

**Memo Date:** March 28, 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 (PA06-7177, Mosby)

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**BACKGROUND**

**Applicant:** Lola B. Mosby

**Current Owner:** Lola B. Mosby Living Trust

**Agent:** Mark David Haneberg

**Map and Tax lots:** 21-03-16 tax lot #1102

**Acreage:** approximately 44 acres

**Current Zoning:** F2 (Impacted Forest Land)

**Date Property Acquired:** March 30, 1966 (WD # 80897)

**Date claim submitted:** November 30, 2006

**180-day deadline:** May 29, 2007

**Land Use Regulations in Effect at Date of Acquisition:** unzoned

**Restrictive County land use regulation:** Minimum parcel size of eighty acres and limitations on new dwellings in the F2 (Impacted Forest Land) 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**

The current owner, Lola B. Mosby, appears to have acquired interest in the property in 1969. Currently, the Lola B. Mosby Living Trust is listed as the property owner in Lane County records, however, no evidence has been provided by the applicant regarding the Trust. As a result, the ownership interest under M37 criteria of Lola B. Mosby is unknown. The property is now zoned F2.

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

The applicant has not submitted competent evidence of a reduction in fair market value from enforcement of a land use regulation and the County Administrator has not waived the requirement for an appraisal.

The applicant is also claiming that the following sections of Lane Code have restricted the use of the subject property:

LC10.104-40 (1) a, b, & c – These provisions only apply to those F2 (Forest Land District) zoned properties within the Urban Growth Boundaries of a city and are not applicable to the subject property.

LC10.104-15, (1) a, b, c, (2) a, b, – These provisions only apply to those F2 (Forest Land District) zoned properties within the Urban Growth Boundaries of a city and are not applicable to the subject property.

LC13.050 – These provisions apply to subdivision and partitioning of property. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

LC15.070, 15.080, 15.137 & 15.138 – These provisions apply to road and driveway approach spacing standards and building setbacks from roads. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

LC16.004, LC16.006, LC16.007 - The applicant has failed to demonstrate how these provisions relate to the subject property or how they 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.

**CONCLUSION**

It appears this is not a valid claim.

**RECOMMENDATION**

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