

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Claim No. CL 05-08,)
Submitted by Mary M. Thompson, et al.,)
under Ballot Measure 37)
_____)

ORDER NO. 53-05

WHEREAS, on January 21, 2005, Columbia County received a claim under Ballot Measure 37 from Mary M. Thompson, Robert J. Thompson, Guy R. Thompson, David F. Thompson, Elizabeth M. Boswell and Roger J. Thompson related to a 145-acre parcel of land on Erickson Dike Road near Clatskanie, Oregon, having Tax Account Nos. 8400-000-01000, 8429-000-00100, and 8420-000-00100, and described in a deed dated January 26, 1981, and recorded on July 24, 1992, in the Columbia County Deed Records as Instrument No. 92-5334; and

WHEREAS, according to information submitted with the claim, Mary M. Thompson received her interest in the property on January 26, 1981, and Robert J. Thompson, Guy R. Thompson, David F. Thompson, Elizabeth M. Boswell and Roger J. Thompson received their interests in the property on August 23, 2000; and

WHEREAS, in 1981 the property was not zoned, but the Columbia County Zoning Ordinance was adopted in 1984, and the property was placed in the Primary Agriculture (PA-38) zone in 1984, which prohibits the division of the property into parcels smaller than 38 acres; and

WHEREAS, notice of the Ballot Measure 37 claim was sent to neighboring property owners, comments were received from neighbors Lawrence N. and Wanda B. Derby, but no requests for a hearing were received; and

WHEREAS, on July 22, 2005, the Board of County Commissioners for Columbia County, Oregon, considered the claim and reviewed the July 14, 2005, Board Communication submitted by Todd Dugdale, Director of Land Development Services (the Board Communication includes as an attachment the Staff Report dated May 28, 2005, submitted by Columbia County Land Development Services in relation to the claim; the Staff Report includes as attachments (1) the Thompson claim, (2) the comment letter from the Derbys, and (3) a letter of rebuttal from Roger J. Thompson), a copy of which Board Communication is attached hereto, labeled Exhibit "A", and incorporated herein by this reference; and

WHEREAS, the Board having fully considered the claim, the information submitted in support of the claim, and the Board Communication and Staff Report;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners adopts the Staff findings and Recommendation as set forth in the Staff Report for Claim No. 05-08 dated May 28, 2005, and attached as part of Exhibit "A" hereto.

2. Based on the findings in the Staff Report which articulate the eligibility (and lack of eligibility) of the claimants and problems with the comparisons of fair market value submitted in support of the claim, the Board denies Claim No. 05-08.

DATED this 22nd day of July, 2005.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____
Chair

By: _____
Commissioner

By: _____
Commissioner

Approved as to form

By: _____
Office of County Counsel

S:\LDS\Thompson M37 Claim\Thompson Order 53-05.wpd

BOARD COMMUNICATION

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT

MEETING DATE: July 20 Regular Meeting(Executive Session)

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Todd Dugdale, Director of Land Development Services TD

SUBJECT: MEASURE 37 CLAIM
CL 05 08 Mary M. Thompson et al.

DATE: July 14, 2005

SUMMARY:

A Measure 37 claim was received from Mary M. Thompson et al for a 145 acre property on Erickson Dike Road in Clatskanie. The property is zoned PA-38. Mrs Thompson et al are claiming a reduction in fair market value in the amount of \$15,850,000 due to land use regulations which restrict their proposed development of 145 one acre residential lots.

Pursuant to Board Order 84-2004, an initial determination was made that the subject claim was eligible for further review and a notice to adjacent property owners within 500 feet was sent. The notice provided for a 14 day period in which to submit comments on the claim or to request a public hearing. One comment was received from neighboring property owners Lawrence and Wanda Derby. Rebuttal to the Derby letter was made by Claimant Roger Thompson. No request for hearing was received.

ATTACHMENTS:

1. Staff Report CL 05 08 with Attachments
 - Attachment 1: Thompson Claim
 - Attachment 2: Comment Letter-Derbys
 - Attachment 3: Rebuttal To Derby Letter-Claimant Roger Thompson

RECOMMENDATION:

Based on the staff report, Staff has determined that, although PA-38 minimum lot size regulations restrict division of the property as proposed by Claimants, Claimants have not demonstrated that the cited regulation has reduced the fair market value of eligible Claimant Mary M. Thompson's life estate interest in the property and recommends denial of the claim.

