

**Memo Date:** March 26, 2007  
**Hearing Date:** April 17, 2007



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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works Dept./Land Management Division

**PRESENTED BY:** BILL VANVACTOR, COUNTY ADMINISTRATOR  
KENT HOWE, PLANNING DIRECTOR

**AGENDA ITEM TITLE:** In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA05-6589, Demers, Gregory)

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**BACKGROUND**

**Applicant:** Gregory Demers and Peggy S. Demers  
**Current Owner:** Peggy S. Demers  
**Agent:** Donald Joe Willis  
**Map and Tax lot(s):** 17-06-35-600  
**Acreage:** Approximately 50 acres  
**Current Zoning:** F2 (Impacted Forest)  
**Date Property Acquired by Current Owner:** April 10, 1990 (SWD #9016534)  
**Date Property Acquired by Family:** February 26, 1963 (WD #1072)  
**Date claim submitted:** October 27, 2005  
**180-day deadline:** April 26, 2006  
**Land Use Regulations in Effect at Date of Acquisition:** F2  
**Restrictive County land use regulation:** Minimum parcel size of eighty acres and limitations on new dwellings in the F2 (Impacted Forest) zone (LC 16.211).

**ANALYSIS**

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

**1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and**

Robert and Marie Demers acquired an interest in the property on February 26, 1963 (Warranty Deed 1072). On April 10, 1990, the property was conveyed to Gregory and Peggy Demers (Statutory Warranty Deed 9016534). On August 20, 2003, Gregory Demers conveyed his ownership to Peggy Demers (Statutory Warranty Deed 2003-079655). Based on this evidence, it appears the Demers family acquired an interest in the property in 1963. It also appears that Peggy Demers is the current owner of the property.

When the current owner, Peggy Demers, acquired the property, it was zoned F2 (Impacted Forest). Currently, the property is zoned F2. The F2 zone has been amended six times since Peggy Demers acquired the property, but her claim does not identify how any of those amendments have reduced the fair market value of the property, or how any of those amendments have prevented her from developing the property as could have been allowed when she acquired the property.

Additionally, the applicant has identified Lane Code Chapters 9, 10, and 12 through 16 as restrictive regulations, but has not explained how any of those regulations have reduced the fair market value of the property. Finally, the applicant has not paid the processing fee.

**2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and**

The applicant is alleging a reduction of \$1.2 million, but has not submitted any evidence to support that allegation. Further, the applicant has not explained how they arrived at the alleged reduction of \$1.2 million. Without any evidence demonstrating a reduction in fair market value of the property, it is not possible to determine whether this is a valid claim. The County Administrator has not waived the requirement for an appraisal.

Additionally, the applicant has identified Lane Code Chapters 9, 10, and 12 through 16 as restrictive regulations, but has not explained how any of those regulations have reduced the fair market value of the property.

**3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.**

The minimum lot size and restrictions on new dwellings do not appear to be exempt regulations but they cannot be waived for the current owner.

**CONCLUSION**

There is insufficient evidence to determine the validity of this claim and the applicant has failed to pay the processing fee.

**RECOMMENDATION**

If additional information is not submitted at the hearing, the County Administrator recommends the Board direct him to deny the claim.