

Schroader, Kathy



**From:** Orjiako, Oliver  
**Sent:** Monday, September 14, 2015 10:17 AM  
**To:** Euler, Gordon; Alvarez, Jose  
**Cc:** Schroader, Kathy  
**Subject:** FW: 30 per cent set aside open space as condition of approval not legal - For the Record and DSEIS review

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**From:** Carol Levanen [mailto:cnldental@yahoo.com]  
**Sent:** Saturday, September 12, 2015 10:20 PM  
**To:** Stewart, Jeanne; Mielke, Tom; Madore, David; Orjiako, Oliver  
**Subject:** 30 per cent set aside open space as condition of approval not legal - For the Record and DSEIS review

The government cannot require 30% open space set aside for a condition of approval of land development

146 Wn.2d 740, Isla Verde Intl Holdings, Inc. v. City of Camas

[No. 69475-3. En Banc.]

Argued September 5, 2000. Decided July 11, 2002.

ISLA VERDE INTERNATIONAL HOLDINGS, INC., et AL., Respondents. v. THE CITY OF CAMAS, Petitioner.

July 2002 Isla Verde Intl Holdings, Inc. v. City of Camas 741  
146 Wn.2d 740

742 Isla Verde Intl Holdings, Inc. v. City of Camas July 2002  
146 Wn.2d 740

July 2002 Isla Verde Intl Holdings, Inc. v. City of Camas 743  
146 Wn.2d 740

744 Isla Verde Intl Holdings, Inc. v. City of Camas July 2002  
146 Wn.2d 740

JOHNSON, J., concurs by separate opinion; SANDERS, J., and ALEXANDER, C.J., dissent in part by separate opinion; CHAMBERS and OWENS, JJ., did not participate in the disposition of this case.

July 2002 Isla Verde Intl Holdings, Inc. v. City of Camas 745  
146 Wn.2d 740

W. Dale Kamerrer (of Law, Lyman, Daniel, Kamerrer & Bogdanovich), for petitioner.

Le Anne M. Bremer (of Miller Nash, L.L.P.), for respondents.

Bob C. Sterbankon behalf of Washington State Association of Municipal Attorneys, amicus curiae.

Timothy M. Harrison behalf of Pacific Legal Foundation and Building Industry Association of Washington, amici curiae.

MADSEN, J. - This is an action brought under the Land Use Petition Act by a developer challenging the legality of conditions imposed by the City of Camas for approval of a preliminary plat for a residential subdivision. The challenged conditions include a 30 percent "open space" set aside and provision of a secondary limited access road into the proposed development for emergency vehicles. The Clark County Superior Court ruled on constitutional and statutory grounds that both conditions are unlawful. The Court of Appeals affirmed as to the open space requirement, holding that it constitutes an unconstitutional taking, but reversed as to the secondary access road, upholding this condition. We affirm the Court of Appeals, although in part on different grounds. We conclude that the open space set aside condition violates RCW 82.02.020, and thus do not reach arguments respecting the constitutionality of this requirement. We hold that the developer has failed to establish unconstitutionality or other invalidity of the secondary access road condition.

#### FACTS

In March 1995, the developer, Isla Verde International Holdings, Inc., and Connaught International Holdings, Inc.

746 Isla Verde Intl Holdings, Inc. v. City of Camas July 2002