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2011 IL. App. (3d) 100911-U

Order filed October 18, 2011

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT
A.D., 2011

SHORE DEVELOPMENT COMPANY,)	Appeal from the Circuit Court
an Illinois Corporation,)	of the 12 th Judicial Circuit
)	Will County, Illinois,
Plaintiff-Appellant,)	
)	
v.)	
)	
THE CITY OF JOLIET, an Illinois)	Appeal No. 3-10-0911
Municipal Corporation, and BRUTI)	Circuit No. 01-L-135
ASSOCIATES, LTD., an Illinois)	
Corporation, CHARLES)	
BRUIT, Individually, JOSEPH F.)	
DESERTO, Individually, and INTEL-X)	
INTERNATIONAL, LTD., an Illinois)	
Corporation.)	The Honorable
)	James E. Garrison,
Defendants-Appellees.)	Judge, Presiding.

JUSTICE McDADE delivered the judgment of the court.
Presiding Justice Carter and Justice Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err when it granted the municipality's motion for summary judgment and denied the developer's motion for summary judgment, because the Impact Fee Law was not applicable to the instant ordinance providing for the road improvement

costs, and the ordinance was also a valid and constitutional exercise of the municipality's police power.

¶ 2 Shore Development Company, the plaintiff, filed a four-count complaint against the City of Joliet (the City), the defendant, challenging the City's imposition of costs for road widening and signalization on Shore as part of approving Shore's final plat of a portion of a proposed subdivision. The agreement annexing the relevant property to the City (annexation agreement) reveals that Shore's predecessor and the City agreed that the developer would provide all public improvements.

¶ 3 Shore later dismissed the first and last counts of its complaint, and in the remaining counts, Shore contended that the City's imposition of the widening and signalization costs violated the Road Improvement Impact Fee law (Impact Fee law) (605 ILCS 5/5-901 *et seq.* (West 2002)), and their rights to equal protection and due process under both the Federal and Illinois constitutions. The parties filed cross motions for summary judgment, and the trial court granted the City's motion and denied Shore's. Shore appeals, contending that: (1) the provision in the original annexation agreement providing that the developer would provide all public improvements required by the Subdivision Regulations is void because it violates the Impact Fee law; (2) the procedure by which the City levied the instant costs on Shore also violated the Impact Fee law because the costs imposed were not specifically attributable to Shore's development; and (3) the City's imposition of the costs for the road improvements violates the equal protection guarantee under the Federal and Illinois constitutions, and also violates the uniformity clause of the Illinois constitution. Because we do not believe that the Impact Fee law is applicable in the instant scenario, and because we believe that the provision in the annexation

agreement providing for the instant improvement costs is not unconstitutional but is a valid and reasonable exercise of the City's police power, we affirm the determination of the trial court.

¶ 4

FACTS

¶ 5 On December 18, 1990, Isabel Sarach and the City entered into an annexation agreement regarding an approximately 100-acre parcel of farmland located at the intersection of Caton Farm Road and Drauden Road in Will County (the subject property) owned by Sarach. At the time the parties entered into the annexation agreement, the subject property was not subdivided and included an undedicated portion of land occupied by the north half of Caton Farm Road, a public roadway that permitted eastbound and westbound traffic. The record indicates that prior to the annexation, the subject property was used for farming purposes.

¶ 6 The annexation agreement stated that it “shall bind and inure to the benefit of the City and [the] successors” of Sarach. Regarding the terms of the agreement, the City agreed to provide all water and sewer at no cost to Sarach. Sarach, in turn, agreed that the development of the subject property would be governed by the City's Subdivision Regulations (Subdivision Regulations). Specifically, pursuant to paragraph 8(a) of the annexation agreement, Sarach agreed that she would install all public improvements “required by and in accordance” with the Subdivision Regulations.

