

BEFORE THE DEPARTMENT OF ADMINISTRATIVE SERVICES,
THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT,
THE DEPARTMENT OF TRANSPORTATION, 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. M118324
BALLOT MEASURE 37 (CHAPTER 1,)	
OREGON LAWS 2005) OF)	
Kim D. Ward and Kim D. Ward, LLC, CLAIMANTS)	

Claimants: Kim D. Ward and Kim D. Ward, LLC (the Claimants)

Property: Township 24S, Range 9E: Section 30CC, Tax Lot 1700; Section 31, Tax Lots 200 and 400; Section 31BB, Tax Lot 300; Section 31BC, Tax Lot 200; W.M., Klamath 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), the Oregon Department of Forestry (the ODF Report) and the Oregon Department of Transportation (the ODOT Report), 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 denied as to laws administered by the Oregon Department of Transportation or the Oregon Transportation Commission for the reasons set forth in the ODOT 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 compensation under Measure 37, the State of Oregon will not apply the following laws, as applicable, to Kim D. Ward, L.L.C.'s development the LLC property for a mixture of residential, commercial and industrial uses: the applicable provisions of Statewide Planning Goals 4 and 14, their implementing rules at OAR 660-006, OAR 660-004-0022 and 660-004-0040, and ORS 92 and ORS 215.705 to 215.755 and 215.780, that became effective subsequent to December 28, 1994.

In lieu of compensation under Measure 37, the State of Oregon will not apply the following laws, as applicable, to Kim D. Ward's development the Kim D. Ward property for a mixture of residential, commercial and industrial uses: the applicable provisions of Statewide Planning Goals 4 and 14, their implementing rules at OAR 660-006, OAR 660-004-0022 and 660-004-0040, ORS 92 and ORS 215.705 to 215.755 and 215.780, that became effective subsequent to September 1, 1968.

2. The action by the State of Oregon provides the state's authorization to the claimants to develop the subject property for a mixture of residential, commercial and industrial uses. The Kim D. Ward, L.L.C.'s use of the LLC property will be, subject to those standards in effect when the LLC became the present owner of the LLC property. Those standards include the provisions of Statewide Planning Goals 4 and 14, OAR 660-004-0022, ORS chapters 92 and 215, and OAR 660-006 in effect on December 28, 1994. Mr. Kim D. Ward's use of the Kim D. Ward property will be subject to those standards in effect when he became the present owner of the Kim D. Ward property. Those standards include the provisions of ORS 92 in effect on September 1, 1968.

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 claimant 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 215.402 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.

4. Any use of the property by any of the claimant under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) above; (b) any laws 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 excepted under section (3) of the measure.

5. Without limiting the generality of the foregoing terms and conditions, in order for the claimant to use the property, it may be necessary for the corporation 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 claimant 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 claimant.

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.

This Order is entered by the Oregon Board and Department of Forestry as a final order of the Board under Measure 37, OAR 629-001-0056, and OAR Chapter 125, division 145.

This Order is entered by the Right of Way Manager of the Oregon Department of Transportation as a final order of ODOT under Measure 37, OAR chapter 125, division 145.

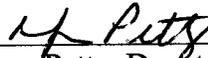
FOR DLCD AND THE LAND CONSERVATION
AND DEVELOPMENT COMMISSION:
Lane Shetterly, Director



George Naughton, Deputy Director
DLCD

Dated this 19th day of August, 2005.

FOR THE DEPARTMENT OF
ADMINISTRATIVE SERVICES:



Dugan Petty, Deputy Administrator
DAS, State Services Division

Dated this 19th day of August, 2005.

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

Marvin D. Brown, State Forester

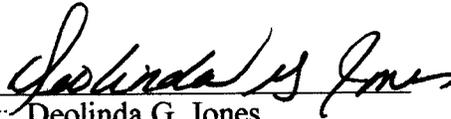


Clark Seeley, Associate State Forester
ODF

Dated this 19th day of AUGUST, 2005.

FOR THE DEPARTMENT OF
TRANSPORTATION:

Lorna Youngs, Interim Director



By: Deolinda G. Jones
Right of Way Manager

Oregon Department of Transportation
Dated this 19 day of August, 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.”