

Memo Date: April 21, 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 (PA06-7250, Moulton)

BACKGROUND

Applicant: Martha B. Moulton

Current Owner: Martha B. Moulton

Agent: None

Map and Tax lot(s): 18-02-36 tax lot 302

Acreage: Approximately 14 acres

Current Zoning: E25, LC 16.212 (Exclusive Farm Use), /FP, LC16. 244 (Floodplain Combining Zone), LC 16.254 (Greenway Development Permit), LC 16.253 (Riparian Regulations)

Date Property Acquired: November 21, 1979 (WD #8504368)

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition: FF20 (Farm-Forestry)

Restrictive County land use regulation: Minimum parcel size of twenty-five acres and limitations on new dwellings in the E25 (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

Martha B. Moulton is the current owner of the subject property. She acquired an interest in the property on November 21, 1979 (WD #8504368). On that date, the property was zoned FF20. Currently it is zoned E25.

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

The property was zoned FF20 when it was acquired by the current owner. The minimum lot size and limitations on new dwellings in the E25 zone prevent the current owner from developing the property as could have been allowed when she acquired it. The alleged reduction in fair market value is \$2,000,000, based on the submitted appraisal.

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 in the E25 zone do not appear to be exempt regulations but it is unclear if they can be waived for the current owner.

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

There is insufficient evidence to determine the validity of this claim.

RECOMMENDATION

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