

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. M120041
BALLOT MEASURE 37 (CHAPTER 1,)	
OREGON LAWS 2005) OF)	
Grant Cornelius, Gayle Cornelius,)	
Tim Cornelius, CLAIMANTS)	

Claimants: Grant Cornelius, Gayle Cornelius, Tim Cornelius (the Claimants)

Property: Township 10S, Range 4W, Section 30, W.M., Tax Lots 800 and 803, Benton County
Township 10S, Range 5W, Section 25, W.M., Tax Lots 100 and 103, Benton 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 (and except for ORS 215.730 and those provisions of Goal 4 and its implementing rules (OAR 660, division 6) relating to siting standards for dwellings for the protection of public health and safety) the requirements of the following state laws enforced by the Commission or the department will not apply to Grant Cornelius' use of the property: the minimum lot size and dwelling standards established by ORS 215.705 to 215.755 and 215.780, Statewide Planning Goal 4, and OAR 660-006-0026 and -0027. These laws will not apply to the property to allow the Grant Cornelius to divide the property and establish a dwelling on each lot or parcel as permitted on March 10, 1971 when he acquired the property. The action by the state of Oregon provides the state's authorization to the claimant to use the property subject to the standards in effect on March 10, 1971. These standards may include provisions of ORS 215 adopted prior to 1971.

2. In lieu of compensation (and except for ORS 215.730 and those provisions of Goal 4 and its implementing rules (OAR 660, division 6) relating to siting standards for dwellings for the protection of public health and safety), the requirements of the state laws cited in paragraph 1 above enacted after February 7, 1986, will not apply to Gayle Cornelius' use of the property. The action by the state of Oregon provides the state's authorization to the claimant to use the property subject to the standards in effect on February 7, 1986. These standards include provisions of ORS 215, Statewide Planning Goal 4 and OAR 660, division 006.

3. In lieu of compensation (and except for ORS 215.730 and those provisions of Goal 4 and its implementing rules (OAR 660, division 6) relating to siting standards for dwellings for the protection of public health and safety) the requirements of the state laws cited in paragraph 1 above enacted after June 26, 1986, will not apply to Tim Cornelius' use of the property. The action by the state of Oregon provides the state's authorization to the claimant to use the property subject to the standards in effect on June 26, 1986. These standards include provisions of ORS 215, Statewide Planning Goal 4 and OAR 660, division 006.

4. 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, 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 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.

5. Any use of the property by the claimants under the terms of the order will remain subject to the following laws: (a) those laws not specified in paragraphs 1–3 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 Measure 37 including, without limitation, those laws exempted under section (3) of the measure.

6. Without limiting the generality of the foregoing terms and conditions, in order for the claimants to use the property it may be necessary for one or more claimant to obtain a decision under Measure 37 from a county 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 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 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
DLCD

Dated this ___ day of _____, 2005.

FOR the DEPARTMENT OF ADMINISTRATIVE
SERVICES:

David Hartwig 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."