

Memo Date: May 1, 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 (PA06-7310, Harper2)

BACKGROUND

Applicant: Warren T. Harper

Current Owner: Warren T. Harper

Agent: Frederick Batson

Map and Tax lot(s): 16-04-23, #900 and #1400

Acreage: 62 acres

Current Zoning: E-30 (Exclusive Farm Use)

Date Property Acquired: #1400 - April 9, 1974 (WD #9317639)
#900 - January 5, 1977 (WD #7809042)

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

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

Restrictive County land use regulation: Minimum parcel size of thirty acres, limitations on new dwellings and aggregate extraction in the E-30 (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 Warren T. Harper. Warren T. Harper acquired an interest in the property on April 9, 1974 (#1400) and January 5, 1977, when the properties were zoned AGT. Currently, the properties are zoned E-30.

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

The property was zoned AGT when it was acquired by the current owner. The minimum lot size, limitations on new dwellings and limitations on aggregate extraction in the E-30 zone prevent the current owners from developing and using the property as could have been allowed when they acquired it. The alleged reduction in fair market value is \$6,200,000, based on the submitted valuation information.

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.

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 and aggregate extraction 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.