COLUMBIA COUNTY LAND DEVELOPMENT SERVICES

Measure 37 Claim

Staff Report

DATE: May 28, 2005

FILE NUMBER: CL 05-08

CLAIMANTS/OWNERS:

Mary M Thompson
4144 SE Boardman Ave
Milwaukie, Or 97267

Guy R Thompson
4208 SE Boardman Ave
Milwaukie, Or 97267

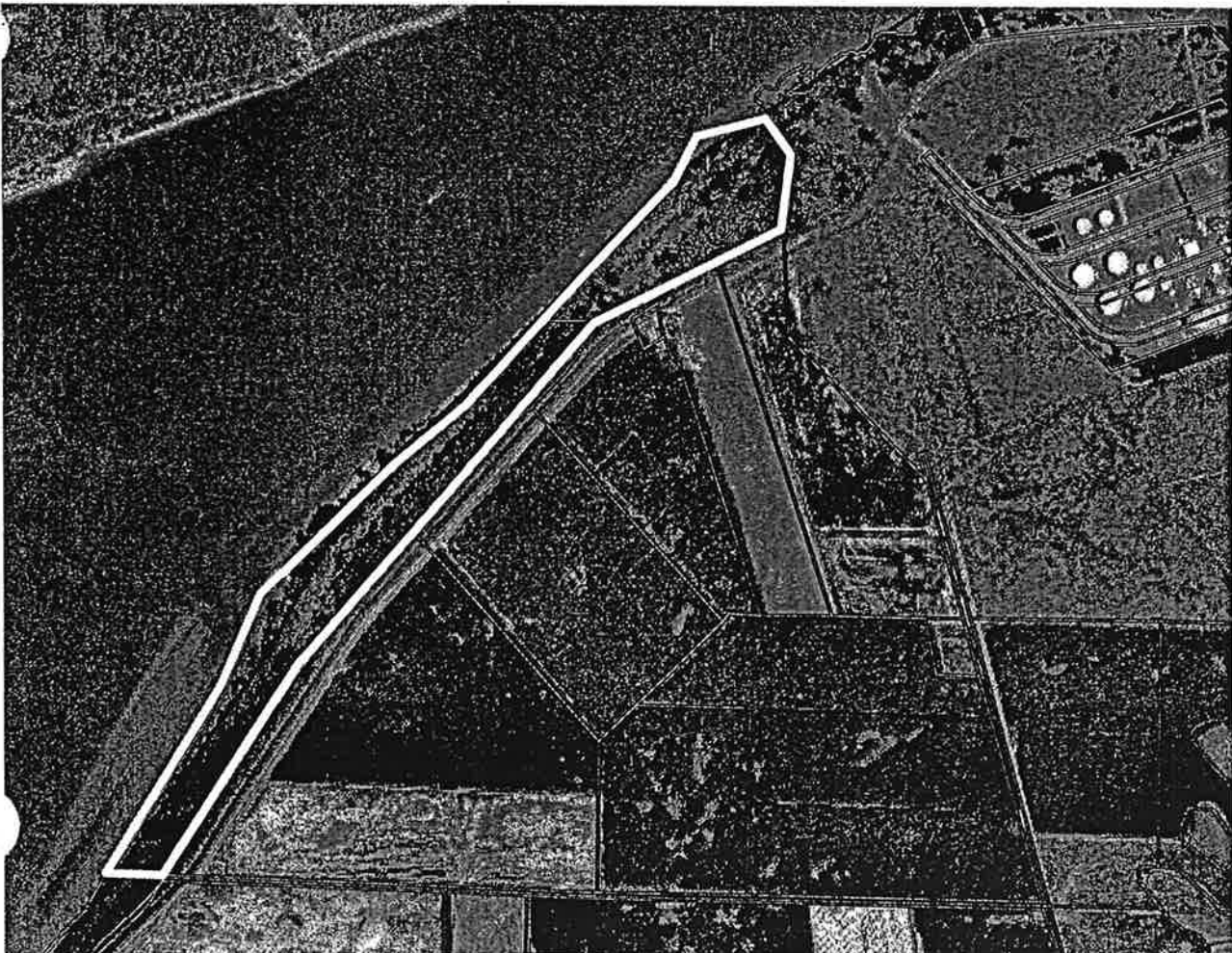
Elizabeth M Boswell
17564 Plainview Ct
Bend, Or 97701