¶ 7 At the time the City and Sarach entered into the annexation agreement, the Subdivision Regulations (Subdivision Regulations) provided, among other things, that when a "subdivision" bordered a narrow road, or when the Master Plan called for road widening, “the applicant shall be required to improve and dedicate at his expense such area for widening” the road. City of Joliet Subdivision Regulations § 5.4C(2) (eff. Oct. 16, 1979). The same paragraph of the

Subdivision Regulations further stated that “[s]uch *** streets shall be improved and dedicated by the applicant at his own expense to the full width as required” by the Subdivision Regulations. City of Joliet Subdivision Regulations § 5.4C(2) (eff. Oct. 16, 1979). The Subdivision Regulations also stated that “[e]very plat shall conform to existing zoning regulations and subdivision regulations at the time of proposed recording plat approval” (City of Joliet Subdivision Regulations §3.3F (eff. Oct. 16, 1979)), and that a subdivision plat must comply with the Master Plan, including all streets shown on the Master Plan (City of Joliet Subdivision Regulations §5.1A (eff. Oct. 16, 1979)).

¶ 8 On April 9, 1991, the City amended its City of Joliet Master Plan (Master Plan) to provide for the widening of Caton Farm Road from two to four lanes of traffic. Pursuant to this amendment, both the existing and proposed westbound lanes of traffic were to be located on the subject property. The City again amended its Master Plan in 1997, and the Master Plan again indicated that Caton Farm Road would be widened to four lanes, with the two westbound lanes of traffic to be located within the parameters of the subject property.

¶ 9 Regarding the development of the subject property, in 1995, Bruti and Associates (Bruti), a custom home builder, purchased it from Sarach. Bruti named the subject property Brookside Subdivision (Brookside), and determined that Brookside would be developed in three main phases. On February 7, 1995, the City approved Bruti’s final plat for phase 1 of Brookside Subdivision. The final plat for phase 1 included the detail that Caton Farm Road would have two westbound lanes of traffic. It also showed a traffic signal at the intersection of Caton Farm Road and Fresno Road, which permitted traffic in the north and south directions and was the main entrance to Brookside. Bruti subsequently decided to plat phase 2 in three separate units,

and received final plat approval from the City for units one and two in 1997 and 1999, respectively. The final plats for both of these units also depicted the widening of Caton Farm Road from two to four lanes.

¶ 10 Sometime in 1999, Bruti sold to Shore the lots it had not developed in phase 1 and the remaining unsubdivided land in phase 2; *i.e.*, phase 2, unit 3. Bruti also sold 17 acres of phase 3, including almost 600 feet of Caton Farm Road frontage, to a church, and sold the remaining a portion of phase 3 to Altima Land Group, another custom home builder who was an intervening plaintiff at the trial court but is not a party to the instant appeal.

¶ 11 The church subdivided its portion of the subject property in 2000. As a condition of approving the church's final plat, the City required the church to assume the responsibility for making improvements for the 600 feet of Caton Farm Road adjacent to its site. The record on appeal indicates that the visitors to the church could only access the church's property via Caton Farm Road, and there was no access to or from the church to the rest of Brookside subdivision.

¶ 12 On February 21, 2001, the City passed ordinance No. 13107 which approved the final plat of Shore's proposed development for phase 2, unit 3, of Brookside. City of Joliet Municipal Ordinance No. 13107 (eff. Feb. 21, 2001). The record also indicates that around this time, the City approved the final plat of Altima's portion of the subject property, and that each developer had approximately 50 lots to develop and sell. As a condition of final approval of Shore and Altima's plats, the city allocated the remaining responsibility for the improvements to Caton Farm Road equally between Shore and Altima. Specifically, the City required Shore and Altima to each to take financial responsibility for 50% of the remaining public improvements on Caton Farm Road, which amounted to approximately 1,000 feet of Caton Farm Road each, as well as

for 25% of the cost of a new traffic signal at Fresno Lane. The City planned to impose the remaining signalization costs on the owner of the property to the south of Caton Farm Road.

¶ 13 Shore filed the instant amended four-count complaint on May 2, 2002. In the second and third counts of the complaint, Shore alleged that the City's requirement in ordinance No. 13107 that Shore bear a portion of the costs for the Caton Farm Road improvements and traffic signal violated the Impact Fee law, and that the costs imposed by the city constituted an unconstitutional taking, and were in violation of the guarantees of equal protection and substantive and procedural due process under both the federal and Illinois constitutions.

