

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 (PA06-7347, Nielsen2)

BACKGROUND

Applicant: George I. and Hazel I. Nielsen
Current Owner: George I. and Hazel I. Nielsen
Agent: none
Map and Tax lot(s): 16-04-08-20, #202
Acreage: 13.51 acres
Current Zoning: E-40 (Exclusive Farm Use)
Date Property Acquired: October 14, 1966 (WD #63800)
Date claim submitted: December 4, 2007
180-day deadline: June 2, 2007
Land Use Regulations in Effect at Date of Acquisition: unzoned
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 is the Hazel I. Nielsen Revocable Trust. George I. and Hazel I. Nielsen acquired an interest in the property on April 12, 1955, when it was unzoned (WD #97257). Currently, the property is zoned E-40.

In 1993, the property was placed into a Trust. The Trust is considered a new owner because it is revocable and George I. and Hazel I. Nielsen are the Trustees. As a result, the ownership interest of George I. and Hazel I. Nielsen is continued.

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 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 \$540,000, 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.

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.