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U.S. Supreme Court sides with owners of property

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Earlier this summer, the U.S. Supreme Court issued a decision confirming a property owner's constitutional right to develop land free from government extortion.

The case – *Koontz v. St. Johns River Water Management District* – arose from a landowner's attempt to develop 3.7 acres near Orlando, Fla.

The local land-use agency agreed to issue the necessary permit for development only if Koontz agreed to certain conditions the agency said were necessary to address environmental issues related to the development.

The options offered by the government agency were: Develop only 1 acre and dedicate the rest of the land to the government, or pay for improvements to government-owned land located several miles away.

Koontz refused both options and filed suit against the government. More than 10 years later, that lawsuit made its way to the U.S. Supreme Court.

The court held Koontz could challenge the government's conditions to the permit on constitutional grounds even though

- 1) no permit was actually issued and
- 2) one of the options was only

a "monetary exaction" (i.e., the owner could develop the full 3.7 acres if he paid for improvements to the government's nearby land).

So, some of you may be wondering why this ruling is significant. The answer is because it imposes additional limitations on what the government can demand from landowners in exchange for granting land-use permits.

For years, the law has been clear that the government couldn't force a developer to dedicate land in exchange for a permit to build unless there was a direct and proportional connection between the dedication and the harm that would be caused by the development.

An example of a legitimate condition under this test is when a new development will increase traffic and the government requires a dedication of land to widen the road in front of the development.

However, some government agencies tried to get around this requirement by demanding money (called a "monetary exaction") instead of land.

Courts have been split over whether a monetary exaction has to meet the same constitutional standards as a land-dedication requirement.

Court

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The U.S. Supreme Court's decision in Koontz finally decided this issue in favor of developers.

The court explained that developers seeking permits are especially vulnerable to "extortionate demands for money" by the government.

Now, all government agencies (including

state and local agencies here in Arizona) will have to carefully consider the amount and justification for any monetary conditions they try to impose on developers.

Otherwise, they may be sued by developers alleging unconstitutional extortion based on the Koontz decision.

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