

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 (PA06-7206, Vandercook2)

BACKGROUND

Applicant: Nancy Vandercook

Current Owners: John Vandercook and Nancy Vandercook

Agent: none

Map and Tax lots: 18-10-33, tax lots # 600, 601, 700

Acreage: approximately 78 acres

Current Zoning: F1 (Non-impacted Forest Land)

Date Property Acquired: Jan.19, 1953 (WD # 94948) –Vandercook Family
John Vandercook & Nancy Vandercook – May 29, 1998 (Death Cert. #1238)

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition: F1 (Nonimpacted Forest Land)

Restrictive County land use regulation: Minimum parcel size of eighty acres and limitations on new dwellings in the F1 (Nonimpacted Forest Land) zone (LC 16.210).

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 owners are Nancy and John Vandercook. They acquired interest in the property when their father, Clarence Vandercook died on May 29, 1998. The property was zoned F1 in 1998, as it is today. Clarence Vandercook placed the property incrementally into a trust, the terms of which are contained in his will and not provided by the applicant. The trust was not revocable, therefore, the ownership interest of Nancy and John began when their father died.

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 Vandercook family. Because the minimum lot size and dwelling restrictions were applicable when the current owners acquired the property in 1998, these regulations can not be waived.

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 do not appear to be exempt regulations, but they can not be waived for the current owner. 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. However, the minimum lot size and dwelling restrictions can not be waived for the current owner.

RECOMMENDATION

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