



Memorandum Date: August 8, 2006
Order Date: August 15, 2006

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 AMENDING ORDER NO. 05-5-11-13
TO CLARIFY A BALLOT MEASURE 37 CLAIM DECISION
TO NOT APPLY RESTRICTIVE LAND USE REGULATIONS
IN LIEU OF PROVIDING JUST COMPENSATION (PA05-
5162, GEE)

I. MOTION

Move to approve the change to a previous Measure 37 Claim decision and adopt the order attached to this memo.

II. AGENDA ITEM SUMMARY

Shall the Board of County Commissioners compensate an applicant under Ballot Measure 37 and LC 2.700 through 2.770 for the reduction in fair market value of the affected property interest resulting from enactment or enforcement of restrictive land use regulations or modify, remove, or discontinue application of those land use regulations to the subject property to allow Kenney Gee to use the property as allowed at the time he acquired an interest in the property?

This claim was originally heard on May 11 and 18, 2005. This claim was determined to be valid, based on the evidence in the record and Lane County's interpretation of Measure 37 at that time. The adopted order limited the size of new lots to no less than two acres. The claimant wishes to alter the order to allow creation of lots or parcels as small as could have been allowed when he acquired an interest in the property.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

Applicant: Kenney Gee

Current Owner: Kenney and Marta Gee

Agent: none

Map and Tax lot: 19-03-26 #6101

Acreage: 56 acres

Current Zoning: E30 (Exclusive Farm Use)

Date Property Acquired: July 31, 1973 (Memorandum of Land Sale Contract 7335399).

Date claim submitted: December 2, 2004.

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

Restrictive County land use regulation: Minimum lot size and restrictions on new dwellings in the E30 zone.

On July 20, 2006, notice of this hearing was sent to property owners within 1500 feet of the subject property.

B. Policy Issues

This claim does not involve any administrative policy or objective.

C. Board Goals

The public hearing will provide an opportunity for citizen participation in decision making, in conformance with the overall goals of the Lane County Strategic Plan.

D. Financial and/or Resource Considerations

The applicant has alleged a reduction in value that ranges from \$79,986 to \$6,742,250. As evidence of this alleged reduction, the claimant has analyzed the county assessor's data. At the hearing on May 11 and 18, 2005, and in the decision adopted on June 8, 2005, the Board determined this was adequate evidence of a value reduction and did not require an appraisal.

Since then, the Board has determined that an analysis of the county assessor's data is not adequate evidence to demonstrate a reduction in fair market value from enforcement of a land use regulation.

E. Analysis

This claim was originally heard on May 11, 2005. This claim was determined to be valid, based on the evidence in the record and Lane County's interpretation of Measure 37 at that time.

As evidenced by his letter dated January 24, 2005, Mr. Gee stated:

"The specific relief being sought is primarily a zone change to enable a rural development to proceed. I believe the most appropriate zone change would be to match that of my closest neighbor (Tab Lot #5202), who is currently zoned RR-2."

On May 11, the Board adopted an order that would allow Mr. Gee to divide the property into lots as small as two acres. Since then, Mr. Gee has requested the Board modify the adopted order to allow him to divide the property into lots as small as 8,000 square feet.

The E30 zone requires a minimum lot size of 30 acres and a special use permit for a new dwelling. The order adopted for this claim allowed the creation of two-acre lots and waived the requirement for a special use permit for new dwellings. Since then, Kenney Gee has requested the order be modified to allow him to create lots that contain less than two acres. When he acquired an interest in the property in 1973, the subdivision regulations required a minimum of 8,000 square feet for new lots on individual septic, and 6,000 square feet for new lots on a community septic. He is requesting the order be modified to allow him to develop the property as could have been allowed when he acquired an interest in the property on July 31, 1973. This will mean altering the adopted order to allow creation of lots containing less than two acres.

If the Board determines the evidence in the record demonstrates a reduction in fair market value from enforcement of a restrictive land use regulation, then the order can be modified to allow creation of the smaller lots. No new evidence has been submitted. If this claim were submitted today, it would not be scheduled for a hearing because there is not sufficient evidence of a reduction in fair market value from enforcement of a restrictive land use regulation.