¶ 14 After many years and numerous hearings on matters pertaining to Brookside, both the City and Shore filed motions for summary judgment. Shore's motion for summary judgment essentially mirrored the arguments it advanced in its amended complaint. The City, on the other hand, contended that the Impact Fee law did not apply to the instant case; thus, they were not in violation of it. The City further contended that the original annexation agreement was a lawful contract that was binding on Sarach's successors. The City asserted that since the annexation agreement included a provision requiring the owner of the subject property to install public improvements as required by the City's Subdivision Regulations, and since the Subdivision Regulations provided for road improvements to be made by the applicant and determined at the time of recording plat approval, Shore was required to pay a portion of the Caton Farm Road improvements. The City further contended that this provision of the annexation agreement did not amount to an unconstitutional taking.

¶ 15 The trial court conducted a hearing on the parties' motions for summary judgment. Shore asserted its arguments that the City's imposition of improvement costs on them violated the

Impact Fee law, constituted a taking and otherwise violated the federal and Illinois constitutions. Shore noted that the annexation agreement did not specifically provide for any improvements to Caton Farm road, nor did the City's Master Plan at the time the parties signed the annexation agreement.

¶ 16 The City contended that the annexation agreement provided for development of the subject property in conformance with the City's Subdivision Regulations, which required the widening of narrow roads at the expense of the developer. The City further argued that the Impact Fee law did not apply because the City was not attempting to extract a fee from Shore to provide improvements to an offsite roadway; rather, the City and Shore's predecessor negotiated for the developer to provide onsite improvements in accordance with the City's Subdivision Regulations so as to secure controlled development and growth of the area. The City also noted that the Impact Fee law referred to a fee in exchange for the issuance of a building permit, and that the Caton Farm Road improvements were pursuant to an annexation agreement and subdivision plat.

¶ 17 The City further asserted that it should be permitted to determine the responsibilities of a developer at the time he filed for approval of his plat. The City also noted that its plans for widening Caton Farm Road were in place many years before Shore purchased the property from Bruti; thus, Shore was on notice of the developer's requirements at the time of his purchase.

¶ 18 The court took the matter under advisement, and ultimately granted the City's motion for summary judgment and denied Shore's. In doing so, the trial court noted the City's argument that the Impact Fee law did not apply to the instant situation. Regarding Shore's constitutional arguments, the court found that the cases on which Shore relied to support its contentions

concerned land that had already been annexed to the municipality. The court further found that annexation agreement was a valid agreement, and binding on Sarach's successors; thus, the requirement that Shore contribute money towards the Caton Farm Road improvements was valid and binding on Shore. Shore appealed.

¶ 19

ANALYSIS

¶ 20 On appeal, Shore contends that: (1) the provision in the original annexation agreement stating that the developer would provide all public improvements required by the City's Subdivision Regulations is void because it violates the Impact Fee law; (2) the procedure by which the City levied the instant road improvement costs on Shore also violated the Impact Fee law because the costs imposed were not specifically attributable to Shore's development; and (3) the City's imposition of the costs for the road improvements is an unconstitutional taking and a violation of equal protection under the federal and Illinois constitutions, and also violates the uniformity clause of the Illinois constitution.

¶ 21 The City disagrees with Shore's statement of the issues as a mischaracterization of the facts of the case and the applicable law. Thus, the City contends that the case at bar centers on whether: (1) the imposition of the Caton Farm Road improvement and signalization costs pursuant to ordinance No. 13107 violated the Impact Fee law; and (2) ordinance No. 13107 effectuated an unconstitutional taking or otherwise violated the United States or Illinois constitution. After a careful review of the briefs and record, we believe that the City properly presented the issues at hand; thus, we will analyze the matter under the framework presented by the City.

¶ 22 A) Applicability of the Impact Fee Law

¶ 23 On appeal, Shore first contends that the City's imposition of road improvement and signalizations costs runs contrary to the Impact Fee law. Shore specifically contends that the imposition of these costs is void under the Impact Fee law, and also that the City's manner of imposing the instant costs on Shore was improper because the costs imposed were not specifically and uniquely attributable to Shore's proposed development.

