

**Memo Date:** May 2, 2007  
**Hearing Date:** May 22, 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 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 (PA06-7277 Robinson)

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### **BACKGROUND**

**Applicant:** Cecil L. Robinson

**Current Owners:** Cecil L. and Nancy A. Robinson

**Agent:** Micheal M. Reeder

**Map and Tax lots:** 16-05-19, #200 & 220

**Acreage:** approximately 48 acres

**Current Zoning:** F2 (Impacted Forest Land)

**Date Property Acquired:** January 1, 1975 (LSC # 7450682) for #200  
June 14, 2005 (WD # 043210) for #220

**Date claim submitted:** December 1, 2006

**180-day deadline:** May 30, 2007

**Land Use Regulations in Effect at Date of Acquisition:** tax lot # 200 was unzoned, tax lot #220 was zoned F2 (Impacted Forest)

**Restrictive County land use regulation:** Minimum parcel size of eighty acres and limitations on new dwellings in the F2 (Impacted Forest Land) zone (LC 16.211).

### **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 of tax lot #200 are Cecil L. and Nancy A. Robinson. Cecil and Nancy acquired an interest in tax lot # 200 and tax lot #220 on November 29, 1974 (LSC # 7450682) when it was unzoned.

Tax lot #220 is currently owned by Freedom Way LLC, which is a single-member LLC created by Cecil L. Robinson on June 14, 2005 (WD # 043210). Nancy A. Robinson, therefore, is no longer considered an owner of tax lot #220. This tax lot was zoned F2 when acquired by the current owner. Currently, both tax lots are zoned F2.

**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 Robinson family. The minimum lot size and limitations on new dwellings in the F2 zone prevent the Robinson family from developing the property as could have been allowed when they acquired it. The alleged reduction in fair market value is \$1,874,570. 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. There is a statement of value reduction in the application, but the CMA report does not provide evidence to support the conclusion in the narrative.

Because the minimum lot size and dwelling restrictions were applicable when Freedom Way LLC acquired tax lot #220 in 2005, these regulations can not be waived on tax lot #220.

The applicant is also claiming that the following sections of Lane Code have restricted the use of the subject property:

LC13.050, 13.080 (1) (c) – These provisions apply to subdivision and partitioning of property. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

LC15.070, 15.080, 15.137 & 15.138 – These provisions apply to road and driveway approach spacing standards and building setbacks from roads. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

**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 of tax lot #220.

**CONCLUSION**

It appears this could be a valid claim for tax lot #200. However, the minimum lot size and dwelling restrictions can not be waived for the current owner of tax lot #220.

**RECOMMENDATION**

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