The following is a summary of the submitted deeds:

- The property was acquired by Royce, Allen, Craig and Kenney Gee, as a land sales contract (not as tenants in common, but with the right of survivorship) on July 31, 1973, for consideration of \$27,500. (Reel 649 R 7335399)
- On March 15, 1974, Royce, Allen, Craig and Kenney Gee by Bargain and Sale Deed granted an undivided half interest in the property to Craig Gee and an undivided half interest in the property to Kenny and Delores Gee. (Reel 682 R 74 10888)
- On September 16, 1977, Delores Gee by Bargain and Sale Deed conveyed a one-half interest in the property to Kenney Gee. (Reel 876 R 77 78059)
- On November 13, 1995, Craig Gee by Quitclaim Deed granted his interest in the property to Kenney Gee for consideration of \$30,000. (Reel 2126 R 95 74154)
- On November 23, 1999, Kenney Gee by Warranty Deed conveyed the property to Kenney Gee and Marta Gee. (Reel 2609 R 99 096659)

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
2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and
3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

Restrictive Regulations

Kenney Gee acquired an interest in the property on July 31, 1973 (Memorandum of Land Sale Contract 7335399). On that date the property was unzoned, but the applicable subdivision regulations required a minimum lot size of 8,000 sf or 6,000 sf, depending on the availability of a community septic system.

Currently the property is zoned E30 (Exclusive Farm Use). This zone requires a minimum lot size of 30 acres and a special use permit for a new dwelling. The claimant wants to modify the adopted order to allow him to develop the property as could have been allowed in 1973.

Reduction in Fair Market Value

The claimant has not submitted an appraisal, an opinion of value from a real estate broker, a certified market analysis or any other evidence of a reduction in value that is currently accepted by the Board. Instead, the claimant has submitted an analysis of the county assessor's values of other properties. Based on this analysis, the alleged reduction in value is between \$79,986 to \$6,742,250. The Board determined on June 8, 2005, that this evidence was adequate to demonstrate a reduction in fair market value resulting from enforcement of a restrictive land use regulation.

If this claim were submitted today, it would not be scheduled for a hearing because it relies solely on the tax assessor's data.

Exempt Regulations

The E30 (Exclusive Farm Use) limitations on new dwellings, and the minimum parcel size of 30 acres do not appear to be exempt regulations described in Measure 37 or LC 2.710.

Conclusion

It appears this is a valid claim if the Board determines the submitted evidence continues to demonstrate a reduction in fair market value resulting from enforcement of a restrictive land use regulation.

F. Alternatives/Options

The Board has these options:

- Determine the application appears valid and adopt the order attached to this report.
- Require more information regarding the reduction in value.

V. TIMING/IMPLEMENTATION

If the Board determines this is a valid claim and waives county land use regulations, the claimant must receive a similar waiver from the state before a land use application and/or development proposal is submitted.

VI. RECOMMENDATION

If the Board determines the submitted evidence continues to demonstrate a reduction in fair market value resulting from enforcement of a restrictive land use regulation, the County Administrator recommends the Board amend the previous order to waive the minimum parcel size of thirty acres and the requirement for a special use permit for a new dwelling in the E30 (Exclusive Farm Use) zone and allow Kenney Gee to apply for development approval to develop the property as could have been allowed when he acquired an interest in the property on July 31, 1973.

VII. FOLLOW-UP

No other action is required.

VII. ATTACHMENTS

- Draft order.
- Vicinity Map.
- Application form.
- Evidence of value reduction.
- Memorandum of Land Sale Contract #7335399 dated July 13, 1973.
- Bargain and Sale Deed 74-10888 dated March 15, 1974.
- Bargain and Sale Deed 77-78059 dated September 16, 1977.
- Quit Claim 95-74154 dated November 13, 1995.
- Warranty Deed 99-096659 dated November 23, 1999.
- Order No. 05-5-11-13 dated June 8, 2005.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY,
OREGON**

ORDER No.) IN THE MATTER OF AMENDING ORDER
) NO. 05-5-11-13 TO CLARIFY A BALLOT
) MEASURE 37 CLAIM DECISION TO NOT
) APPLY RESTRICTIVE LAND USE
) REGULATIONS IN LIEU OF PROVIDING
) JUST COMPENSATION (Gee/PA 05-5162)

WHEREAS, on May 11 and 18, 2005, the Board conducted a public hearing on Kenney Gee's Measure 37 claim (PA05-5162) and on June 8, 2005, the Board determined that the restrictive dwelling and minimum area land division requirements of Lane Code 16.212(5), (6), (7) and (9) that were enforced and made applicable to the property prevented Kenney Gee from developing the property as could have been allowed when he acquired an interest in the property on July 31, 1973, and the public benefit from application of the land use regulation to the applicants' property is outweighed by the public burden of paying just compensation; and

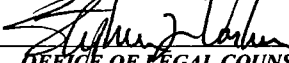
WHEREAS, Kenney Gee wishes to divide his property as could have been allowed when he acquired an interest in the property on July 31, 1973, and place a dwelling on each lot or parcel; and

WHEREAS, Order No. 05-5-11-13 only allowed Kenney Gee to apply to divide the subject property into lots as small as two acres and place a dwelling on each lot or parcel;

NOW, THEREFORE IT IS HEREBY ORDERED that Order No. 05-5-11-13 is amended to delete the reference to the size of new parcels described in the first Ordered paragraph and clarify that Order No. 05-5-11-13 allows Kenney Gee to apply to divide the property commonly known as 81778 North Pacific Highway 99, Creswell, Oregon 97426 and more specifically described in the records of the Lane County Assessor as map 19-03-26, tax lot 6101, and to place a dwelling on each lot or parcel as could have been allowed when he acquired an interest in the property on July 31, 1973.

