



Exactions

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Exactions

Reference Number: MTAS-1311

Municipalities often use exactions to require developers and property owners to provide needed public amenities. A developer or property owner must be compensated for the exaction if there is no nexus between the exaction and a public purpose. ^[80]

Courts have found that requiring a property owner to grant a public easement along a beach as a condition to construct a house on a beach constituted a taking since the exaction did not protect the public's ability to see the beach ^[81] and that requiring a dedication of land for a greenway and bicycle/ pedestrian pathway did not bear the necessary relationship to problems created by a commercial development to avoid a taking. ^[81A] In addition the regulation must be reasonably related to the public need or burden that a property owner's use of his or her property creates or to which it contributes. ^[82] Therefore, regulations that impose land dedication requirements to develop property may constitute a taking if the property owner is required to dedicate property in excess of the amount that is necessary to offset the additional burdens on the public interest resulting from the use of his or her property. ^[83] The cost to the landowner must be "roughly proportional" to the additional public burden caused by the development. ^[84A]

A Tennessee case upheld the rezoning of property on the condition that the landowner dedicate a 12-foot right-of-way for future road expansion. The court applied a "fairly debatable" rule to the rezoning and dedication requirement. It should be noted, however, that a statute specifically authorized conditional zoning in the city. ^[84B]

Notes:

[80] *Dolan v. City of Tigard, supra*; *Nollan v. California Coastal Commission, supra*.

[81] *Nollan v. California Coastal Commission, supra*.

[81A] *Dolan v. City of Tigard, supra*.

[82] *Dolan v. City of Tigard, supra*; *Nollan v. California Coastal Commission, supra*; *William J. (Jack) Jones Insurance Trust v. City of Fort Smith, Arkansas*, 731 F.Supp. 912 (W.D. Ark. 1990).

[83] *Dolan v. City of Tigard, supra*; *Nollan v. California Coastal Commission, supra*; *William J. (Jack) Jones Insurance Trust v. City of Fort Smith, Arkansas, supra*.

[84A] *Dolan v. City of Tigard, supra*.

[84B] *Copeland v. City of Chattanooga*, 866 S.W. 2d 565 (Tenn. App. 1993).

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