Robert J Thompson
16219 135th Ave E
Puyallup, Wa 98373

David F Thompson
4188 SE Boardman Ave
Milwaukie, Or 97267

Roger J Thompson
20047 S Fischers Mill Rd
Oregon City, Or 97045

PROPERTY LOCATION: Erickson Dike Road
Clatskanie, Oregon 97051



TAX ACCOUNT NUMBERS: 8400-000-01000
8429-000-00100
8420-000-00100

ZONING: Primary Agriculture(PA-38)

SIZE: 145 Acres

REQUEST: To divide PA-38 property for residential development.

CLAIM RECEIVED: 1/20/05 **180 DAY DEADLINE:** 7/22/05

I. BACKGROUND:

Mary M Thompson, Guy R Thompson, Elizabeth M Boswell, Robert J Thompson, David F Thompson, and Roger J Thompson filed a claim under Measure 37 on January 20, 2005. The claim form indicates the amount of the claim is \$15,850,000. The claim is based upon the premise that the property cannot be further divided under the Columbia County Comprehensive Plan(CCCP); Columbia County Zoning Ordinance(CCZO) PA-38, Primary Agriculture, zoning district regulations and Columbia County Subdivision and Partitioning Ordinance(CCSP). Claimants submitted a Comparative Market Analysis prepared by Marti Kintigh of Lower Columbia Realty listing values of various river front residential properties in the Cathlamet, Washington area ranging in size from a half acre to five acres in size. The Claimants state their desire to divide the subject property into 145 one acre parcels for residential use.

CRITERIA FOR REVIEW WITH STAFF FINDINGS

MEASURE 37

(1) If a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of this amendment that restricts the use of private real property or any interest therein and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation.

(2) Just compensation shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this act.

A. PROPERTY OWNER AND OWNERSHIP INTERESTS:

1. **Current Ownership:** Claimants submitted a chain of title report issued by Tigor Title on December 29, 2004 with copies of deeds for the property. The most recent deed shows the property is owned by Guy R Thompson, Elizabeth M Boswell, Robert J Thompson, David F Thompson, and Roger J Thompson who are children of Mary M. Thompson. Mary M. Thompson owns a life estate in the property.
2. **Date of Acquisition:** Claimants submitted a chain of title prepared by Tigor Title dated December 29, 2004(Attachment 1) and deeds. Levi Ball, Mary M. Thompson's great-great grandfather acquired an interest in the property in 1878. Levi Ball then transferred the property to his daughter, Albertina Crandall and his granddaughter, Lena Crandall

Thompson in 1915. Lena Crandall Thompson and her husband Robert G. Thompson conveyed the property to their son, Robert G. Thompson and daughter in law Mary M. Thompson in 1981. Mary M Thompson, conveyed the property to her sons Guy R Thompson, Robert J Thompson, David F Thompson, and Roger J Thompson and her daughter, Elizabeth M (Thompson)Boswell in 2000 and reserved a life estate. The family date of acquisition is 1878. Claimant Mary M. Thompson's year of acquisition is 1981. Claimants Guy R Thompson, Elizabeth M Boswell, Robert J Thompson, David F Thompson, and Roger J Thompson acquired an interest in the property in 2000.

B. LAND USE REGULATIONS IN EFFECT AT TIME OF ACQUISITION

The property was unzoned when the Claimants' ancestor, Levi Ball acquired a property interest in 1878. A chain of title was submitted showing that the property has remained in the family. Therefore, staff finds that the Claimants may be eligible for compensation. The property was unzoned when claimant, Mary M Thompson, acquired the property in 1981, although the County was required to apply the State Goals and Guidelines directly. Primary Agricultural(PA-38) regulations establishing a minimum lot size of 38 acres were enacted in 1984 after Mary M Thompson acquired the property. Therefore, staff finds that Claimant, Mary M. Thompson may be eligible for waiver of regulations enacted or enforced after her acquisition of the property in 1981 including cited PA-38 minimum lot size regulations. The current minimum lot size regulations were in effect when Guy R Thompson, Elizabeth M Boswell, Robert J. Thompson, David F. Thompson, and Roger J. Thompson acquired a property interest in 2000 and therefore these Claimants are not eligible for waiver of these regulations. .

