

Memo Date: January 10, 2007
Order Date: January 23, 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 (PA05-6397, Cully)

BACKGROUND

Applicant: Lloyd Cully

Current Owner: Cully Properties LLC

Agent: Tony Chapman

Map and Tax lot: 20-03-04 #200

Acreage: 32.5 acres

Current Zoning: E30 (Exclusive Farm Use)

Date Property Acquired: December 30, 1999

Date claim submitted: September 23, 2005. On January 20, 2006, the applicant placed this claim on hold pending resolution of the Petersen Bros. LLC claim (PA06-6148). On Dec 13, 2006 the Peterson claim was resolved by Board Order 6-12-12-5

180-day deadline: June 11, 2007

Land Use Regulations in Effect at Date of Acquisition: E30 (Exclusive Farm Use), LC 16.212.

Restrictive County land use regulation: Minimum parcel size of forty acres and limitations on new dwellings in the E30 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 subject property was acquired by Lloyd and Theda Cully on January 28, 1974, (Warranty Deed 7410972). The property was later transferred to the Cully Family Trust u.a.d. on March 28, 1991, and finally transferred to Cully Properties LLC on December 30, 1999 as evidenced by instrument # 2000-000984. When Cully Properties LLC acquired the property on December 30, 1999 the property was zoned E30 (Exclusive Farm Use). The property is still currently zoned E30.

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

The applicant has submitted an appraisal alleging a reduction in the fair market value of the property in the amount of \$205,000 from the date the Cully family acquired the property. However, the applicant has failed to provide sufficient evidence demonstrating the Cully family has maintained an interest in the property prior to the enactment of restrictive land use regulations.

On January 17, 2006, LMD staff requested further information regarding the structure and membership of the Trust and the LCC. The applicant has failed to provide these details.

3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

The minimum parcel size and restrictions on new dwellings do not appear to be exempt regulations. However, it is unclear if these regulations can be waived for the current land owner (Cully Properties LLC). No other restrictive regulations have been identified.

CONCLUSION

Unless additional information is provided regarding the structure of both the Cully Family Trust and Cully Properties LLC, staff cannot determine the validity of this claim.

RECOMMENDATION

The County Administrator recommends the Board direct him to deny the claim unless the applicant can produce sufficient evidence demonstrating that the Cully family has maintained an interest in the property prior to the enactment of restrictive land use regulations.