DATED this _____ day of August, 2006, *nunc pro tunc* June 8, 2005.

Bill Dwyer, Chair
Lane County Board of County Commissioners

APPROVED AS TO FORM
Date 8-8-2006 Lane County


OFFICE OF LEGAL COUNSEL

Application for Claims Under LC 2.700 through 2.770

Due to Regulatory Reduction of Property Value Under Provisions Added to ORS Chapter 197 by BM37

Note: This completed form together with the referenced supporting documentation and application fee must be submitted to the Lane County Land Management Division, 125 East 8th Avenue, Eugene, Or., 97401 for all claims subject to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), to be considered for compensation under LC 2.700 through 2.770. In all cases, the applicant has the burden of demonstrating, with competent evidence, that all applicable criteria are met and the applicant would be entitled to compensation if the land use regulation continues to apply. Use additional paper, if necessary.

1. Applicant/ Agent

KENNEY M. GEE 81778^{No.} Pac. Hwy. 99 (541)895-8892
 Applicant Name (Please Print) Mailing Address CRESWELL, OR 97426 Phone

Agent Name (Please Print) Mailing Address Phone

2. Property Owner

Please provide the Name, Mailing Address and telephone number of all property owners of record holding interest in the property that is the subject of this application. Include a complete listing of all lien holders, trustees, renters, lessees or anyone with an interest in the property and describe the ownership interest.

KENNEY M. GEE 81778^{No.} Pac. Hwy. 99 (541)895-8892
 Property Owner Name (Please Print) Mailing Address CRESWELL, OR 97426 Phone

MARTA B. GEE (AS ABOVE) (AS ABOVE)
 Property Owner Name (Please Print) Mailing Address Phone

3. Legal Description

Please provide an accurate legal description, tax account number(s), map, street address and location of all private real properties that are the subject of this application.

Assessor Map & Tax Lot 19-03-26-00-06101
 Street Address 81778 N. PACIFIC HWY. 99 CRESWELL, OR Legal Description Attached X
 97426

4. Identification of Imposed Land Use Regulation

Please identify the Lane Code section or other land use regulation imposed on the private real property that is alleged to restrict the use of the subject property in a manner that reduces the fair market value. Include the date the regulation was first adopted, enforced or applied to the subject property and a written statement addressing all the criteria in LC 2.740(1).

FF-20 FEBRUARY 25, 1976 ORDINANCE # 571/587
EF-30 CURRENTLY

5. Title Report

Please attach a Preliminary Title Report showing title history and continuous ownership traced to the earliest family member ownership, the date of current owner(s) acquisition and all current interests of record for the subject property, issued within 30 days of the application submittal. Provide copies of relevant deeds.

6. Appraisal/Regulatory Effect

Please provide one original, signed appraisal prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon addressing the requirements of provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in fair market value by showing the difference in the fair market value of the property before and after the application of the challenged regulations as of the date the owner makes written demand for compensation. Include all of the supporting methodology, assumptions and calculations affecting the appraisal.

SEE ATTACHED AS PER CONCESSION MADE WITH
WILLIAM A. VAN VACTOR

7. Leases, Covenants, Conditions and Restrictions

Please provide copies of any leases or covenants, conditions and restrictions applicable to the subject property.

N/A

8. Identification of Relief Sought

Please specifically indicate what relief is being sought, either a monetary value of the claim describing the reduction in fair market value of the property or the specific use authorization sought in any waiver of the land use regulation.

SEE ATTACHED

I (we) have completed all of the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) authorized to submit this application on behalf of all those with an interest in the property and all the owner(s) agree to this claim as evidenced by the signature of those owner(s) below. Include additional signatures, as necessary.

Entry by County or its designee upon the subject property is authorized by the owner(s) and the owner(s) consent to the application for claims under provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

Kenneth M. Lee
Marta B. Lee
Owner(s) Signature

1-25-05
Date

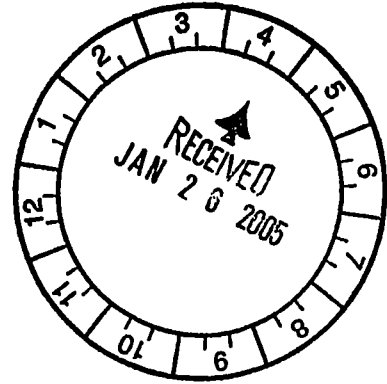
Applicant/Agent Signature

Date

The following contacts are provided to assist you in finding the necessary information for this application.
For zoning and land use information, please contact the Land Management Division at 682-3577.
This phone contact is a message line. Please leave a message and a Planner will return your call.
For deeds and records information, please contact Lane County Deeds and Records at 682-3654.

