

AFTER RECORDING, RETURN TO:

Board of County Commissioners
Columbia County Courthouse
230 Strand, Room 331
St. Helens, OR 97051

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending Order No. 40-2006)
In the Matter of Claim No. CL 06-9 for) Order No. 89-2007
Compensation Under Measure 37 Submitted)
by Forrest and Geraldine Hemeon)

WHEREAS, on May 10, 2006, the Board of County Commissioners issued Order No. 40-2006, In the matter of Claim No. CL 06-9 for compensation under Measure 37 submitted by Forrest and Geraldine Hemeon; and

WHEREAS, according to the Order, the Board waived Columbia County Zoning Ordinance (CCZO) Sections 303, 304.1, 305.2 and 309, to the extent necessary to allow the Claimants to divide the subject property into 10 acre parcels and develop the property as proposed; and

WHEREAS, pursuant to Measure 37, in lieu of compensation the Board may opt to not apply (hereinafter referred to as "waive" or "waiver") any land use regulation that restricts the use of the property and reduces the fair market value of the property to allow a use which was allowed at the time the Claimants acquired the property; and

WHEREAS, pursuant to the Order, the Board found that the Hemeons acquired an interest in the property in 1969, and are therefore entitled to relief under Measure 37; and

WHEREAS, in lieu of compensation, the Board opted not to apply the above cited regulations to allow a use of the property which was allowed at the time the Claimants acquired the property; and

NOW, THEREFORE, it is hereby ordered as follows:

1. The Board of County Commissioners adopts the following findings:
 - A. CCZO Section 303 lists conditional uses in the PA-38 zone. In the PA-38 Zone, dwellings are either permitted outright under CCZO Section 302 or permitted conditionally under CCZO Section 303. The Claimants were able

to site dwellings on the property when they acquired it in 1969. Under Measure 37, the Claimants are entitled to waiver of provisions only to the extent necessary to allow them a use of the property that was allowed on the date of acquisition. Because the current zoning provisions allow dwellings, either permitted outright or conditionally, the County does not need to waive Section 303 in order to allow the placement of dwellings on the partitioned property. During any hearing for a conditionally permitted dwelling, conditions may be imposed that may restrict or prohibit the use of the property. Some of the conditions might be exempt from waiver under Measure 37. The County cannot determine what conditions, if any, are exempt from waiver until they are imposed.

- B. CCZO Sections 305.2 and Section 309 impose regulations for the creation of parcels having less than the 38 acre minimum lot size. The Board finds that there was no evidence submitted with the record that the Claimants cannot meet the criteria to divide the property into parcels having less than 38 acres. Therefore, these criteria do not restrict the Claimants from their intended use of the property.
 - C. The above findings are consistent with findings made in all other Measure 37 Claims processed in the County. The Board finds that the waiver of CCZO Sections 303, 305.2, and 309 was in error.
- 2. The County amends Order No. 40-2006 to reflect the above findings, and to revoke the waiver of CCZO Sections 303, 305.2 and 309.
 - 3. This waiver is subject to the following limitations:
 - A. This waiver does not affect any land use regulations of the State of Oregon. If the use allowed herein remains prohibited by a State of Oregon land use regulation, the County will not approve an application for land division, other required land use permits or building permits for development of the property until the State has modified, amended or agreed not to apply any prohibitive regulation, or the prohibitive regulations are otherwise deemed not to apply pursuant to the provisions of Measure 37.
 - B. In approving this waiver, the County is relying on the accuracy, veracity, and completeness of information provided by the Claimant. If it is later determined that Claimant is not entitled to relief under Measure 37 due to the presentation of inaccurate information, or the omission of relevant information, the County may revoke this waiver.

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4. This Order shall be recorded in the Columbia County Deed Records, referencing the legal description which is attached hereto as Attachment 1, and is incorporated herein by this reference, without cost.

Dated this 25th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: Sarah Hansen
Assistant County Counsel

By: Rita M. Bernhard
Rita Bernhard, Chair

By: [Signature]
Anthony Hyde, Commissioner

By: [Signature]
Joe Corsiglia, Commissioner

ATTACHMENT 1

FORM No. 771 - QUITCLAIM DEED.
(Revised 1953)

59 875

KNOW ALL MEN BY THESE PRESENTS, That Albert R. Schlehuber and Katherine Schlehuber husband and wife in consideration of One and No/100 Dollars, and love and devotion to us paid by Forest L. Hemeon and Geraldine L. Hemeon husband and wife

do hereby remise, release and forever QUITCLAIM unto the said Forest L. Hemeon and Geraldine L. Hemeon husband and wife and unto their heirs and assigns all right, title and interest in and to the following described real property, with the tenements, hereditaments and appurtenances, situated in the County of Columbia State of Oregon, bounded and described as follows, to-wit:

North half of Northwest quarter of Section 23, Township 6 North, Range 5 West, Willamette Meridian, Columbia County, Oregon; Lots 5 and 10 Section 14, Township 6 North, Range 5 West, Willamette Meridian, Columbia County, Oregon, Also that portion of Lot 6 and the Southeast quarter of Southwest quarter of Section 14, Township 5 North of Range 5 West, Willamette Meridian, Columbia County, Oregon described as follows: Beginning at a point on the South line of said Section 14 that is West 540 feet from the quarter post between Section 14 and 23, Township 6 North Range 5 West, Willamette Meridian; thence North, parallel with centerline of said Section 14, a distance of 2018 feet to Nehalem River; thence following said Nehalem River downstream to the Northwest corner of said Lot 6; thence South along the West line of said Lot 6 and West line of Southeast quarter of Southwest quarter to the South line of said Section 14; thence East along South line of said Section 14 to the point of beginning.

NOTARY PUBLIC
J. C. FILED
OCT 15 10 55 AM '65
159 PAGE 875
WY A. WILSON CO CLK
BY [Signature] DEP.

To Have and to Hold the same unto the said Forest L. Hemeon and Geraldine L. Hemeon husband and wife their heirs and assigns forever.

Witness Our hand and seal this 14th day of October, 19 65

[Signature] (SEAL)
[Signature] (SEAL)
(SEAL)

STATE OF OREGON,

County of Columbia } ss.
before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Albert R. Schlehuber and Katherine Schlehuber husband and wife

On this 14th day of October, 19 65,

known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

[Signature]
Notary Public for Oregon.
My Commission expires July 29, 1968

QUITCLAIM DEED

Albert R. Schlehuber and Katherine Schlehuber

TO

Forest L. Hemeon and Geraldine L. Hemeon

AFTER RECORDING RETURN TO

[Signature]
FOREST L. HEMEON

Docket No.

DO NOT USE THIS SPACE RESERVED FOR RECORDING LABELS IN COUNTIES WHERE USED

STATE OF OREGON,

County of

I certify that the within instrument was received for record on the day of 19

at o'clock M., and recorded in book on page Record of Deeds of said County.

Witness my hand and seal of County affixed.

County Clerk-Recorder.

By