C. CLAIMANTS ELIGIBILITY FOR FURTHER REVIEW

Claimants' ancestors acquired the property before the cited land use regulations became effective and therefore the Claimants may be eligible for compensation under Measure 37. Of the Claimants, only Mary Thompson, who acquired the property before the CCCP and CCZO were enacted in 1984, may be eligible for waiver. The other Claimants acquired their property interest in 2000 and are not eligible for waiver of any provision of the CCCP or CCZO.

D. LAND USE REGULATION(S) APPLICABLE TO SUBJECT PROPERTY ALLEGED TO HAVE REDUCED FAIR MARKET VALUE/EFFECTIVE DATES/CLAIMANT ELIGIBILITY

The Claimants did not reference specific regulations alleged to have reduced the fair market value of the property. Rather they cited all divisions, rules, statutes, Oregon Dept. of Forestry/Forest Practices Act-all land use rules, divisions, statutes enacted after 1878 which preclude optimal division of the property for residential use. Elsewhere in claim documents Claimants cite any land use regulations in the Columbia County Comprehensive Plan(CCCP), Columbia County Zoning Ordinance(CCZO), and the Columbia County Subdivision and Partitioning Ordinance(CCSP) which prohibit or severely restrict uses of the property other than for farming/agricultural purposes and which prohibits or severely restricts division of the property into more than one building site.

Staff understands that Claimants are citing the minimum lot size restriction in the Primary Agriculture, PA-38, zoning district (CCZO Section 304.1) limiting lot sizes to a minium of 38 acres and preventing the Claimants from dividing the subject property into one acre parcels.

E. STATEMENT AS TO HOW THE REGULATIONS RESTRICT USE

Although the Claimants did not identify specific provisions of County land use regulations which they believe restrict use, they stated that County regulations generally restrict use by preventing the division of the subject property in to 145 one acre parcels for non-farm residential use. The County

adopted PA-38 zoning district standards including the minimum lot size provision in 1984. Since 1994, when the State enacted a law establishing a minimum lot size of 80 acres in the primary agriculture use zone, the County has enforced the State minimum lot size requirement of 80 acres in the PA-38 zone directly. Staff finds that the PA-38 minimum lot size regulation, CCZO, Section 304.1, restricts the use of Claimants' property by preventing land divisions below 38 acres.