January 24, 2005

William A. Van Vactor
Lane County Administrator



Re: M37 Claim #DE040830

Dear Mr. Van Vactor,

Due to the unprecedented nature of Measure 37 claims, the actual implementation of such a process has proven to be a challenge to all of us. I'm appreciative of all the time invested in meetings and conversations that the County Administrator and his staff have allotted to me thus generating the mutually agreed specifics of evidence deemed applicable to the evaluation of this claim.

The following information has been deemed sufficient in lieu of an appraisal. To arrive at these obvious conclusions, I've utilized Market Values for the land as assessed by the County Department of Assessment and Taxation of all appropriately sized parcels within the boundaries of my entire Tax Section and have averaged each to calculate a per acre value for each of the seventy-one (71) properties.

Map Lot Number	Acreage	Assessed Land Market Value	Averaged Per Acre Value	Residence
100	1.91	\$98,870.00	\$51,764.00	Yes
200	1.91	\$92,576.00	\$48,469.00	Yes
300	1.91	\$92,576.00	\$48,469.00	Yes
400	1.53	\$27,414.00	\$17,917.00	No
498	1.91	\$69,016.00	\$36,134.00	Yes
499	1.91	\$41,490.00	\$21,685.00	Yes
500	5.14	\$128,804.00	\$25,059.00	Yes
601	1.51	\$56,684.00	\$37,539.00	No
1100	1.95	\$94,783.00	\$48,606.00	Yes
1200	0.45	\$44,470.00	\$98,822.00	Yes
1201	0.51	\$68,485.00	\$128,402.00	Yes
1202	0.81	\$77,181.00	\$95,285.00	Yes

Map Lot Number	Acreage	Assessed Land Market Value	Average Per Acre Value	Residence
1300	1.46	\$89,370.00	\$61,212.00	Yes
1400	0.75	\$75,012.00	\$100,016.00	Yes
1401	0.64	\$70,782.00	\$110,596.00	Yes
1500	0.54	\$64,888.00	\$120,162.00	Yes
1600	1.89	\$66,925.00	\$35,410.00	Yes
*1601	0.49	\$64,914.00	\$132,478.00	Yes
1700	2.06	\$44,625.00	\$21,662.00	No
1800	2.06	\$66,571.00	\$32,316.00	Yes
1900	1.06	\$91,005.00	\$85,853.00	Yes
2000	2.28	\$77,012.00	\$33,777.00	Yes
2100	1.58	\$96,430.00	\$61,031.00	Yes
2300	2.30	\$90,665.00	\$39,420.00	Yes
*2400	4.98	\$65,628.00	\$13,178.00	Yes
2401	5.36	\$97,807.00	\$18,248.00	Yes
2500	3.44	\$96,287.00	\$27,990.00	Yes
2600	4.12	\$123,976.00	\$30,019.00	Yes
2700	1.23	\$88,032.00	\$71,570.00	Yes
2701	0.98	\$82,840.00	\$84,530.00	Yes
2800	1.56	\$82,113.00	\$52,636.00	Yes
2900	1.14	\$48,870.00	\$42,868.00	Yes
3000	1.22	\$72,184.00	\$59,167.00	Yes
3300	2.74	\$72,338.00	\$26,400.00	Yes
3301	2.31	\$69,638.00	\$30,146.00	Yes
3400	2.84	\$102,286.00	\$36,016.00	Yes
3500	3.30	\$104,842.00	\$31,770.00	Yes
3600	3.82	\$111,617.00	\$29,219.00	Yes
3700	2.88	\$100,844.00	\$35,015.00	Yes
3701	1.01	\$78,038.00	\$77,265.00	Yes
3800	3.83	\$74,909.00	\$19,060.00	Yes
3900	3.94	\$121,535.00	\$30,846.00	Yes
4001	3.30	\$112,760.00	\$34,170.00	Yes
4100	3.82	\$119,497.00	\$31,282.00	Yes
4200	3.89	\$120,329.00	\$30,933.00	Yes
4300	2.67	\$65,117.00	\$24,388.00	No
4301	1.22	\$67,624.00	\$55,430.00	Yes
4401	2.92	\$41,769.00	\$14,304.00	Yes
4500	3.82	\$119,497.00	\$31,282.00	Yes
4700	3.05	\$80,002.00	\$26,230.00	Yes
4900	4.85	\$21,230.00	\$4,377.00	No
5100	4.18	\$99,027.00	\$23,690.00	Yes
5201	0.97	\$76,921.00	\$79,300.00	Yes
*5202	1.38	\$89,113.00	\$60,226.00	Yes
5300	0.86	\$46,728.00	\$54,334.00	Yes
5301	1.05	\$77,012.00	\$73,344.00	Yes

