

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

IN THE MATTER OF THE CLAIM ) FINAL ORDER  
FOR COMPENSATION UNDER ) CLAIM NO. M119705  
BALLOT MEASURE 37 (CHAPTER 1, )  
OREGON LAWS 2005) OF )  
Terry and Sherry Larson, CLAIMANTS )

Claimants: Terry and Sherry Larson

Property: Tax Lots 100, 1200 and 1300, T.37S, R.4W, Section 32, W.M., Jackson County

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 Ballot Measure 37 (2004) (Oregon Laws 2005, Chapter 1) (hereafter, Measure 37). 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 approved 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 Measure 37, the State of Oregon will not apply the following laws to the Larson's use of the properties to allow them to divide the subject properties into 5 to 15-acre parcels for single-family residential development:

**Tax Lot 100** – The provisions of Statewide Planning Goal 4, ORS 215.705, 215.755 and 215.780 and applicable provisions of OAR 660, division 6 that relate to land divisions and establishment of dwellings. These laws will not apply to the claimants' use of the property only to the extent necessary to allow the claimants to use the property for a use permitted when they acquired it on July 17, 1970. The siting standards for dwelling under ORS 215.730, Goal 4 and OAR 660, divisions 6 relating to fire protection, will continue to apply to the property.

**Tax Lot 1200** -- The provisions of Statewide Planning Goal 3, ORS 215.263, ORS 215.780, ORS 215.284 and applicable provisions of OAR 660 Division 033 that relate to land divisions and the establishment of dwellings enacted after February 20, 1975. These laws will not apply

to the claimants' use of the property only to the extent necessary to allow the claimants to use the property for a use permitted when they acquired it on February 20, 1975.

**Tax Lot 1300** -- The provisions of Statewide Goal 3, ORS 215.263, ORS 215.780, ORS 215.284 and OAR 660-033-100 that relate to land divisions and the establishment of dwellings, enacted after September 7, 1977. These laws will not apply to the claimants' use of the property only to the extent necessary to allow the claimants to use the property for a use permitted when they acquired it on September 7, 1977.

2. The action by the State of Oregon provides the state's authorization to the claimants to divide and develop their property, subject to those standards in effect on the dates the claimants acquired each parcel:

**Tax Lot 100** -- State laws in effect on July 15, 1970, including any applicable provisions of ORS 215 in effect on that date. The siting requirements of ORS 215.730, Goal 4 and its implementing rules related to dwelling siting standards based on health and safety, which are exempt under Ballot Measure 37, Section 3(B), will also continue to apply, as well as other laws related to public health and safety such as those relating to floodplains, wildfire, steep slopes and erosion control.

**Tax Lot 1200 and Tax Lot 1300** – State laws in effect on February 20, 1975 (for Tax Lot 1200) and September 7, 1977 (for Tax Lot 1300). As explained above, on those dates, the division and development of the property was subject to the provisions of Goal 3 and ORS 215 (1973 edition for Tax Lot 1200, and 1975 edition for Tax Lot 1300). These provisions require that the resulting parcels or lots be: (1) "appropriate for the continuation of the existing commercial agricultural enterprise in the area; and (2) shown to comply with the standards for the creation of farm parcels under ORS 215.213 (1973 Edition). Similarly, the standards for residential dwellings in effect in 1975 and 1977 generally require that any farm dwelling be customarily provided in conjunction with farm use, or meet the requirements for non-farm dwellings under Goal 3 and ORS 215.213(3).

3. To the extent that any law, order, deed, agreement or other legally-enforceable public or private requirement provides that the Property may not be used without a permit, license, or other form of authorization or consent, this order does not authorize the use of the Property unless the Claimants first obtains 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 215.412 or ORS 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the Property imposed by private parties.

4. Any use of the Property by the Claimants under the terms of this order remains 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 DLCDC; and (c) those laws not subject to Measure 37 including, without limitation, those laws exempted under section (3) of Measure 37.

5. Without limiting the generality of the foregoing terms, in order for the Claimants to use the Property, it may be necessary for the Claimants to obtain a decision under Measure 37 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 Measure 37 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the Property by the Claimants.

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

FOR DLCD AND THE LAND CONSERVATION  
AND DEVELOPMENT COMMISSION:  
Lane Shetterly, Director

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By: George Naughton, Deputy Director  
DLCD  
Dated this \_\_\_ day of \_\_\_\_\_, 2005.

FOR the DEPARTMENT OF ADMINISTRATIVE  
SERVICES:

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Dugan Petty, Deputy Administrator  
DAS, State Services Division  
Dated this \_\_\_ day of \_\_\_\_\_, 2005.

### **NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF**

You are entitled, or may be entitled, to the following judicial remedies:

1. Judicial review under ORS 293.316: Judicial review under ORS 293.316 may be obtained by filing a petition for review within 60 days from the service of this order. Judicial review under ORS 293.316 is pursuant to the provisions of ORS 183.482 to the Court of Appeals.
2. Judicial review under ORS 183.484: Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 may be filed in the Circuit Court for Marion County and the Circuit Court in the county in which you reside.
3. A cause of action under Oregon Laws 2005, chapter 1 (Measure 37 (2004)): A present owner of the property, or any interest therein, may file a cause of action in the Circuit Court for the county where the property is located, if a land use regulation continues to apply to the subject property more than 180 days after the present owner made a written demand for compensation.

(Copies of the documents that comprise the record are available for review at the Department's office at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540)

**FOR INFORMATION ONLY**

The Oregon Department of Justice has advised the Department of Land Conservation and Development that “[i]f the current owner of the real property conveys the property before the new use allowed by the public entity is established, then the entitlement to relief will be lost.”