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Florida Appellate Decisions on Government Exactions and Permitting Conditions

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Query:

Are there any Florida appellate decisions addressing government exactions and permitting conditions on commercial or multifamily developments, and how have courts defined the limits of municipal authority to impose those conditions?

■ Confidence, Coverage & Methodology

â■¢ **Overall confidence: High.** This is one of the most thoroughly litigated areas of Florida land-use law, including the landmark Koontz case, which originated in Florida.

â■¢ **Authority layers:** U.S. Supreme Court (Nollan/Dolan/Koontz/Sheetz); Florida Supreme Court (dual rational nexus line); Florida DCA decisions; Florida Impact Fee Act, § 163.31801.

â■¢ **Coverage limitation:** No decision located that limits analysis to only commercial or multifamily developments as a distinct category. The exactions framework applies across all development types.

Micro Answer (Bottom Line)

Florida courts apply a two-tier exactions framework: the federal Nollan/Dolan essential nexus and rough proportionality standard (extended by Koontz to monetary exactions and permit denials), plus Florida's own dual rational nexus test for impact fees. Municipal permitting conditions on commercial and multifamily projects must satisfy both tiers or risk invalidation as unconstitutional takings or illegal taxes.

Direct Answer

Florida has some of the nation's most developed appellate law on government exactions, owing largely to the fact that the U.S. Supreme Court's 2013 decision in *Koontz v. St. Johns River Water Management District* originated in a Florida wetlands-permitting dispute. That decision, together with *Nollan* and *Dolan* and the 2024 *Sheetz* decision, establishes the overarching federal constitutional framework: any condition a municipality places on a development permit must bear an **essential nexus** to the government's legitimate land-use interest and maintain **rough proportionality** to the development's actual impact.

Florida courts independently developed the **dual rational nexus test** for evaluating impact fees — first articulated by the Fourth DCA in *Hollywood, Inc. v. Broward County* (1983) and adopted by the Florida Supreme Court in *St. Johns County v. Northeast Florida Builders Ass'n* (1991). Under this test, a local government must demonstrate (1) a reasonable connection between the need for additional capital facilities and the growth the new development will generate, and (2) a reasonable connection between the expenditure of collected fees and the benefits accruing to the development that paid them.

The Florida Impact Fee Act, § 163.31801, now codifies the dual rational nexus test and imposes additional procedural requirements including mandatory use of the most recent and localized data, phase-in limits on fee increases, dollar-for-dollar credits for developer contributions, and a requirement that the government bear the burden of proof by a preponderance of the evidence — with no deferential standard of review favoring the government.

Jurisdiction Snapshot

Layer	Authority

Federal (U.S. Supreme Court)	Nollan (1987), Dolan (1994), Koontz (2013), Sheetz (2024)
Florida Supreme Court	Contractors & Builders v. Dunedin (1976), St. Johns County v. NE Fla. Builders (1991), Volusia County v. Aberdee
Florida DCAs	Hollywood, Inc. v. Broward County (4th DCA, 1983), Home Builders v. Board of County Comm'rs (4th DCA, 1983)
Florida Constitution	Art. I, § 2; Art. X, § 6 (takings); Art. VII, §§ 1, 9 (taxation)
Florida Statutes	§ 163.31801 (Impact Fee Act); § 373.617 (water mgmt takings remedy)

Key Laws & Sources

U.S. Supreme Court Authority

***Nollan v. California Coastal Comm'n*, 483 U.S. 825 (1987):** Established that permit conditions must have an "essential nexus" — a logical connection between the condition imposed and the government's legitimate land-use interest.

***Dolan v. City of Tigard*, 512 U.S. 374 (1994):** Added the "rough proportionality" requirement: the government must make some individualized determination that the condition is roughly proportional to the projected impact of the proposed development. The government bears the burden of justifying the exaction.

***Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595 (2013):** This Florida-origin case expanded the framework in two critical ways:

â■¢ **Permit denials:** The nexus-and-proportionality test applies even when the government denies the permit rather than conditionally approving it.

â■¢ **Monetary exactions:** The test applies to demands for money (such as off-site mitigation payments or impact fees), not only to demands for dedications of real property.