Map Lot Number	Acreage	Assessed Land Market Value	Average Per Acre Value	Residence
5302	1.82	\$86,954.00	\$47,777.00	Yes
5304	1.55	\$45,184.00	\$29,151.00	No
5600	2.15	\$46,599.00	\$21,674.00	Yes
5700	0.94	\$81,632.00	\$86,842.00	Yes
5800	1.27	\$88,539.00	\$69,716.00	Yes
5801	0.60	\$69,016.00	\$115,027.00	Yes
5900	0.94	\$36,304.00	\$38,621.00	No
5901	0.94	\$57,982.00	\$61,683.00	Yes
6000	1.22	\$82,008.00	\$67,220.00	Yes
6001	0.96	\$82,205.00	\$85,630.00	Yes
6002	0.96	\$82,205.00	\$85,630.00	Yes
6003	1.14	\$68,107.00	\$59,743.00	Yes
6004	0.97	\$47,456.00	\$48,923.00	Yes
6301	2.94	\$95,872.00	\$32,609.00	Yes
6302	5.12	\$137,891.00	\$26,932.00	Yes
6303	5.00	\$105,744.00	\$21,149.00	Yes

\$3,534,617.00

The Market Value of my 56.34 acres is currently assessed at \$328,991.00 averaging \$5,844.00 per acre. To illustrate the reduction of my property's Market Value, a simple comparative view of the Average Per Acre Price projected upon my property reduced by its current Market Value is shown below:

Total Averages	#Properties	Property Type	Per Acre Price
\$3,534,617.00	71	All Parcels	\$49,783.00

Projected on my property: $\$49,783 \times 56 = \$2,787,848 - \$328,991 = \$2,458,857.00$

\$2,103,621.00	54	1-5 Acres	\$38,955.94
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Projected on my property: $\$38,956 \times 56 = \$2,181,536 - \$328,991 = \$1,852,545.00$

\$3,360,962.00	64	W/Residences	\$52,515.03
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Projected on my property: $\$52,515 \times 56 = \$2,940,840 - \$328,991 = \$2,611,849.00$

Tax Lot #2400 (Lowest Per Acre Average Parcel) \$13,178.00

Projected on my property: $\$13,178 \times 56 = \$737,968 - \$328,991 = \$408,977.00$

Tax Lot #1601 (Highest Per Acre Average Parcel) \$132,147.00

Projected on my property: $\$132,147 \times 56 = \$7,400,232 - \$328,991 = \$7,071,241.00$

I believe the above comparative analysis of the evidence boldly shows the reduction in Market Value of my property as a result of the regulatory restraints currently imposed. The criteria needed as specified in L.C. 2.740 to qualify for compensation consideration having been so easily met, leaves you to determine the best course of compensation.

In our previous conversations, it's been made perfectly clear that taking into consideration the financial resources of the County, that financial compensation isn't really a viable option. Even if funds were available, I'd be very disappointed in our County's leadership, for the public benefit would be better served elsewhere.

The specific relief being sought is primarily a zone change to enable a rural development to proceed. I believe the most appropriate zone change would be to match that of my closest neighbor (Tax Lot #5202), who is currently zoned RR-2. I feel this agreement supercedes the planning for the property's development. Thusly, fees associated with planning i.e. Zone Change and future Partitions are not applicable towards the property's development.

Respectfully,



Ken M. Gee
81778 N. Pacific Highway 99
Creswell, OR 97426
(541)895-8892

7335399

7335399

Pr 30873

MEMORANDUM OF LAND SALE CONTRACT

KNOW ALL MEN BY THESE PRESENTS, That on the 31 day of July, 1973.

CLIFTON A. LABART and DOROTHY M. LABART, husband and wife

as VENDORS and ROYCE L. GEE, ALLEN D. GEE, CRAIG W. GEE and KENNEY M. GEE, not as tenants in common, but with the right of survivorship, that is that the fee shall vest in the survivor

as VENDEES, made and entered into a certain Land Sale Contract;

WHEREAS, VENDOR agreed to sell and VENDEES agreed to purchase the following described real property, to-wit:

Beginning at the Northwest corner of the Claus Arp and wife Donation Land Claim No. 63, Notification No. 6567, Township 19 South, Range 3 West of the Willamette Meridian; and running thence South 25 chains, thence East to the West line of Pacific Highway No. 99, thence Northerly along said West line to the North line of said Donation Land Claim No. 63, thence West to the place of beginning. EXCEPTING therefrom that portion thereof included within the public roads or highways.

Subject to the rights of the public in and to public roads and highways. CONSIDERATION: \$27,500.00

The terms and conditions of said transfer being fully set forth in said Land Sale Contract.