¶ 24 Conversely, the City contends that the improvement costs it imposed on Shore in ordinance No. 13107 arose from the annexation agreement, a valid contract entered during arms' length business transaction, and one that was binding on Shore as Sarach's successor. The City further contends that the improvement costs are permitted under the Illinois Municipal Code (Municipal Code) (65 ILCS 5/1-1-1 *et seq.* (West 2000)), as well as the City's Subdivision Regulations, which provided that the responsibilities of the developer for improvements would be determined at the time of subdivision, and not at the time of annexation. City of Joliet Subdivision Regulations §3.3F (eff. Oct. 16, 1979). We do not find that the Impact Fee law applies to the instant situation and therefore conclude that the City could not have violated its substance or procedure by imposing the instant improvement costs on Shore.

¶ 25 The Impact Fee law is part of the Illinois Highway Code. 605 ILCS 5/5-901 *et seq.* (West 2000). It defines a road improvement impact fee as "any charge or fee levied or imposed by a unit of local government as a condition to the issuance of a building permit or a certificate of occupancy in connection with a new development, when any portion of the revenues is intended to be used to fund any portion of the costs of road improvements." 605 ILCS 5/5-903 (West 2000). The Impact Fee law further provides that collection of the fee may occur at the

time a municipality approves a final plat, or, in instances that do not require the approval of a final plat, at the time the municipality issues a building permit. 605 ILCS 5/5-911 (West 2000).

¶ 26 In general, impact fees are one-time payments imposed on a developer to offset a number of possible impacts the development may have on the community. Mark W. Cordez, *Legal Limits on Development Exactions: Responding to Nollan and Dolan*, 15 N. Ill. U. L. Rev. 513 (1995). Impact fees, unlike dedications of land or money in lieu of land, provide more flexibility in the types of projects that may be funded with it, and are used to fund a variety of improvements that are offsite with respect to the development paying the fee. Cordez, *Legal Limits on Development Exactions: Responding to Nollan and Dolan*, 15 N. Ill. U. L. Rev. 513. Shore attempts to fit its share of the improvements into an impact fee construct.

¶ 27 However, the Illinois Municipal Code (the Municipal Code) contains a section specifically pertaining to annexation agreements. See 65 ILCS 5/11-15-1.2 (West 2000)). Pursuant to section 11-15-1.2 of the Municipal Code, an annexation agreement may include the following: (1) “[t]he continuation in effect, or amendment, or continuation in effect as amended, of any ordinance relating to subdivision controls, zoning, [and the] official plan”; and (2) “contributions of either land or monies, or both, to [the] municipality.” The Municipal Code further provides that an annexation agreement is binding on successors to the agreement. 65 ILCS 5/11-15-1.4 (West 2000). An annexation agreement is a contract, and courts will enforce the plain terms of the agreement, provided the terms are not prohibited by law. *Elm Lawn Cemetery Co. v. Northlake*, 94 Ill. App. 3d 387 (1968).

¶ 28 In this case, we conclude that the trial court correctly determined that the Impact Fee law does not apply for two reasons. First, the instant road improvement costs are not impact fees.

Specifically, after conducting a careful review of the matter, our research indicates that an impact fee is a charge levied by a unit of government in an effort to help defray the costs that the development will have on the surrounding, offsite, public areas, such as roads, schools and parks. See *Northern Illinois Homebuilders Ass'n. v. County of Du Page*, 165 Ill. 2d 25 (1995). This case, however, does not involve an instance where the City attempted to levy a fee on Shore for an offsite road. Rather, the City bargained with Shore's predecessor to provide for improvements to the road that was adjacent to Brookside, and would provide a direct point of access to the subdivision. The record indicates that both the existing lane and proposed second lane of westbound traffic were, or are planned to be, located within the original bounds of the subject property. The mere fact that Shore's portion of the property is not directly adjacent to Caton Farm Road does not render the instant road improvements offsite, as the obligation to improve the Caton Farm Road was one that is fairly shared by Brookside Subdivision as a whole.

¶ 29 Second, the Impact Fee law specifically states that it is a charge levied by a unit of local government as a condition of issuing a building permit or certificate of occupancy. The instant situation, however, does not involve the charge of a fee in exchange for the issuance of a building permit or a certificate of occupancy; rather, it involves the initial annexation of the subject property and the approval of a final plat. Thus, the improvement costs imposed by the City on Shore are not impact fees that fall within the purview of the Impact Fee law.