F. EVIDENCE OF REDUCED FAIR MARKET VALUE SUBMITTED

1. Value of Property As Regulated:

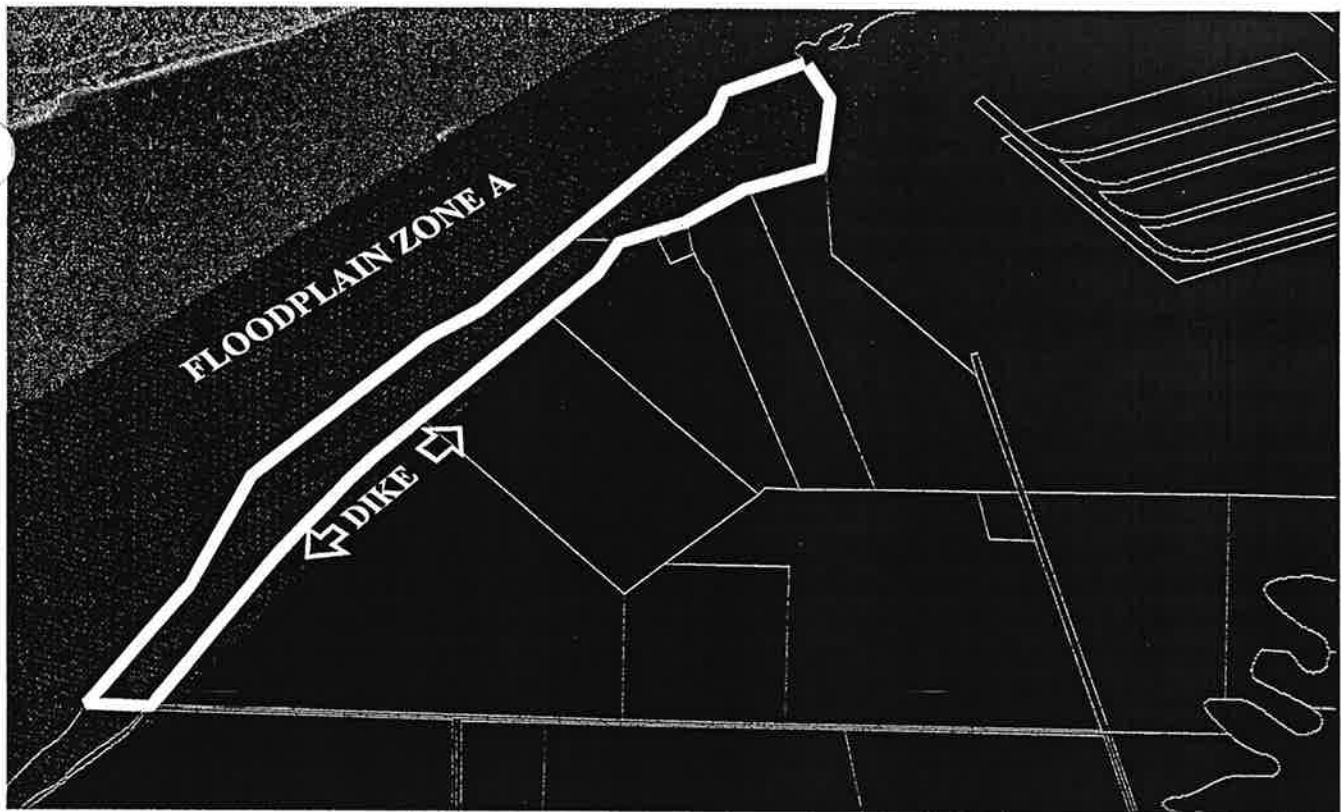
To document the current "as is" value of the property, the Claimants submitted a current County tax printout indicating that the real market value of the property is \$112,900.

2. Value of Property Not Subject to Cited Regulations and Developed As Proposed.

To document the value of the property if not subject to County land use regulations preventing division of the subject property into 145 one acre parcels, the Claimants submitted a Comparative Market Analysis prepared by Marti Kintigh of Lower Columbia Realty listing values of various river front residential properties in the Cathlamet, Washington area ranging in size from a half acre to five acres in size. The claimants averaged the values of the listed properties at \$110,000 and multiplied this value times the number of proposed lots(145) to arrive at the total value of the property without cited regulations \$15,950,000. The Claimants have requested compensation in the amount of \$15,850,000(\$15,950,000 -\$100,000).

The properties included in the Comparative Market Analysis vary widely in degree of development and the availability of services. All of the properties were located across the river in Washington State. Many of the properties which were compared with the subject property have paved streets, available public water, electrical service, and are within platted residential subdivisions with CCRs. The subject property has none of these characteristics. The cost of development of the subject site due to its remoteness was not considered in the determination of the value of the property if not subject to regulation. Staff finds that the Comparative Market Analysis included properties which were generally not comparable to the subject property as to location, availability of access and services and degree of development.

Furthermore, the subject property is located on the river side of a dike and is within the 100 year flood plain. Comments were received in a letter received by the County on June 27, 2005 from neighboring property owners, Lawrence and Wanda Derby indicating that, 1) during the winter, high tides often inundate much of the property, 2) the property was completely submerged during the 1996 floods, 3) the property is not suitable for grazing because fencing is damaged by high water and logs during much of the year, and 4) they questioned whether the property could support septic systems(see Attachment 2). Staff reviewed the applicable FEMA Flood Hazard Map including the subject site and verified that the property is wholly within the 100 Flood Plain(see map below).



