

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

IN THE MATTER OF THE CLAIM ) FINAL ORDER  
FOR COMPENSATION UNDER ) CLAIM NO. M 118917  
BALLOT MEASURE 37 (CHAPTER )  
1, OREGON LAWS 2005) OF )  
English, Verhoef and Sellers, CLAIMANTS )

Claimant(s): Dorothy English, Christie Verhoef, and Douglas Sellers (the Claimant(s))

Property: T2N R1W, Section 32A, Tax Lot 1200, Multnomah County

Claim: The demand for compensation and any supporting information received from the Claimant 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) and the Oregon Department of Forestry (the ODF Report) both attached to and by this reference incorporated into this order.

ORDER

The Claim is denied as to laws administered by the Oregon Department of Forestry or the Oregon Board of Forestry, for the reasons set forth in the ODF Report.

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 paying just compensation under Measure 37, the State of Oregon will not apply the following laws to Ms. English's partition of the property into eight legal parcels, and the construction of a single family home on each parcel: ORS 92.012, 92.016, 92.025 and 92.042, the minimum lot sizes and dwelling standards established by Statewide Planning Goals 4 and 14, and ORS 215.705 to 215.755 and 215.780, except ORS 215.730 and those provisions of Goal 4 relating to siting standards for dwellings for the protection of public health and safety, and except for those provisions of the listed statutes in ORS chapter 92 that were in effect when Ms. English acquired the property in 1953.

2. In lieu of paying just compensation under Measure 37, the State of Oregon will not apply those provisions of the following laws to Ms. Verhoef's and Mr. Seller's partition of the property into eight legal parcels, and the construction of a single family home on each parcel: ORS 92.012, 92.016, 92.025 and 92.042, the minimum lot sizes and dwelling standards established by Statewide Planning Goals 4 and 14, and ORS 215.705 to 215.755 and 215.780, except ORS 215.730 and those provisions of Goal 4 relating to siting standards for dwellings for the protection of public health and safety, and except for those provisions of the listed Statewide Planning Goals and statutes that were in effect when Ms. Verhoef and Mr. Sellers acquired their interest in the property in 1999.

3. Ms. English may use the Property based on the order only for a use permitted at the time she acquired her interest in the Property. The use of Property permitted in 1953 was governed by laws that include, but are not limited to, the provisions of ORS chapter 92 that existed at that time. Ms. Verhoef and Mr. Sellers may use the Property based on the order only for a use permitted at the time they acquired their interest in the Property.

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, this order does 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 215.412 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.

5. 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) and (2), above; (b) any laws enacted or enforced by a public entity other than DLCD; and (c) those laws not subject to Measure 37 including, without limitation, those laws exempted under section (3) of Measure 37.

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 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 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 chapter 125, division 145, by the Acting Director as a final order of DAS under Measure 37, OAR chapter 125, division 145 and ORS chapter 293.

This Order is entered by the Oregon Board and Department of Forestry as a final order of the Board under Measure 37 and OAR Chapter 125, division 145.

FOR DLCD AND THE LAND  
CONSERVATION AND DEVELOPMENT  
COMMISSION:



Lane Shetterly, Director

DLCD

Dated this 27<sup>th</sup> day of May, 2005.

FOR DAS:

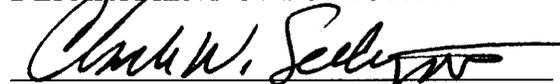


Laurie Warner, Acting Director

DAS

Dated this 27<sup>th</sup> day of May, 2005.

FOR THE OREGON BOARD OF  
FORESTRY AND THE OREGON  
DEPARTMENT OF FORESTRY:



Clark Seely, Associate State Forester

ODF

Dated this 27<sup>th</sup> day of May, 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.”