¶ 30 Shore contends that the case of *Raintree Homes, Inc., v. The Village of Long Grove*, 389 Ill. App. 3d 836 (2009), is directly on-point and should control the determination of the case at bar. In *Raintree*, the Village imposed a school impact fee, and an open space impact fee, on Raintree Homes, a builder, as a condition of obtaining the requisite building permits. Raintree

Homes sued the Village, alleging that since the fees were not specifically and uniquely attributable to their development, the Village exceeded its authority under the Municipal Code by imposing the fees. The trial court agreed, and the appellate court affirmed.

¶ 31 In *Raintree*, the appellate court acknowledged that a municipality may, pursuant to the Municipal Code, establish reasonable requirements as to school grounds. However, in *Raintree*, the Village exceeded its authority because it required that the builder pay the fee into the general school fund; thus, it could not be specifically and uniquely attributable to the development of Raintree Homes. The *Raintree* court also concluded that since the Village's requirement for payment of the open space impact fees did not limit the use of the fees to newly acquired open space, but provided that the Village may use the fees to preserve existing open spaces, it too was not specifically and uniquely attributable to the development by Raintree Homes, and thus, the village exceeded its authority under the Municipal Code by imposing that fee.

¶ 32 We do not believe that the case at bar is like that of *Raintree* such that it dictates the result here. First, unlike *Raintree*, Shore has not shown, and we have not found, evidence indicating that the instant road improvement fees were going to be paid into or used for the City's general road fund. Rather, the evidence shows that the instant fees were specifically for the Caton Farm Road improvements. Second, in *Raintree*, the land at issue was already annexed into the subdivision, and the village attempted to extract the fees as a condition of obtaining building permits. Here, however, the conditions imposed by the City arose pursuant to the original annexation agreement, and they consisted of a dedication of land, or money in lieu of land, an action that is permitted under the Municipal Code and long approved by Illinois courts.

See *Petterson v. City of Naperville*, 9 Ill. 2d 233, 249 (1956); see also *Krughoff v. City of Naperville*, 68 Ill. 2d 352 (1977).

¶ 33 Consequently, we conclude that the instant improvement costs are not impact fees as defined by the Impact Fee law, and therefore the terms and provisions of the Impact Fee law do not govern this situation. The City did not violate Shore's procedural or substantive rights as provided under to the Impact Fee law by failing to adhere to this law. Thus, we need not entertain Shore's argument that the City did not follow the procedure articulated by the Impact Fee law before it levied the instant improvement costs against Shore.

¶ 34 A) Constitutional Considerations

¶ 35 The second contention raised by Shore on appeal is that ordinance No. 13107 is unconstitutional under the Federal and Illinois constitutions. Shore specifically asserts that the City's imposition of improvement fees violated: (1) the equal protection guarantees of both the Illinois and federal constitutions and constituted a taking because the costs imposed are neither specifically and uniquely attributable to Shore's development, nor rationally related to Shore's development; and (2) the uniformity clause of the Illinois constitution because it forced Shore to bear a disproportionate cost of the improvements. In support of these contentions, Shore alleges that the improvements will benefit the entire community, and that its portion of the subject property is not immediately adjacent to Caton Farm Road. The City asserts that in this instance, the obligation to improve Caton Farm Road arose under the annexation agreement. Hence, the City was not acting as a regulator unconstitutionally "taking" Shore's property, or money in lieu of property, but instead imposed the costs pursuant to a contract by which Shore's predecessor agreed to adhere to the City's Subdivision Regulations and improve Caton Farm Road.

¶ 36 1) Takings Claim

¶ 37 The takings clause of the Fifth Amendment of the United States Constitution, made applicable to the states through the fourteenth amendment, provides that the government may not take private property for public use without just compensation. U.S. Const., amend. V. The Illinois Constitution of 1970 also states that private property may not be taken for public use without just compensation. Ill. Const. 1970, art. 1, § 15. A principal purpose of the takings clause is to prevent the government from forcing an individual to bear a burden that, in all fairness, should be borne by the entire public. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). A unit of government may effectuate a taking through a land use regulation, *i.e.* a regulatory taking; however, the regulation is not a taking if it substantially advances legitimate state interests and does not deny the owner economically viable use of his land. *LaSalle National Bank v. City of Highland Park*, 344 Ill. App. 3d 259 (2003).

