



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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November 6, 2007

To: Interested Persons

From: Cora R. Parker, Acting Director



Re: Ballot Measure 37 (ORS 197.352) Claim Number M131037

Claimants: John Ucolano and Jenny Lynn Scholl

Enclosed, in regard to the above-referenced claim for compensation under Ballot Measure 37 (ORS 197.352), is the Final Staff Report and Recommendation of the Department of Land Conservation and Development, and the Final Order.

This Final Staff Report and Recommendation and the Final Order constitute the final decision on this claim. No further action will be taken on this matter.

BEFORE THE DEPARTMENT OF ADMINISTRATIVE SERVICES,
THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT OF
THE STATE OF OREGON

IN THE MATTER OF THE CLAIM FOR) FINAL ORDER
COMPENSATION UNDER ORS 197.352) CLAIM NO. M131037
(BALLOT MEASURE 37) OF)
John Ucolano and Jenny Lynn Scholl, CLAIMANTS)

Claimants: John Ucolano and Jenny Lynn Scholl (the Claimant)

Property: Township 12S, Range 11W, Section 15, Tax lots 603 and 702
Lincoln County (the Property)

Claim: The demand for compensation and any supporting information received from the
Claimants by the State of Oregon (the Claim).

Claimants submitted the Claim to the State of Oregon under ORS 197.352. Under OAR 125-145-0010 *et seq.*, the Department of Administrative Services (DAS) referred the Claim to the Department of Land Conservation and Development (DLCD) as the regulating entity. This order is based on the record herein, including the Findings and Conclusions set forth in the Final Staff Report and Recommendation of DLCD (the DLCD Report) attached to and by this reference incorporated into this order.

ORDER

The Claim is denied as to John Ucolan for tax lot 702 but otherwise approved to the subject property as to laws administered by DLCD and the Land Conservation and Development Commission (LCDC) for the reasons set forth in the DLCD Report, and subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to the claimants' division and development, as described in this claim, for tax lot 603 and to Jenny Lynn Scholl's desired division and development, as described in this claim, for tax lot 702: applicable provisions of Goal 4, ORS 215 and OAR 660, division 6, enacted or adopted after the claimants acquired tax lot 603 and Jenny Lynn Scholl acquired tax lot 702. These laws will not apply to the claimants only to the extent necessary to allow them to use tax lot 603 and to allow Jenny Lynn Scholl to use tax lot 702 for the use described in this report, and only to the extent that use was permitted when the claimants acquired tax lot 603 on May 7, 1971, and Jenny Lynn Scholl acquired tax lot 702 on September 18, 1991.
2. The action by the State of Oregon provides the state's authorization to the claimants to use tax lot 603 for the use described in this report, subject to the standards in effect on May 7, 1971, and to Jenny Lynn Scholl to use tax lot 702 for the use described in this report, subject to the standards in effect on September 18, 1991. On September 18, 1991, tax lot 702 was subject to

compliance with Goal 4 and OAR 660, division 6, as implemented through Lincoln County's acknowledged comprehensive plan and T-C zone.

3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license or other form of authorization or consent, the order will not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a "permit" as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies and restrictions on the use of the subject property imposed by private parties.


4. Any use of the subject property by the claimants under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

5. Without limiting the generality of the foregoing terms and conditions, in order for the claimants to use the subject property, it may be necessary for them to obtain a decision under ORS 197.352 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves the claimants from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the subject property by the claimants.


6. Nothing in this report or the state's final order for this claim constitutes any determination of ownership by the State of Oregon as to submerged or submersible lands, or as to public rights to the use of waters of the state.

This Order is entered by the Manager for the Measure 37 Services Division of DLCD and the Land Conservation and Development Commission under ORS 197.352, OAR 660-002-0010(8), and OAR 125, division 145, and by the Manager of the Measure 37 Services Unit of the DAS as a final order of DAS under ORS 197.352, OAR 125, division 145, and ORS 293.

FOR DLCD AND THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION:
Cora R. Parker, Acting Director


Michael Morrissey, Manager
DLCD, Measure 37 Services Division
Dated this 6th day of November, 2007.

FOR the DEPARTMENT OF
ADMINISTRATIVE SERVICES:


Carla Ploederer, Manager
DAS, Measure 37 Services Unit
Dated this 6th day of November, 2007.

