

Memo Date: April 19, 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 (PA06-7295, Kronke)

BACKGROUND

Applicant: Trutz and Elke Kronke & Kronke Properties, LLC

Current Owner: Kronke Properties, LLC

Agent: Frederick A. Batson and Robert S. Russell

Map and Tax lot(s): 18-05-34 tax lots 600, 601, 602 and 603.

Acreage: Approximately 320 acres

Current Zoning: E40, LC 16.212 (Exclusive Farm Use), /FP, LC16. 244 (Floodplain Combining Zone), LC 16.254 LC 16.253 (Riparian Regulations)

Date Property Acquired: September 7, 1999 (B&SD #99080038)

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition: Unzoned;

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

Kronke Properties, LLC is the current owner of the subject property. Kronke Properties, LLC, acquired an interest in the property on September 7, 1999 (B&SD #99080038). On that date, the property was zoned E40 (Exclusive Farm Use) and is still zoned as such.

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 owner in 1999. The current minimum lot size and limitations on new dwellings in the E40 zone were applicable when the current owner acquired the property. The alleged reduction in fair market value is \$1,931,176 based on the submitted comparative market analysis. However, this evidence assumes the property can be divided into lots as small as 20 acres, which could not be done in 1999.

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

LC Chapter 10 (entire chapter), LC Chapter 12 (entire chapter), LC Chapter 13 (entire chapter), LC Chapter 14 (entire chapter), LC Chapter 15 (entire chapter), LC Chapter 16 (entire chapter) - No evidence has been provided that specifically demonstrates how these regulations have lowered 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 in the E40 zone do not appear to be exempt regulations, but they can not be waived for the current owner.

In addition, the regulations found within the /FP (Floodplain Combining Zone) of LC16.244 are exempt regulations as defined by LC 2.710 (2) and cannot be waived.

CONCLUSION

It appears this is not a valid claim for Kronke Properties, LLC or Trutz and Elke Kronke.

RECOMMENDATION

The County Administrator recommends the Board direct him to deny the claim.