¶ 38 The Illinois supreme court has recognized a distinction between "a proceeding initiated by the [municipality] for the construction of a local improvement, or to take property under the law of eminent domain" and a lawsuit initiated by a developer relating to the "approval of a proposed plat of a subdivision under an ordinance which exacts compliance with certain requirements as a condition precedent to approval." *Petterson*, 9 Ill. 2d at 249. The court has determined that in the latter instance, the validity of the ordinance is not to be determined using constitutional standards, "but rather by the settled rules of law applicable to cases involving the exercise of police powers." *Petterson*, 9 Ill. 2d at 250. This case involves the precise scenario referenced by the supreme court in *Petterson*. Thus, we will uphold the validity of Ordinance No. 13107 if it was within the police power of the City, and was a reasonable exercise of that

police power. See *Petterson*, 9 Ill. 2d 233; see also *Krughoff*, 68 Ill. 2d 352 (supreme court found that requirement that developer dedicate cash or land as a condition of plat approval was a valid condition of plat approval because the condition was within the municipality's power and was not unreasonable).

¶ 39 One who challenges the validity of an ordinance as arbitrary and unreasonable must prove, by clear and convincing evidence, that the ordinance is unreasonable, capricious, and an arbitrary exercise of the municipality's police power, and that there is no permissible interpretation of the ordinance which can justify its adoption or the conclusion that it promotes the safety and general welfare of the public. *Petterson*, 9 Ill. 2d 233; *First National Bank of Lake Forest v. County of Lake*, 7 Ill. 2d 213 (1955). An ordinance is not unreasonable merely because it imposes burdens that would not normally exist in the absence of the ordinance. *Miller Brothers Lumber Co. v. City of Chicago*, 414 Ill. 162 (1953). Furthermore, an individual's privilege to use his property as he sees fit is subject to a legitimate exercise of a municipality's police power by which the municipality may impose burdens and restrictions on the property when public welfare demands. See *Petterson*, 9 Ill. 2d 233; see also *Miller Brothers Lumber Co.*, 414 Ill. 162.

¶ 40 Pursuant to the Municipal Code, a municipality's planning commission may prepare a comprehensive plan for present and future development. 65 ILCS 5/11-12-5(1) (West 2000). This section of the Municipal Code further provides that the comprehensive plan may include reasonable requirements for streets and other improvements, and that the plan may be implemented by ordinances that establish reasonable requirements governing the location and width of public streets. 65 ILCS 5/11-12-5(1) (West 2000). Additionally, the Municipal Code

states that pursuant to the terms of an annexation agreement, a municipality may include provisions for the continuation in effect of regulating subdivision controls and of the official plan, and may also require the contribution of land or money, or both, to the municipality. 65 ILCS 5/11-15.1-2(b), (d) (West 2000).

¶ 41 In this case, we agree with the trial court's finding that the jurisprudence surrounding impact fees and takings is not applicable because it concerns a municipal body's attempts to impose a fee on land that had already been annexed into the municipality. Thus, we conclude that the City's imposition of the improvement costs does not constitute a regulatory taking, or an otherwise unconstitutional land use exaction, because the City was not acting as a regulator when it imposed the improvement costs on Shore. Rather, the improvement costs arose pursuant to the annexation agreement and Shore's submission of his plat for approval by the City. Therefore this case centers on whether ordinance No. 13107 is: (1) a statutorily authorized exercise of the City's police power; and (2) otherwise reasonable.

¶ 42 i) Ordinance No. 13107 is a statutorily authorized exercise of the City's police power pursuant to the Municipal Code.

¶ 43 In this case, the City had the power to impose the instant improvement costs on Shore pursuant to two sections of the Municipal Code. First, section 11-12-5(1) of the Municipal Code (65 ILCS 5/11-12-5(1) (West 2000)), provides that a municipality's planning commission may prepare a comprehensive plan that provides reasonable requirements for streets, including provisions governing the location and width of public streets. Next, subsections 11-15.1-2(b) and (d) of the Municipal Code provide that a municipality may enter into an annexation agreement, and the annexation agreement may include provisions calling for the continuation in

effect of subdivision controls and the official plan, and may also require the contribution of land or money, or both, to the municipality. 65 ILCS 5/11-15.1-2(b), (d) (West 2000). Taken together, these sections of the Municipal Code empower a municipality to prescribe the proper width of public streets, and, pursuant to an annexation agreement, to require the dedication of land or money, or both, and may also require the developer to comply with subdivision controls.

