

Memo Date: April 18, 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 (PA06-7346, Inman)

BACKGROUND

Applicant: Thelma B. Inman

Current Owner: Thelma B. Inman Revocable Living Trust

Agent: Rahn Hostetter

Map and Tax lot(s): 17-05-08, #100, #300 and #400

Acreage: 221 acres

Current Zoning: E-40 (Exclusive Farm Use)

Date Property Acquired: #100 – June 5, 1987 (BSD #8724547)
#300 - December 29, 1967 (BSD #101111)
#400 - June 15, 1953 (WD #5996)

Date claim submitted: December 4, 2006

180-day deadline: June 2, 2007

Land Use Regulations in Effect at Date of Acquisition: #300 and #400 were unzoned; #100 was zoned E-40 (Exclusive Farm Use)

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 owner of all the tax lots is the Thelma B. Inman Revocable Living Trust.

Ben Inman acquired an interest in tax lot 100 on June 5, 1987, when it was already zoned E-40. The claimant has not provided the deeds showing an earlier family member acquisition of an interest in the property. The property was later placed in the Ben Inman Trust on February 25, 1997, of which Thelma Inman was a trustee. At the time of Thelma acquiring an interest in the property (1997) it was zoned E-40.

Thelma Inman acquired an interest in tax lot 300 on December 29, 1967, when it was unzoned (BSD#10111). Currently, the property is zoned E-40.

Thelma Inman acquired an interest in tax lot 400 on June 15, 1953, when it was unzoned (WD#5996). Currently, the property is zoned E-40.

In 1997, all of the property was placed into a Trust. The Trust is considered a new owner, but because it is revocable and Thelma B. Inman is the Trustee, the ownership interest of Thelma B. Inman is continued.

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

Tax lot 100 was already zoned E-40 when Thelma Inman acquired an interest in the property. Because the minimum lot size and dwelling restrictions were applicable when the current owner acquired the property, these regulations can only be waived to her date of acquisition.

Tax lots 300 and 400 were unzoned at the time Thelma Inman acquired an interest in those properties. The minimum lot size and limitations on new dwellings in the E-40 zone prevent Thelma Inman from developing the property as could have been allowed when she acquired it. The alleged reduction in fair market value is \$2,500,000, 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.

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 100. The claimant has not identified any other restrictive land use regulations that allegedly reduce the fair market value of tax lot 100.

The minimum lot size and restrictions on new dwellings for tax lots 300 and 400 do not appear to be exempt regulations.

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.