

W. 8. F. 5



Memo Date: January 24, 2007  
Order Date: February 7, 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 AMENDING ORDER NO. 06-8-23-8 TO CLARIFY A BALLOT MEASURE 37 CLAIM DECISION TO NOT APPLY RESTRICTIVE LAND USE REGULATIONS IN LIEU OF PROVIDING JUST COMPENSATION (PA06-5683, KLEMP)

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**I. MOTION**

Move to adopt the proposed order amending Order No. 06-8-23-8.

**II. AGENDA ITEM SUMMARY**

This claim was heard on August 23, 2006, and the Board adopted Order No.06-8-23-8 to waive the minimum lot size and dwelling restrictions of the E40 (Exclusive Farm Use) zone. The adopted order waived the regulations for David and Ann Klemp, inadvertently omitting the correct names which are Daniel and Ann Klemp. The submitted evidence used both names to refer to the current owner, but that issue was clarified at the hearing. According to the testimony and evidence presented at the hearing, Daniel and Ann Klemp are the current owners and the waiver should have been issued to them without any reference to David. The attached order amending Order No. 06-8-23-8 will clarify the August 23, 2006, Board action was intended to include a waiver to Daniel Klemp. Nothing else about the original adopted order will be changed.

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

**Applicants:** Daniel and Ann Klemp

**Current Owners:** Daniel and Ann Klemp

**Agent:** Steve Cornacchia

**Map and tax lot:** 16-04-28 #1102

**Acreage:** Approximately 40 acres

**Current Zoning:** E40 (Exclusive Farm Use)

**Date Applicants acquired an interest in the Property:** Sept. 28, 1973.

**Date claim submitted:** April 26, 2006. The 180-day deadline was October 23, 2006.

**Land Use Regulations in Effect at Date of Acquisition:** AGT (Agriculture, Grazing and Timber). One acre minimum lot size.

**County land use regulation which restricts the use and reduces the fair market value of claimant's property:** LC 16.212: Minimum lot size and restrictions on new dwellings in the E40 (Exclusive Farm Use) zone.

**VII. ATTACHMENTS**

Proposed order amending Order No. 06-8-23-8.

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

**ORDER No.** ) IN THE MATTER OF AMENDING ORDER  
                  ) NO. 06-8-23-8 TO CLARIFY A BALLOT  
                  ) MEASURE 37 CLAIM DECISION TO NOT  
                  ) APPLY RESTRICTIVE LAND USE  
                  ) REGULATIONS IN LIEU OF PROVIDING  
                  ) JUST COMPENSATION (Klemp/PA 06-5683)

**WHEREAS**, on August 23, 2006, the Board conducted a public hearing on the Klemp Measure 37 claim (PA06-5683) and the Board determined that the restrictive requirements of Lane Code 16.212 that were enforced and made applicable to the property prevented Daniel and Ann Klemp from developing the property as could have been allowed when they acquired an interest in the property on September 28, 1973, and the public benefit from application of the land use regulation to the applicant's property is outweighed by the public burden of paying just compensation; and

**WHEREAS**, Board Order No. 06-8-23-8 adopted on August 23, 2006, inadvertently listed the name of David Klemp rather than Daniel Klemp, but the testimony and evidence submitted to the Board made it clear that Daniel Klemp should actually receive a waiver of the restrictive land use regulations of the E40 (Exclusive Farm Use) zone and amending the order will clarify the August 23, 2006, Board action was intended to include a waiver to Daniel Klemp, not David Klemp.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Order No. 06-8-23-8 is amended to replace the name David Klemp with the name Daniel Klemp, to clarify that Order No. 06-8-23-8 waives restrictive provisions of LC 16.212 and also allows Daniel Klemp to apply for approval to develop property specifically described in the records of the Lane County Assessor as map 16-04-28, tax lot 1102, consisting of approximately 40 acres in Lane County, Oregon, as could have been allowed when he acquired an interest in the property on September 28, 1973.

**IT IS HEREBY FURTHER ORDERED** that all of the other provisions of Order No. 06-8-23-8 shall remain in full force and effect.

**DATED** this \_\_\_\_\_ day of February 7, 2007, *nunc pro tunc* August 23, 2006.

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Faye Stewart, Chair  
Lane County Board of County Commissioners

**APPROVED AS TO FORM**

Date 1-29-2007 Lane County

  
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OFFICE OF LEGAL COUNSEL