

Checklist: Conditions and Exactions Imposed on Development

YES	NO	
_____	_____	1. Requirement. Is the property owner being required by a governmental entity to dedicate property or provide public improvements to get an administrative approval or permit to use or develop property?
-----	_____	2. Legitimate State Interest. If the answer to 1 is yes, has the entity shown by substantial evidence that the exaction or improvement is reasonably related to and substantially advances a legitimate public interest that is within the mission of that entity to regulate or advance?
-----	_____	3. Essential Connection. If the answer to 2 is yes, has the entity shown by substantial evidence that the exaction will offset an adverse impact on an identified public interest and thus further the goal of the entity to protect that public interest?
-----	_____	4. Proportionate Burden. If the answer to 3 is yes, has the entity shown by substantial evidence and an individualized determination that the proposed requirement places a burden on the property owner that is roughly proportionate to the burden his- proposed use or development places on that public interest after accounting for any impact fees paid?
-----	_____	5. Minimal Intrusion. If the answer to 4 is yes and if the exaction involves the dedication of real property, has the agency shown by substantial evidence that the identified public interest cannot be reasonably achieved by some regulation short of dedication?

If there is a check on any dashed line, the exaction or condition may be illegal. Verify with your legal counsel for specifics. You may also call the property rights ombudsman for more information.

NOTE: These guidelines are general and are provided here in an effort to provide better understanding of the land use process. They are not meant to constitute legal advice. They simplify and broadly generalize complex issues of law. Specific questions should always be directed to your attorney for specific advice. Questions and comments and suggested improvements to these materials are always welcome.