

Memo Date: May 2, 2007
Hearing Date: May 22, 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 (PA06-7278 Schultz)

BACKGROUND

Applicant: R. Conrad and Carolyn Schultz

Current Owner: The Carolyn Schultz Living Trust

Agent: Harold Foutz

Map and Tax lot: 17-05-25, #2302

Acreage: approximately 13 acres

Current Zoning: E40 (Exclusive Farm Use)

Date Property Acquired: Dec. 1, 1973 (WD # 7643365) for the Schultz family

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

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

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 Carolyn Schultz Living Trust. R. Conrad Schultz and Carolyn Schultz acquired an interest in the property on December 1, 1973, when it was zoned AGT (WD #7643365). Currently, the property is zoned E40.

In 1997, the property was placed into a Trust, but it is not known if the Trust is revocable. The Trust is considered a new owner, Carolyn Schultz is the sole Trustee, but the continuation of ownership interest is not known.

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 Schultz family. The minimum lot size and limitations on new dwellings in the E40 zone would prevent the current owners from developing the property as could have been allowed when they acquired it. The alleged reduction in fair market value is \$675,206, based on the submitted Comparative Market Analysis (CMA). The Board of County Commissioners have accepted CMA's as competent evidence of valuation on previous claims. Because of this, the County Administrator has 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 could be a valid claim.

RECOMMENDATION

If additional information regarding the nature of the Carolyn Schultz Family Trust is not submitted at the hearing, the County Administrator recommends the Board deny the claim.