

**Memo Date:** May 9, 2007  
**Hearing Date:** May 15, 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 (PA06-7253, Shelley)

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### **BACKGROUND**

**Applicants:** Lynnette G. & Eric A. Seitz and Zora M. Struder

**Current Owner:** Shelley Family Trust

**Agent:** Donald Joe Willis

**Map and Tax lots:** 18-02-27, #600

**Acreage:** approximately 112 acres

**Current Zoning:** E25 (Exclusive Farm Use)

**Date Property Acquired:** May 27, 1993 (BSD # 9333342)

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

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

**Land Use Regulations in Effect at Date of Acquisition:** E25 on May 27, 1993

**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**

The current owner is the Shelley Family Trust. The Shelley family appears to have acquired an interest in the property prior to 1938 and 1941, when it was unzoned. No deeds have been provided. Currently, the property is zoned E25.

On May 27, 1993, the property was placed into a revocable Trust with Mabel Shelley as the trustee. The trust is considered a new owner. In the trust, Mabel Shelley identified John G. Shelley and Zora M. Studer as her family. Zora Struder was listed as successor trustee. The beneficiaries names are not known, although an affidavit by Zora Struder indicates she and John Shelley were the two beneficiaries and her brother John is now deceased. Other details of the ownership history and the current status of the trust remain unclear. Mabel passed away in February 2004.

The applicant Lynnette Seitz is Zora Struder's daughter, and Eric Seitz is Lynnette's husband. They are not listed in the trust as family, nor on any of the deeds provided in the application, therefore, they do not appear to have a legal ownership interest in the property.

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

The property was unzoned when it was acquired by the Shelley family. The minimum lot size and limitations on new dwellings in the E25 zone would prevent the Shelley family from developing the property as could have been allowed when they acquired it. The alleged reduction in fair market value is \$2,000,000, based on the submitted appraisal. The applicant is also claiming that sections of the Rural Comprehensive Plan and Lane Code have restricted the use of the subject property:

Because the minimum lot size and dwelling restrictions were applicable when the current owner, the Shelley Family Trust acquired the property in 1993, these regulations can not be waived.

**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 do not appear to be exempt regulations, but they can not be waived for the current owner, the Shelley Family Trust. The claimant has not identified any other restrictive land use regulations that allegedly reduce the fair market value of the property.

**CONCLUSION**

It appears this could be a valid claim for the Shelley family. However, the minimum lot size and dwelling restrictions can not be waived for the current owner, the Shelley Family Trust. The applicant has also failed to pay the processing fee. 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.