IN WITNESS WHEREOF the parties have hereunto set their hands this 31 day of July

1973

Handwritten signatures of Royce L. Gee, Allen D. Gee, Craig W. Gee, and Kenney M. Gee.

STATE OF OREGON, County of Lane, ss.

Personally appeared the within named Royce L. Gee, Allen D. Gee, Craig W. Gee and Kenney M. Gee and acknowledged the foregoing instrument to be their voluntary act and deed. Before me:



Handwritten signature of Betty J. Watkins, Notary Public for Oregon, My Commission Expires: 9-10-74

Buyer address 1937 Laura St Springfield Ore.

7335399

MEMORANDUM OF LAND SALE CONTRACT

County of

Pioneer

PIONEER TITLE CO.

248 Pearl Street - Eugene, Oregon

17555

TO

State of Oregon, County of Lane--ss.

I, D. M. Penfold, Director of the Department of Records and Elections, in and for the said County, do hereby certify that the within instrument was received for record at

1973 AUG 2 AM 10 45

Reel 649 R

Lane County OFFICIAL RECORDS.

D. M. PENFOLD Director of the Department of Records & Elections.

By Linda Dyer Deputy

C-29-083-05

RETURN TO:

Maynard Wilson 11 So. 6th Street Corvallis, Oregon

PIONEER TITLE CO.

THE VALUE RECEIVED FOR THIS TRANSFER IS \$

The true and actual consideration for this transfer is \$

RECEIVED

RECEIVED

RECEIVED

RECEIVED

6031

6031

Grantor,
Grantee,

DELORES JOLEEN GEE
conveys to KENNEY MACK GEE,
the following described real property situated in Lane County, Oregon, to-wit:

A one-half interest in the following described property in Lane County, Oregon:

Beginning at the Northwest corner of the CLAIR and wife Donation Land Claim No. 63, Notification No. 6567, Township 19 South, Range 3 West of the Willamette Meridian; and running thence South 25 chains, thence East to the West line of Pacific Highway No. 99, thence Northerly along said West line to the North line of said Donation Land Claim No. 63, thence West to the place of beginning. EXCEPTING therefrom that portion thereof included within the public roads or highways.

E 3 .

00003.00

IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE
The true consideration for this conveyance is \$ per property settlement agreement. (Here comply with the requirements of ORS 93.030)

Dated this 10th day of September, 1977.

X Delores Joleen Gee
Delores Joleen Gee



STATE OF OREGON, County of Lane, ss. September 10th, 1977
Personally appeared the above named Delores Joleen Gee

and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me: *Mark McKeever*
Notary Public for Oregon—My commission expires: 10/29/80

7778059

BARGAIN AND SALE DEED	
DELORES JOLEEN GEE	GRANTOR
KENNEY MACK GEE	GRANTEE
1841 Centennial Springfield, OR 97477	
After recording return to:	
NAME ADDRESS ZIP	
If change is requested, all tax statements sent to the following address:	
KENNEY MACK GEE 1841 Centennial Springfield, OR 97477	
NAME ADDRESS ZIP	

State of Oregon,
County of Lane—ss.

I, D.M. Penfold, Director of the Department of General Services, in and for the said County, do hereby certify that the within instrument was received for record at

1977 DEC 7 AM 11 46

Recd 876 R

Lane County OFFICIAL RECORDS.

D.M. Penfold, Director of the Department of General Services.

By *S. S. Quercia*
Officer
deputy

ss.
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al of

9574154

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That Craig W. Gee, herein after called grantor, for the consideration hereinafter stated, does hereby remise, release and quitclaim unto Kennedy M. Gee

hereinafter called grantee, and unto grantee's heirs, successors and assigns all of the grantor's right, title and interest in that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, situated in the County of Lane State of Oregon, described as follows, to-wit: Beginning at the Northwest Corner of the Clause Arp and Wife Donation Land Claim No. 63, Notification No. 6567, Township 19 South, Range 3 West of the Willamette Meridian; and running thence South 25 chains, thence East to the West line of the Pacific Highway 99; thence Northerly along said West line to the North line of said Donation Land Claim No. 63, thence West to the place of beginning. EXCEPTING therefrom that portion thereof included within the public roads or highways.

2940DEC.28'95H08REC 5.00
2940DEC.28'95H08PFUND 10.00
2940DEC.28'95H08BA&T FUND 20.00

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the grantee and grantee's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 30,000.00

However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration (indicate which). (The sentence between the symbols @, if not applicable, should be deleted. See ORS 93.030.)

In construing this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed shall apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 13th day of November, 1995. if a corporate grantor, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized thereto by order of its board of directors.

