OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

ORS 195.300 to ORS 195.336 (MEASURE 49) SUPPLEMENTAL REVIEW OF MEASURE 37 CLAIM
Preliminary Evaluation

April 27, 2009

STATE ELECTION NUMBER: E130724

CLAIMANT: Clive W. Cook, Jr.
26310 S. Barlow Road
Canby, Oregon 97013

MEASURE 37 PROPERTY IDENTIFICATION: Township 4S, Range 1E, Section 17
Tax lot 601
Clackamas County

I. ELECTION

The claimant, Clive W. Cook, Jr., filed a claim with the state under ORS 197.352 (2005) (Measure 37) on November 14, 2006, for property located at 26308 South Barlow Road, near Canby, in Clackamas County. ORS 195.300 to ORS 195.336 (Measure 49) entitles claimants who filed Measure 37 claims to elect supplemental review of their claims under either Section 6 or Section 7 of Measure 49. The claimant has elected supplemental review of his Measure 37 claim under Section 7, which allows the Department of Land Conservation and Development (the department) to authorize up to ten home site approvals to qualified claimants.

II. SUMMARY OF PRELIMINARY EVALUATION

Based on the department's preliminary analysis, it appears that the claimant is not eligible for any relief under Section 7 of Measure 49 because the claimant failed to submit an appraisal in compliance with the requirements for Supplemental Review under Section 7, stated in Section 8(5) of Measure 49 that a claimant must file an appraisal with the state within 180 days after the claimant files their election (Chapter 424, Oregon Laws 2007).

III. PRELIMINARY ANALYSIS OF QUALIFICATION FOR HOME SITE APPROVAL

1. Preliminary Analysis

To qualify for a home site approval under the Section 7 option, a claimant must file an appraisal that establishes the reduction in the fair market value of the property as required by Section 7(6) of Measure 49. The appraisal must be filed with the department or with the county if the claim is

being processed by the county, within 180 days after the date the claimant files the election to obtain relief under Section 7 of Measure 49.

The claimant, Clive W. Cook, Jr., elected to proceed under the Section 7 option, with the state on May 19, 2008. The claimant was required to submit an appraisal by November 15, 2008, within 180 days after the date he filed his election. No appraisal has been received by the department.

Because this requirement has not been met, the claimant is not entitled to any relief under Section 7 of Measure 49, and, therefore, the remaining approval criteria will not be evaluated.

2. Preliminary Conclusion

Based on the preliminary analysis, the claimant, Clive W. Cook, Jr., does not qualify for any Measure 49 home site approvals. The claimant did not submit an appraisal within 180 days after the date he filed his election as required by Section 8(5) of Measure 49.

IV. NOTICE OF OPPORTUNITY TO COMMENT

A claimant or a claimant's authorized agent, a county and any third party may submit written comments, evidence and information in response to the preliminary evaluation. The comments, evidence and information must be filed with the department no more than twenty-eight (28) calendar days after the date this evaluation is mailed to the claimants and the claimants' agent and notice of this evaluation is mailed to third parties.

The department will mail a copy of all materials timely filed by a county or a third party with the department to the claimants and the claimants' agent. A claimant or a claimant's authorized agent may then file written comments, evidence or information in response to the materials filed by the third party or county. That response must be filed no more than twenty-one (21) calendar days after the date the department mails the materials to the claimants and the claimants' authorized agent.

All comments, evidence and information in response to the preliminary evaluation and all responses to materials filed by a third party or a county shall be delivered to Supplemental Measure 49 Claim Review, 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540 and will be deemed timely filed either (1) if actually delivered to the department before the close of business on the final eligible calendar day, or (2) if mailed on or before the final eligible calendar day.

Note: Please reference the claim number and claimant name and clearly mark your comments as "Preliminary Evaluation Comments." Comments must be submitted in original written form only. Comments submitted electronically or by facsimile will not be accepted.