

Memo Date: April 17, 2007
Hearing Date: May 8, 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 (PA05-6785, Eymann)

BACKGROUND

Applicant: Emily J. Eymann

Current Owner: Unknown

Agent: Penny Jordan

Map and Tax lot(s): 16-02-24, tax lot 1209

16-02-24, tax lot 1301 (no tax lot "1301" is designated on map 16-02-24).

Acreage: 16-02-24, tax lot 1209: 227.03 acres

Current Zoning: E40 (Exclusive Farm Use)

Date Property Acquired: Unknown

Date claim submitted: December 14, 2005

180-day deadline: Extended by the applicant.

Land Use Regulations in Effect at Date of Acquisition: unknown

Restrictive County land use regulation: Minimum parcel size of forty acres and limitations on new dwellings in the E40 (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 owner is assumed to be the applicant, Emily J. Eymann. No deeds have been submitted to document the current owner. No title report has been submitted to identify the current owner(s).

It is not known when the applicant, Emily Eymann, initially acquired an interest in the subject property, tax lot 1209 of map 16-02-24. No deeds or contracts have been submitted to document any original date of ownership by the applicant for the subject property.

Currently, the property is zoned E40.

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

Without documentation on conveyances of the subject property, it is not known when the applicant may have acquired an interest in the property or what the zoning may have been at the time.

The minimum lot size and limitations on new dwellings in the E40 zone are assumed to have prevented the current owner from developing the property as could have been allowed when she acquired it, but there is nothing in the record to substantiate this assumption.

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.

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

The claimant has not identified any restrictive land use regulations that allegedly reduce the fair market value of the property.

CONCLUSION

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.