

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN
Advisory Opinion #10
February 7, 2007

TOPICS:

- (#3) Exactions on development
 - (#7) Requirements imposed upon Development
-

Question

May a local government require a developer to improve existing roads that access and serve a new subdivision?

Background

Developers sought approval for two subdivisions. The County granted approval, with the condition that the Developers also improve an existing road that adjoined the new lots in the subdivisions, by widening the roads, and installing curb and gutter on both sides. The County required the widening for only one-half of the road, on the side where the new subdivisions were located, but the curb and gutter had to be installed on both sides.

Analysis

The road requirements were properly imposed by the County Ordinances, which established the minimum requirements for the roads, and required improvement of any road that is “pertinent” to a new subdivision. It is reasonable to interpret the County’s Ordinance as requiring improvement to existing roads, if they are pertinent, or related, to a new development. The County’s ordinance also allows improvement to a half-road in some circumstances. Since the improvements are to the existing road that directly serves the new lots in the subdivisions, it does not appear that the requirement is an improper exaction.