest or appeal the transportation impact fees.

Permit 249873

This letter contains the reason for the protest and the legal theories associated with it. The amount of \$ 23,420.00 was tendered for the impact fees for state and local roads and is submitted with the protest letter.

Address of this property is: 3699 Fort Jim Rd.
Placerville Ca. 95667

APN for this property is: 077-030-491

This document is signed under penalty of perjury and the information within is true and correct to the best of my knowledge.

Signed /s/ George Sheetz

Date 12-13-2016

JA-53

Exhibit C

JA-54

RECEIVED
BOARD OF SUPERVISORS
EL DORADO COUNTY
2017 MAY 23 AM 8:54

May 23, 2017

Via PERSONAL DELIVERY

Mr. James S. Mitrison
Clerk of the Board of Supervisors
County of El Dorado

Michael Ciccozzi, Esq.
County Counsel
County of El Dorado

Re: Unlawful Fee Imposed on Permit No. 249873
(3699 Fort Jim Rd., Placerville) ·

Dear Honorable Supervisors and Mr. Ciccozzi,

On December 7 and 13, 2016, I submitted letters to the County's Department of Transportation protesting the imposition and payment of an unlawful fee in the amount of \$23,420 as the condition of obtaining a building permit for a single manufactured house. The two letters are attached hereto for your reference.

Among other things, the fee is unlawful, because the County has not made (and cannot make) the necessary showing that my modest project caused the need for improvements to state and local roads, let alone to the tune of \$23,420. There's simply no

reasonable relationship, or essential nexus and rough proportionality, between my project and the need for those improvements. The County may point to the “but for” standard embodied in Measure Y, but even if it could be shown that my project was the “but for” cause of the needed improvements (which it can’t), no local measure can trump state statutory and federal constitutional requirements.

It’s important to note that the fee was imposed without any written notice by the Department, or other County body or official, of my right to protest the fee, as required by the Mitigation Fee Act. It was just good fortune that I learned from a third party that state law protects my rights to protest the fee—and, if necessary, bring a legal action to secure a refund. I now know that state law also required the County to notify me, in writing of my rights when it imposed the fee, which it did not do.

To date, I have not received a refund or even a response to my protest letters. Please respond to the protest letters by close of business this Friday, May 26, and let me know if the County will refund the fee that I paid or—short of that—if there are further administrative procedures that the County makes available for me to exhaust. If I do not hear anything by then, I will assume that the decision to impose the fee on my permit is final and that there are no further administrative remedies. In that case, I will be reluctantly forced to file a lawsuit to secure a refund.

Sincerely,

s/ George Sheetz