Claimant, Roger Thompson, rebutted the Derby letter by a letter to the Columbia Board of Commissioners dated 7/13/05 (see Attachment 3). Mr. Thompson responded by asserting that the Derbys had exaggerated the flooding issues, pointing out that the property had historically been developed for housing and a commercial fishing business; that the Derby's had placed their livestock pen into the river and that, since the livestock grazing lease was terminated by the Thompson family and the Derby's have signed an option to sell their property to the Port Westward LNG project, they were biased against the Thompson claim. Mr Thompson acknowledged that the property was inundated in the 1996 flood.

The claimants did not mention limitations on use of the property due to flooding in the documentation supporting their claim for compensation nor address the affect of the floodplain on fair market value.

Finally, eligible Claimant, Mary M. Thompson acquired the property with her husband in 1981 but conveyed the property to the other Claimants in 2000, reserving only a life estate interest for herself in the subject property. The claim did not indicate the value of her life estate interest. The Claimant can only transfer her life estate. For the reasons stated above and the limited market for a life estate, Staff finds that the fair market value of the life estate has not been reduced.

Based on the above findings, Staff finds that the fair market value of Claimant Mary M. Thompson's interest in the property has not been reduced due to the cited land use regulations.

G. COMPENSATION DEMANDED

The claim form indicates the claim is for \$15,850,000 (\$15,950,000 - \$100,000).

(3) Subsection (1) of this act shall not apply to land use regulations:

(a) Restricting or prohibiting activities commonly and historically recognized as public

nuisances under common law. This subsection shall be construed narrowly in favor of a finding of compensation under this act;

(B) Restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

(C) To the extent the land use regulation is required to comply with federal law;

(D) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights provided by the Oregon or United States Constitutions; or

(E) Enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

The property is within a 100 year floodplain and has experienced flooding. The Claimant did not specifically mention floodplain regulations as restricting use and reducing fair market value. However, floodplain regulations derive from Federal Law aimed at protecting life and property and are not eligible for compensation nor waiver.

(4) Just compensation under subsection (1) of this act shall be due the owner of the property if the land use regulation continues to be enforced against the property 180 days after the owner of the property makes written demand for compensation under this section to the public entity enacting or enforcing the land use regulation.

Should the Board determine that the claimants have demonstrated a reduction in fair market value of the property due to land use regulations, the Board is to pay compensation in the amount of the reduction in fair market value caused by said regulations or in lieu of compensation, modify, remove, or not apply the land use regulations enacted or enforced which restrict the use allowed at the time Mary M. Thompson acquired her life estate property interest in 1981 and reduce fair market value.

(5) For claims arising from land use regulations enacted prior to the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the effective date of this act, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner of the property, whichever is later. For claims arising from land use regulations enacted after the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

The subject claim arises from provisions of the CCCP and CCZO enacted in 1984 prior to the effective date of Measure 37 on December 2, 2004. The subject claim was filed on January 21, 2005 which is within two years of the effective date of Measure 37.

(8) Notwithstanding any other state statute or the availability of funds under subsection (10) of this act, in lieu of payment of just compensation under this act, the governing body responsible for enacting the land use regulation may modify, remove, or not to apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property.

Staff finds that the PA-38 zoning district minimum lot size regulations restrict the use of the Claimants' property. However, Staff also finds that the Claimants have failed to demonstrate that the cited regulation has reduced the fair market value of eligible Claimant Mary M Thompson's property interest. However, if the Board finds that the cited regulations have reduced the value of the property, the Board should authorize payment of just compensation in the amount of the reduction in fair market value. Or, in lieu of such compensation, the Board should waive PA-38 minimum lot size regulations(CCZO Section 304.1).

STAFF RECOMMENDATION

Based on the above findings, it is Staff's opinion that the Claimants have not met the threshold requirements for proving a Measure 37 claim.

The following table summarizes Staff findings concerning the land use regulations cited by the Claimants as a basis for their claim. In order to meet the requirements of Measure 37 for a valid claim the cited land use regulation must be found to restrict use, reduce fair market value, and not be one of the land use regulations exempted from Measure 37. The highlighted regulations below have been found to meet these requirements of a valid Measure 37 claim

LAND USE CRITERION	DESCRIPTION	RESTRICTS USE?	REDUCES VALUE?	EXEMPT?
ALL ORS/OAR	State Statutes and Administrative Rules	No, these are not County land use regulations	NA	
ALL EFU Rules	State Statutes and Administrative Rules	No, these are not County land use regulations	NA	
Dept. Of Forestry Forest Practices Act	State Forestry Rules	No, these are not County land use regulations	NA	
CCZO Section 304.1	Primary Agriculture zoning district minimum lot size regulations	Yes	No	No

Staff recommends that the Board of County Commissioners take action to determine the amount, if any, by which the cited regulations reduced the value of the claimant's property, and act accordingly to pay just compensation in that amount, or, in the alternative, to waive PA-38 minimum lot size regulations.