Craig W. Gee

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

STATE OF OREGON, County of Lane) ss.
This instrument was acknowledged before me on 13 November, 1995

by Craig W. Gee

This instrument was acknowledged before me on _____, 19____

by _____

as _____



Michael Hennegan
Notary Public for Oregon
My commission expires 5/28/98

Craig W. Gee
2340 SW Pickford St.
Corvallis, OR 97333
Grantor's Name and Address

Kennedy M. Gee
1937 Laura St.
Springfield, OR 97477
Grantee's Name and Address

After recording return to (Name, Address, Zip):
Kennedy M. Gee
1937 Laura St.
Springfield, OR 97477

Unit recording jurisdiction send all tax statements to (Name, Address, Zip):
Do Change

SPACE RESERVED FOR RECORDER'S USE

State of Oregon } ss.
County of Lane -- ss. ment
I, the County Clerk, in and for the said ... day
County, do hereby certify that the within ... at
instrument was received for record at ted in
page
instru-

28 DEC 95 12:29

2126R

Lane County OFFICIAL Records
Lane County Clerk
By: *David S. ...*
County Clerk
Title
Deputy

99096659

After Recording Return to:

Janice E. Hatton, Esq.
1011 Harlow Road, Suite 300
Springfield, OR 97477

Until a change is requested,
mail tax statements to:

Kenney M. Gee and Marta B. Gee
81778 Pacific Highway 99
Creswell, OR 97426

Tax Account No. 1315132
and No. 0843118

WARRANTY DEED

4260 NOV.24'99#05REC	10.00
4260 NOV.24'99#05PFUND	10.00
4260 NOV.24'99#05A&T FUND	20.00

Kenney M. Gee, Grantor, conveys to Kenney M. Gee and Marta B. Gee, Trustees of the Gee Family Trust, dated November 23, 1999, Grantees, the following described real property, which has an address of 81778 Pacific Highway 99, Creswell, situated in Lane County, Oregon:

Beginning at the Northwest Corner of the Clause Arp and Wife Donation Land Claim No. 63, Notification No. 6567, Township 19 South, Range 3 West of the Willamette Meridian; and running thence South 25 chains, thence East to the West line of the Pacific Highway 99; thence Northerly along said West line to the North line of said Donation Land Claim No. 63, thence West to the place of beginning. EXCEPTING therefrom that portion thereof included within the public roads or highways.

The Liability and obligations of the Grantor to Grantees and Grantees' heirs and assigns under the warranties and covenants contained herein or provided by law shall be limited to the extent of coverage that would be available to Grantor under a standard policy of title insurance. The limitations contained herein expressly do not relieve Grantor of any liability or obligations under this instrument, but merely define the scope, nature, and amount of such liability or obligations.

The true consideration for this conveyance, for estate planning purposes, is: \$0.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

202

99096659

DATED this 23 day of November, 1999.

K. Gee
Kenney M. Gee

STATE OF OREGON)
): ss.
County of Lane)

The foregoing instrument was acknowledged before me this 23 day of November, 1999, by Kenney M. Gee.



Janice E Hatton
Notary Public of Oregon
My Commission Expires: 11-29-2002

State of Oregon
County of Lane — ss.
I, the County Clerk, in and for the said
County, do hereby certify that the within
instrument was received for record at

'99 NOV 24 PM 2:29

Reel **2609R**
Lane County OFFICIAL Records
Lane County Clerk

By: Donal S. Suckey
County Clerk

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY,
OREGON**

ORDER No. 05-5-11-13

) 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
) (Kenny and Marta Gee/PA 05-5162)

WHEREAS, the voters of the State of Oregon passed Ballot Measure 37 on November 2, 2004, which added provisions to Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment to landowners if a government land use regulation restricts the use of private real property and has the effect of reducing the property value; and

WHEREAS, the Board of County Commissioners of Lane County enacted Ordinance No. 18-04 on December 1, 2004, to establish a real property compensation claim application process in LC 2.700 through 2.770 for Ballot Measure 37 claims; and

WHEREAS, the County Administrator has reviewed an application for a Measure 37 claim by Kenny and Marta Gee (PA05-5162), owners of real property commonly known as 81778 North Pacific Highway 99, Creswell, Oregon 97426 and more specifically described in the records of the Lane County Assessor as map 19-03-26, tax lot 6101 and consisting of approximately 56.36 acres in Lane County, Oregon; and

WHEREAS, the County Administrator has determined that the application appears to meet all of the criteria of LC 2.740(1)(a)-(d), appears to be eligible for just compensation and appears to require modification, removal or not applying the restrictive land use regulations in lieu of payment of just compensation and has referred the application to the Board for public hearing and confirmation that the application qualifies for further action under Measure 37 and LC 2.700 through 2.770; and

WHEREAS, the Board has confirmed the application appears to qualify for compensation under Measure 37 but Lane County has not appropriated funds for compensation for M37 claims and has no funds available for this purpose; and

