

**Memo Date:** April 18, 2007  
**Hearing Date:** May 8, 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 (PA06-7241, Bowers4)

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### **BACKGROUND**

**Applicant:** Donald and Faye Bowers  
**Current Owner:** Donald and Faye Bowers  
**Agent:** Norm Waterbury  
**Map and Tax lot(s):** 18-05-13, #200  
**Acreage:** 68.2 acres  
**Current Zoning:** E-40 (Exclusive Farm Use)  
**Date Property Acquired:** September 12, 1979 (WD #7955017)  
**Date claim submitted:** December 1, 2006  
**180-day deadline:** May 30, 2007  
**Land Use Regulations in Effect at Date of Acquisition:** AGT (Agriculture, Grazing, Timberland)  
**Restrictive County land use regulation:** Minimum parcel size of forty acres and limitations on new dwellings in the E-40 (Exclusive Farm Use) 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 current owners are Donald and Faye Bowers. Donald and Faye Bowers acquired an interest in the property on September 12, 1979, when it was zoned AGT (WD #7955017). Currently, the property is zoned E-40.

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

The property was zoned AGT when it was acquired by the current owners. The minimum lot size and limitations on new dwellings in the E-40 zone prevent the current owners from developing the property as could have been allowed when they acquired it. The alleged reduction in fair market value is \$490,000, based on the statement submitted by the claimant.

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.

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

LC10.100-10, 30 & 40— These provisions only apply to those EFU (Exclusive Farm Use District) zoned properties within the Urban Growth Boundaries of a city and are not applicable to the subject property.

LC13.050 – 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.

LC16.004, LC16.006, LC16.007 - The applicant has failed to demonstrate how these provisions relate to the subject property or how they have reduced 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.

**CONCLUSION**

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.

It appears this is not a valid claim.

**RECOMMENDATION**

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