

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. M120106
BALLOT MEASURE 37 (CHAPTER 1,)	
OREGON LAWS 2005) OF)	
Leonard and Cheryl Keenon, CLAIMANTS)	

Claimants: Leonard and Cheryl Keenon (the Claimants)

Property: Tax Lot 100, T.14S, R.1W, Section 15, W.M., Linn 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 Leonard and Cheryl Keenon's division of the subject property into four, approximately five-acre parcels or to the establishment of a residential home site on each parcel created: applicable provisions of Statewide Planning Goals 3 and 4, ORS 215.263, 215.284, 215.700-750, 215.780; and OAR 660, divisions 6 and 33, enacted after each claimants acquired the subject property. These land use regulations will not apply to Leonard Keenon's use of the property only to the extent necessary to allow him a use permitted at the time he acquired the property on April 19, 1972; and will not apply to Cheryl Keenon's use of the property only to the extent necessary to allow her a use permitted at the time she acquired the property on March 19, 1979.
2. The action by the State of Oregon provides the state's authorization to Leonard Keenon to use the property subject to the standards in effect on April 19, 1972. On that date, the property was subject to applicable portions of ORS 215 (1971 edition).

The action by the State of Oregon provides the state's authorization to Cheryl Keenon to use the property subject to the standards in effect on March 19, 1979. As discussed above, on that date, the property was subject to Statewide Planning Goal 3 and the applicable portions of ORS 215 (1977 editions).

The claimants will also continue to be subject to ORS 215.730 and those provisions of Goal 4 and its implementing rules in OAR 660, division 6, related to siting standards for dwelling for the protection of public health and safety and to any other laws that are exempt under Section 3(e) of Measure 37.

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, 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.

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.”