WHEREAS, the County Administrator has determined under LC 2.740(4) that modification, removal or not applying the restrictive land use regulation to Kenny Gee is necessary to avoid owner entitlement to just compensation under Ballot Measure 37 and made that recommendation to the Board; and

WHEREAS, on May 11 and 18, 2005, the Board conducted a public hearing on Kenny and Marta Gee's Measure 37 claim (PA05-5162) and determined that the restrictive dwelling and minimum area land division requirements of Lane Code 16.212(5), (6), (7) and (9) that were enforced and made applicable to the property prevent Kenny Gee from subdividing and developing his property with additional dwellings and the public benefit from application of the

land use regulation to the applicants' property is outweighed by the public burden of paying just compensation; and

WHEREAS, Kenny and Marta Gee wish to be able to subdivide their property and develop it with residences in at least a 2 acre density and the Board finds that proposal to be a use permitted at the time Kenny Gee acquired an interest in the property based on an interpretation of Measure 37 that concludes the land division regulations can restrict the use Kenny Gee could have made of the property at that time although dwelling development rights might not be transferable; and

WHEREAS, the Board finds that the restrictive dwelling and area requirements of Lane Code 16.212(5), (6), (7) and (9) applicable to the property prevent Kenny and Marta Gee from subdividing and developing the property with additional dwellings, a use permitted at the time Kenny Gee acquired the property, and under LC 2.760(3) the public interest would be better served by modifying, removing or not applying those challenged land use regulations of the EFU zone to the subject property in the manner and for the reasons stated in the report and recommendation of the County Administrator incorporated here by this reference except as explicitly revised here to reflect Board deliberation and action to authorize division of the property to create additional parcels and construction of additional dwellings by Kenny Gee; and

WHEREAS, this matter having been fully considered by the Lane County Board of Commissioners.

NOW, THEREFORE IT IS HEREBY ORDERED that the applicants Kenny and Marta Gee made a valid claim under Ballot Measure 37 by describing the use being sought, identifying the county land use regulations prohibiting that use, submitting evidence that those land use regulations have the effect of reducing the value of the property, showing evidence that Kenny Gee acquired the property before the restrictive county land use regulations were enacted or enforced and the Board hereby elects not to pay just compensation but, in lieu of payment, the request of Kenny Gee shall be granted and the restrictive dwelling and minimum area provisions of Lane Code 16.212(5), (6), (7) and (9) that limit the division of land and restrict placement of dwellings shall not apply to Kenny Gee so that he can further divide the property into parcels or lots as small as two acres and build additional dwellings on the property commonly known as 81778 North Pacific Highway 99, Creswell, Oregon 97426 and more specifically described as map 19-03-26, tax lot 6101.

IT IS HEREBY FURTHER ORDERED that Kenny Gee will need to receive approval of any land division to allow creation of new lots or parcels and construction of an additional dwelling under the other land use regulations applicable to dividing land or placing additional dwellings on his property that were not specifically identified or established as restricting Kenny Gee's use of the property for home sites and it would be premature to not apply those regulations given the available evidence. To the extent necessary to effectuate the Board action to not apply the dwelling or division restrictions of the applicable zone described above, the claimant shall submit appropriate applications for review and approval of divisions and any new dwellings to show the specific development proposals and in the event additional county land use regulations result in a restriction of those uses that has the effect of reducing the fair market value of the property, the County Administrator shall have the authority to determine those restrictive county land use regulations that will not apply to that development proposal. All other Lane Code land

use and development regulations shall remain applicable to the subject property until such time as they are shown to be restrictive and that those restrictions reduce the fair market value of the subject property.

IT IS HEREBY FURTHER ORDERED that this action making certain Lane Code provisions inapplicable to Kenny Gee's use of his property does not constitute a waiver or modification of any corresponding state law or administrative rules and does not authorize immediate division or construction of an additional dwelling. The requirements of state law, including ORS 215.213, 215.263 and OAR chapter 660, division 33, contain specific standards regulating land divisions and development on agricultural land and applicants should contact the Department of Administrative Services (DAS - State Services Division, Risk Management - Measure 37 Unit, 1225 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml>) and have the State of Oregon evaluate a claim for this property before seeking county land use approval. The county land use regulations and other rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision and a copy of this Order shall be recorded in the county deed records. This Order shall be effective and have effect as described in LC 2.770 and Ballot Measure 37 to the extent permitted by law. This order does not resolve several questions about the effect and application of Measure 37, including the question of whether the right of Kenny Gee to build additional dwellings can be transferred to another owner.

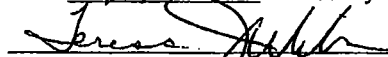
DATED this 8th day of June, 2005.



Anna Morrison, Chair
Lane County Board of County Commissioners

APPROVED AS TO FORM

Date 6/8/05 Lane County



OFFICE OF LEGAL COUNSEL