Staff recommends denial of the claim.

File No. CLOS-08

COLUMBIA COUNTY



OREGON

Measure 37 Claim

Fee: \$500.00 (Required with application)
Land Development Services - Planning Division
Columbia County Courthouse
230 Strand, St. Helens, OR 97051 (503) 397-1501

Claimant Information (attach additional pages for multiple Claimants):

Roger Thompson ; Mary M. Thompson ET AL : 503-631-3442
 Name(s) of Claimant(s): Daytime phone #
4114 SE Boardman Ave Mt Milw, OR. 97267
 Mailing address for Claimant(s) City, State, Zip
20047 SE Fischers Mill Rd. Oregon City, OR 97045
 Mailing address for Claimant(s) City, State, Zip
 - Additional Elements, See STATE Form Sect 3. (Attached)

Property Information:

8429-000-00100, 8420-000-00100, 8400-000-01000

Property location/address

Property tax account #

Claim Information:

- 1) Amount of claim: \$ 15,850,000; or in lieu of compensating a waiver of all land use rules
Regulations, ordinances.
- 2) Please list the intended use of the property which you believe is restricted by a County land use regulation:
See Attached STATE Form sect 6. Current zoning/land use regulations
preclude me of optimal division of property. ~~FFD~~
145, 100 sq ft. 145 sq of 1 acres parcels. Mixed commercial
residential use is intended for this property.
Residential only - per Roger JS.

- 3) Please list all land use regulations related to your Intended use of the property which you believe have reduced the fair market value of the property, followed by the date of adoption or the date the regulations were enforced against the property (be as specific as possible...Ordinance, Chapter, Section, Subsection):
See Attached STATE Form Sect 6. all ORS-DNR adopted after 1978.
Including but not limited to FFV. Rules. Columbia County, Comprehensive plan 8-18,
Oregon Dept of Forestry/Forest practices Act. - All Divisions, Rules, statutes.
Any - All land use rules, division statutes enacted after 1878. Columbia County
Zoning and partition Ordinance.

- 4) Have you applied for land use approval for your intended use of the property? No
 If so, when? _____
 If so, what did you apply for? _____
 If so, what was the file number? _____

RECEIVED
 JAN 21 2005

5) When did you acquire the property: 9/23/00
6) Ownership of property: Sole Joint Other (please list): _____

7) Does anyone else have an ownership interest in the property? If so, please list each person and their respective ownership interest:

Mary Thompson - Deeded Life Estate, Guy Thompson Co-owner, Elizabeth Brewell Co-owner, Robert Thompson Co-owner, David Thompson Co-owner, Roger Thompson Co-owner.

8) Did you acquire the property from a family member? (Family member includes wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, daughter-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandchild, the estate of any of the family members listed, or a legal entity owned by any one or a combination of such family members) Great, Great Grandfather Thomas Hodgkins
If so, from who? _____

If so, what is the family relationship to you? Direct Family Descendants

If so, when did you acquire the property? 9/23/00

If so, when did your family member acquire the property? 9-16-1878

9) List all documentation that you have to establish that the fair market value of the property has been reduced by the land use regulation(s) listed. Attach any such documentation, including appraisals, to this Claim Form: Local comparables of properties from a licensed Brokerage - See "Exhibit C"

SIGNATURES

I/we certify that the information contained in and attached to this claim form is accurate and complete.

