

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. M 120218
BALLOT MEASURE 37 (CHAPTER 1,)
OREGON LAWS 2005) OF)
Kuhl Company, LLC, CLAIMANT)

Claimant(s): Kuhl Company, LLC (the Claimant)

Property: Tax Lot 200, T.2S, R.1E, Section 15C, and Tax Lot 200, T.2S, R.1E, Section
22B; W.M., all in Clackamas County

Claim: The demand for compensation and any supporting information received from the
Claimant by the State of Oregon (the Claim).

Claimant 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 Kuhl Company, LLC's use of the subject property by dividing the property
into 14 lots or parcels of approximately two-acres each, and developing one single-family
dwelling on each lot: applicable provisions of Statewide Planning Goal 3 (Agricultural Lands),
ORS 215, and OAR 660, division 33, enacted since the claimant acquired the subject property on
February 11, 1998.
2. The action by the State of Oregon provides the state's authorization to the Kuhl
Company, LLC to use the property subject to those state land use regulations administered by the
department or Commission that were in effect on February 11, 1998. Those standards include
the provisions of ORS 215.780. As a result, any division of the property will likely require an
exception to Statewide Land Use Planning Goal 3. The department acknowledges this relief will
not allow the claimant to use its property as described in the claim.

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 215.412 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 claimant remains subject to the following laws: (a) those laws not specified in the claim to the State of Oregon, dated December 20, 2004, or identified in this report; (b) any laws enacted or enforced by a public entity other than the Commission or department; and (c) those laws not subject to Measure 37 including, without limitation, those laws exempt 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 claimant 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 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, and by the Administrator for the State Services Division of the DAS as a final order of DAS under Measure 37, OAR chapter 125, division 145 and ORS chapter 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:

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.”