***Sheetz v. County of El Dorado*, 601 U.S. ___ (2024):** Unanimously held that legislative exactions (fees imposed by ordinance on a class of properties) are not categorically exempt from Nollan/Dolan scrutiny. Left open whether legislative fees must be tailored with the same specificity as ad hoc conditions.

Florida Supreme Court Authority

***Contractors & Builders Ass'n v. City of Dunedin*, 329 So. 2d 314 (Fla. 1976):** First approved impact fees (water/sewer), holding that connection charges are permissible if they do not exceed a pro rata share of reasonably anticipated expansion costs.

***Hollywood, Inc. v. Broward County*, 431 So. 2d 606 (Fla. 4th DCA 1983):** Articulated the **dual rational nexus test**:

â■¢ **Need nexus:** Reasonable connection between the need for additional capital facilities and the growth generated by the new development.

â■¢ **Benefit nexus:** Reasonable connection between the expenditure of collected funds and the benefits accruing to the development.

***St. Johns County v. NE Fla. Builders Ass'n*, 583 So. 2d 635 (Fla. 1991):** Adopted the Hollywood dual rational nexus test as binding statewide law. Impact fees are valid but must be spent to benefit those who paid them.

***Volusia County v. Aberdeen at Ormond Beach*, 760 So. 2d 126 (Fla. 2000):** Applied the dual rational nexus test in an as-applied challenge. School impact fees were unconstitutional as applied to a 55+ age-restricted community because the development could not generate the need the fee was designed to address.

Florida District Court of Appeal Decisions

***Santa Rosa County v. Home Builders Ass'n of West Florida*, 2021 WL 3177293 (Fla. 1st DCA 2021):** Struck down educational facilities impact fees that failed the dual rational nexus test because the fee did not account for geographic differences, was disproportionate, and was not based on the most recent and localized data.

Florida Impact Fee Act (§ 163.31801)

Codifies the dual rational nexus test with the following key requirements:

â■¢ Fees must be based on the **most recent and localized data**

â■¢ Must ensure a **proportional and reasonably connected** relationship between fee and need

â■¢ Must be **earmarked** to acquire, construct, or improve capital facilities for new users

â■¢ **Cannot** be used to pay existing debt or operational costs

â■¢ **Dollar-for-dollar credits** required for developer contributions (assignable and transferable)

â■¢ **Phase-in requirements** limit fee increases (no more than 25% in 2 annual increments; max 50%)

â■¢ **Government bears the burden of proof** by preponderance — no deferential standard

â■¢ Impact fees cannot be collected prior to building permit issuance

Practical Implications

What Municipalities May Do

â■¢ Impose impact fees on commercial and multifamily projects for capital improvements — provided fees satisfy both prongs of the dual rational nexus test and comply with § 163.31801

â■¢ Require land dedications as conditions of approval — provided the dedication has essential nexus and rough proportionality

â■¢ Condition permits on off-site improvements — provided the improvements address impacts created by the specific development

â■¢ Use legislatively adopted fee schedules — provided schedules are based on adequate studies and data (Sheetz confirms these are not exempt from Nollan/Dolan)

What Municipalities May Not Do

â■¢ Impose conditions lacking nexus to the development's impacts

â■¢ Impose disproportionate exactions that vastly exceed the cost of mitigating the development's effects

â■¢ Use impact fee revenue for operational costs or existing debt

â■¢ Ignore geographic variation in growth patterns and infrastructure needs (Santa Rosa County)

â■¢ Deny dollar-for-dollar credits for developer contributions

Key Unresolved Questions

â■¢ **Degree of specificity for legislative fees:** Sheetz (2024) left open whether legislatively imposed class-wide fees must be individualized to the same degree as ad hoc administrative conditions. The Justices split in concurrences.

â■¢ **Mixed-use developments:** The proper methodology for allocating impact fees across uses and determining proportionality remains fact-intensive and locally variable.

Suggested Follow-Up Questions

1. Are you evaluating specific permitting conditions or impact fees imposed by a particular Florida municipality? Identifying the jurisdiction and conditions would allow analysis of whether those conditions satisfy the dual rational nexus test and Nollan/Dolan standards.

2. Is the concern about ad hoc, project-specific conditions or generally applicable legislative impact fees? The analytical framework and burden of proof differ.

3. Does the project involve any specialized statutory framework — such as a DRI, a proportionate-share transportation agreement under § 163.3180, or an affordable-housing linkage fee?