<u>[Signature]</u> Claimant	<u>1-20-05</u> Date
<u>Mary Thompson</u> Claimant	<u>1-20-05</u> Date
<u>Elizabeth M. Brewell</u> Claimant	<u>1-20-05</u> Date
<u>Guy R. Thompson</u> Claimant	<u>1-20-05</u> Date
<u>Robert Thompson</u> Claimant	<u>1-20-05</u> Date

FOR OFFICIAL USE ONLY

Date Received 1/21/05 Receipt # 47023 Received By: [Signature]

Roger Thompson 1-20-05
Claimant

Attachments include: State M37 forms - completed, Assessor's information (Exhibit D), Chain of Title (Exhibit A), Assessor's maps (Exhibits B), Land comparable comparison reports (Exhibit C).

From: Todd Dugdale
To: Thompson, Roger
Date: 6/6/2005 8:58:48 AM
Subject: Re: Thompson Measure 37 claim CL05-08

Roger:

Regarding the appraisal...As I noted in my letter, the County will process your claim with or without an appraisal. We wanted you to know that we were having trouble making findings on the amount of reduced value, if any, due to the regulations cited without a professional appraisal. We will go forward with the comparative real estate information you submitted.

I have noted your request to amend your claim to limit your intended uses to residential.

Your 180th day is July 22, 2005. We have about seven claims ahead of yours for review, but hope to get these reviewed in the next couple weeks.

>>> "Roger Thompson" <thomrt@ccwebster.net> 6/5/2005 10:57 AM >>>
CL 05/08

06/05/2005

Todd,

I am responding back to you via e-mail because of our phone conversation on 06/03/2005 regarding my measure 37 claim. In our conversation we talked about the letter that I received informing me of Columbia County recommending that I get an appraisal. We also discussed the process of M37 and how it relates to my specific situation with possible impending condemnation or eminent domain proceedings from the Port of St. Helens. I understand that Columbia County is not requiring me to get an appraisal, they recommend it. Is this correct?

After discussions with my family I would first like to make an amendment to the M37 claim.

Current Usage proclaimed: Mixed use; residential/commercial
Change to : residential only

Explanation on amendment: Per our discussion it appears that there may be more complication if there is a commercial/residential specification. Therefore I am changing the use to residential only. Please consider this letter to be an authorized formal amendment to my submitted M37 claim.

Secondly, I am choosing not to attain an appraisal for the property. I feel that I have documented with the submitted evidence, numerous comparable of "like" properties within an acceptable distance of my property. I have calculated and documented the "pre M37" and "post M37" difference in values. This is what is required by Oregon Revised Statutes.

Todd, I would appreciate any way to expedite my M37 claim. Time is critical with this situation. Please contact me with questions or concerns.

h-503-631-3442
page - 503-604-1226

Sincerely,

Roger J. Thompson
Erickson Dike Rd.
Columbia County, OR

LAND DEVELOPMENT SERVICES

JUL 13 2005

RECEIVED

07-13-2005

To the Columbia County Board of Commissioners

This is a direct rebuttal letter in reference to the letter written by Lawrence N. and Wanda B. Derby received by your office on June 27th 2005.

The Thompson family leased property to the Derby's for two seasons in the early 1980's. My father had decided not to renew the lease because the Derby's had inadequately and recklessly placed barbed wire fencing out into the Columbia River. My father felt that this was a hazard and would lead to legal exposure that he did not want. I believe that the non renewable lease left the Derby's with harsh and detrimental feelings towards the Thompson family that continue today.

The letter submitted by the Derby's contains a small amount of factual statements; unfortunately they are exaggerated to the extreme. The property in question was used as an active fishing operation for 75 years. The property was zoned commercial and there were four large houses, a large barn, a blacksmith's shop, a postal outlet and a wharf with a warehouse. It employed about 50 persons year round.

I have never seen flooding to the extent that the Derby's proclaim, the exception being in 1996. This was an unusual incident of high water. Many towns and cities flooded including the City of Tigard and the City of Oregon City.

I do not believe that the Derby's have ever been professional land developers of real estate. I do not believe that they hold legal certificates of engineering or geology by the State of Oregon.

It is a fact that the Derby's have signed an option to sell their property to Port Westward LNG LLC and in my opinion there exist a monetary and emotional reason for submitting their letter to the Columbia County planning staff.

I am respectfully asking you to stay within the legal parameters of Measure 37 and discount the letter submitted to you by Lawrence N. and Wanda B. Derby

Sincerely,

Roger J. Thompson