¶ 44 This is precisely what has occurred in this case. Specifically, the City's 1991 and 1997 Master Plans provided for the widening and improving of Caton Farm Road. Pursuant to the annexation agreement, Sarach, Shore's predecessor, agree to provide all public improvements as required under the Subdivision Regulations. In turn, the Subdivision Regulations provided for, among other things, the widening of narrow roads that bordered a subdivision, and also stated that if the Master Plan called for road improvements, the plat applicant was required to improve the road at his own expense, and to widen the road to the full width required. City of Joliet Subdivision Regulations §5.4C(2) (eff. Oct. 16, 1979). The Subdivision Regulations also stated that every plat must conform to the Subdivision Regulations at the time of plat approval (City of Joliet Subdivision Regulations §3.3F (eff. Oct. 16, 1979)), and also that a subdivision plat must comply with the Master Plan, including all streets shown on the Master Plan (City of Joliet Subdivision Regulations §5.1A (eff. Oct. 16, 1979)). Consequently, the City had the power to prescribe the instant Caton Farm Road improvements.

¶ 45 ii) Ordinance No. 13107 is a reasonable exercise of the City's police power.

¶ 46 We further conclude that Ordinance No. 13107 is a reasonable exercise of the City's police power, and two reasons underlie our conclusion. First, Shore was aware, or should have been aware, of the widening and signalization obligations at the time he purchased the property

due to the Master Plans of 1991 and 1997, and Bruti's plats depicting the improvements. Given this notice, Shore likely paid less for the subject property, and is now attempting to skirt his liability entirely. I do not believe we should reach a conclusion that creates windfall for this developer, who has already benefitted by having water and sewer system connected to the property at the City's expense, and who has presumably profited by selling residences in his portion of Brookside. Essentially, it is reasonable that Shore bear the cost of improvements for which it had notice.

¶ 47 Second, the City's decision to provide for the widening of Caton Farm Road in its 1991 Master Plan, subsequent to the annexation of the subject property into the municipality, is reasonable. Specifically, the record indicates that prior to annexation, the subject property was used for farming purposes. Thus, it is likely that Caton Farm Road was less traveled at that time. However, after annexation, the subject property was zoned for single family residential use. Because people would ultimately reside in this location, and residents and visitors would need to enter and exit Brookside, the City would plan to widen the road and provide a traffic signal to ease ingress to and egress from Brookside.

¶ 48 B. Uniformity Clause

¶ 49 Shore further asserts that the imposition of the road improvement costs violated the uniformity clause of the Illinois Constitution. Ill. Const. of 1970, art. IX, § 2. The uniformity clause states that in "any law classifying the subjects or objects or non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly." Ill. Const. of 1970, art. IX, § 2. This provision of our constitution relates to

classifying people for tax purposes, and outlaws arbitrary classifications. See *Caterpillar Tractor Co., v. Department of Revenue*, 47 Ill. 2d 278 (1970).

¶ 50 In another instance where a developer challenged a municipality's ordinance requiring certain improvements in exchange for plat approval, our supreme court found that the case did not involve the imposition of a tax by the municipality, but involved the exercise of the municipality's police power through an ordinance requiring certain conditions precedent to the approval of a subdivision plat. *Petterson*, 9 Ill. 2d 233. The court held that "[t]he imposition of reasonable regulations as a condition precedent to the subdivision of lands and the recording of plats thereof is not a violation of the constitutional requirement of uniformity of taxation or tantamount to the taking of private property for public use without just compensation. *Petterson*, 9 Ill. 2d at 250. Consequently, the uniformity clause is not an applicable basis of relief for Shore in this case, as this case involves conditions imposed by a municipality in exchange for subdivision plat approval.

¶ 51 CONCLUSION

¶ 52 For the foregoing reasons, we affirm the judgment of the Will County circuit court in granting the City of Joliet's motion for summary judgment.

¶ 53 Affirmed.