

**Memo Date:** April 11, 2007  
**Hearing Date:** May 1, 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 (PA06-7202, Miller)

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#### **BACKGROUND**

**Applicant:** Michael and Michelle Miller

**Current Owner:** Michael and Michelle Miller

**Agent:** Michael Farthing

**Map and Tax lots:** 17-02-19, tax lots #1100 and #1200

**Acreage:** approximately 20 acres

**Current Zoning:** E40 (Exclusive Farm Use)

**Date Property Acquired:** January 13, 1995 (WD # 049406)

**Date claim submitted:** December 1, 2006

**180-day deadline:** May 30, 2007

**Land Use Regulations in Effect at Date of Acquisition:** E40 (Exclusive Farm Use)

**Restrictive County land use regulation:** Minimum parcel size of forty acres, gross farm income level requirements and limitations on new dwellings in the E40 (Exclusive Farm Use) zone (LC 16.212).

#### **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 owners are Michael and Michelle Miller. The Miller's acquired an interest in the property on January 13, 1995, when it was zoned E40 (WD # 049406). Currently, the property is zoned E40.

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

The property was zoned E40 when it was acquired by the current owners. The current owners allege the requirements for a gross annual income of \$80,000 from the sale of farm products prevent them from developing the property as could have been allowed when they acquired it. The alleged reduction in fair market value is \$800,000, based on a letter from a Real Estate Broker. There is no evidence of the referenced analysis of comparable properties, therefore, this is not competent evidence of a reduction in fair market value from enforcement of a land use regulation. The County Administrator has not waived the requirement for an appraisal.

The E40 zone has special use permit provisions that allow for a dwelling in that zone. The claimant has not demonstrated that the provisions of the E40 zone preclude the use of the property as it was when the claimants acquired the property.

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

The gross farm income and other EFU regulations minimum lot size and restrictions on new dwellings do not appear to be exempt regulations, but they can not be waived for the current owner. The claimant has not identified any other restrictive land use regulations that allegedly reduce the fair market value of the property.

**CONCLUSION**

There is insufficient information to determine if this is 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.