

Memo Date: April 25, 2007
Hearing Date: May 15, 2007



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 (PA06-7257, Babb)

BACKGROUND

Applicant: Ray A. Babb

Current Owner: Ray A. Babb Trust

Agent: Jim Spickerman

Map and Tax lots: 17-04-16, #100 & # 500

Acreage: approximately 75 acres

Current Zoning: E40 (Exclusive Farm Use)

Date Property Acquired: probably October 27, 1978 (WD # 7872102)

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition: AGT5 (Agriculture, Grazing, Timberland)

Restrictive County land use regulation: Minimum parcel size of forty acres 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 owner is the Ray A. Babb Trust. The Ray A. Babb trust acquired an interest in the property on October 27, 1978, when it was zoned AGT5 (WD #7872102). Currently, the property is zoned E40.

No information is provided on the nature of the trust, so it is not known when the property was placed into the trust, or if the trust is revocable. There is no information on tax lot #500 provided by the applicant, all documentation is for tax lot #100, therefore, it appears tax lot #500 is not actually included in the claim.

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

Tax lot #100 was zoned AGT5 when it was acquired by the current owner. The minimum lot size and limitations on new dwellings in the E40 zone prevent the current owners from developing the property as could have been allowed when he acquired it. The alleged reduction in fair market value is \$2,702,160, based on a letter submitted by a broker on February 12, 2007, after receiving notification that the M37 application was incomplete. No data was submitted to verify the conclusion statement in the letter.

The applicant has not submitted competent evidence of valuation that the County Commissioners have accepted on previous claims. Because of this, the County Administrator has not waived the requirement for an appraisal.

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 in the E40 zone 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.