



Oregon

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October 16, 2007

To: Claimant and Interested Persons

From: Cora R. Parker, Acting Director



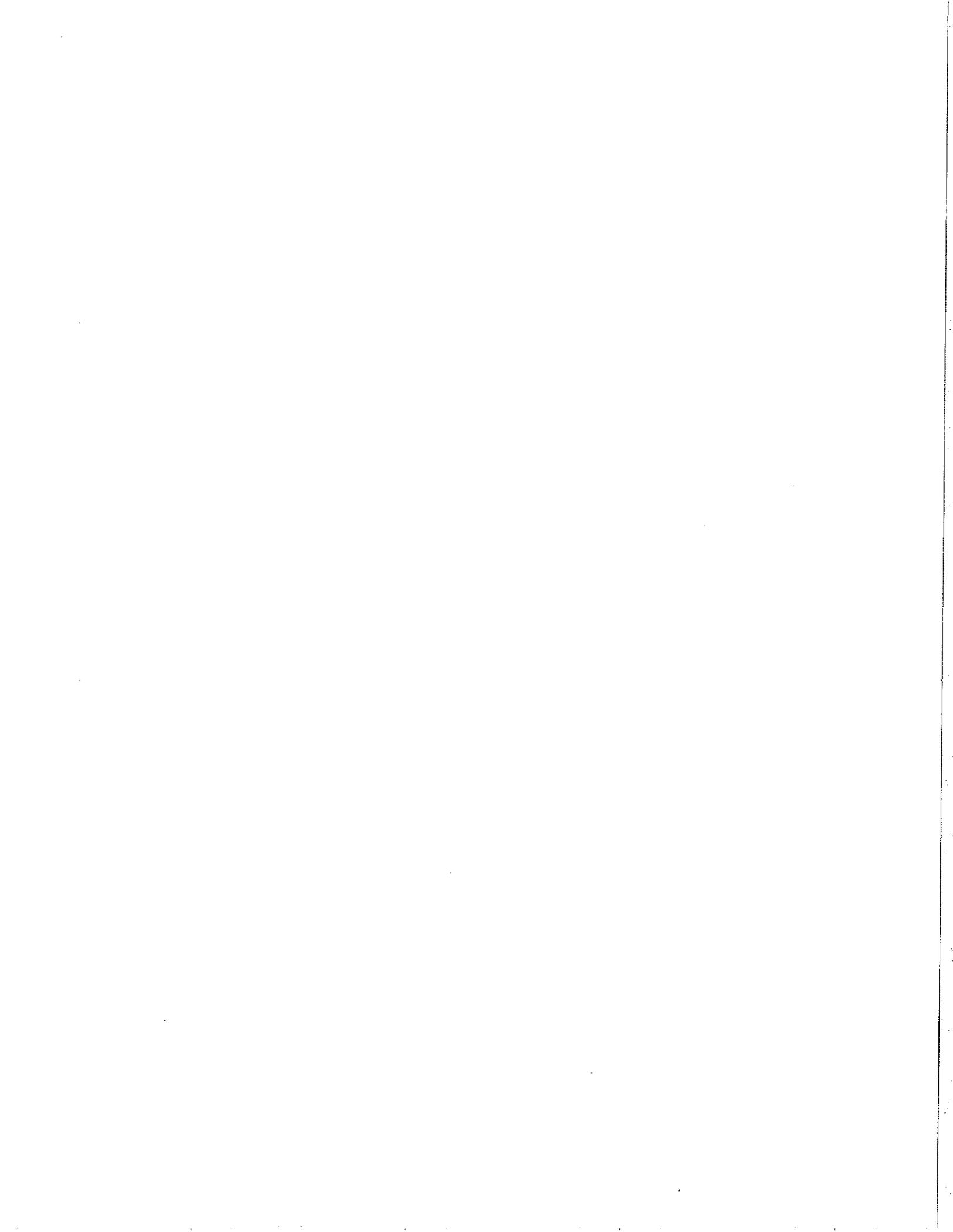
Re: Ballot Measure 37 (ORS 197.352) Claim Number M131141

Claimants: Dorro C. Sokol, Pine Meadow Ranch, Inc

Enclosed, in regard to the above-referenced claim for compensation under Ballot Measure 37 (ORS 197.352), is the Department of Land Conservation and Development's Draft Staff Report and Recommendation.

This Draft Staff Report and Recommendation sets forth the department's evaluation of and recommendation on the claim. Oregon Administrative Rule 125-145-0100(3) provides that the claimant (or the claimant's agent) and any third parties who submitted comments on the claim may submit written comments, evidence, and information in response to any third-party comments contained in the report, and to the staff report and recommendation itself. Such response must be filed no more than 15 calendar days after the date of mailing of this report. Any response from you must be delivered to the Oregon Department of Administrative Services (DAS), 1225 Ferry Street SE, U160, Salem, Oregon 97301, and will be deemed timely filed if either postmarked on the 15th day or actually delivered to DAS by the close of business on the 15th day.

This department will review any responses submitted, and a Final Order on the claim will be issued after such review.



ORS 197.352 (BALLOT MEASURE 37) CLAIM FOR COMPENSATION
OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
Draft Staff Report and Recommendation

October 16, 2007

STATE CLAIM NUMBER: M131141

NAMES OF CLAIMANTS: Dorro C. Sokol
Pine Meadow Ranch, Inc.

MAILING ADDRESS: PO Box 969
Sisters, Oregon 97759

PROPERTY IDENTIFICATION: Township 15S, Range 10E
Section 8: tax lots 707 and 709
Section 9: tax lot 900
Deschutes County

OTHER CONTACT INFORMATION: Edward Fitch
PO Box 457
Redmond, Oregon 97756

DATE RECEIVED BY DAS: November 22, 2006

DEADLINE FOR FINAL ACTION:¹ May 15, 2008

I. SUMMARY OF CLAIM

The claimants, Dorro Sokol and Pine Meadow Ranch, Inc., seek compensation in the amount of \$10 million for the reduction in fair market value as a result of land use regulations that are alleged to restrict the use of certain private real property. The claimants desire compensation or the right to divide the 213.86-acre subject property into approximately one hundred 0.25-acre to 0.50-acre parcels and to develop a dwelling, including some recreational amenities, on each parcel, and to develop community water and sewer systems. The subject property is located at 68467 Three Creeks Road, immediately adjacent to the City of Sisters, in Deschutes County. (See claim.)

¹ ORS 197.352, as originally enacted, required that final action on claims made under Measure 37 be made within 180 days of the date the claim was filed. In response to the large volume of claims filed in late 2006, the Oregon legislature passed House Bill 3546, which became effective on May 10, 2007. This legislation increased the amount of time state and local governments have to take final action on Measure 37 claims filed on or after November 1, 2006, by 360 days, to a total of 540 days.

II. SUMMARY OF STAFF RECOMMENDATION

Based on the preliminary findings and conclusions set forth below, the Department of Land Conservation and Development (the department) has determined that the claim is valid in part. Department staff recommends that, in lieu of compensation, the requirements of the following state laws enforced by the Land Conservation and Development Commission (the Commission) or the department not apply to Pine Meadow Ranch, Inc.'s partition of the 213.86-acre subject property into approximately one-hundred 0.25-acre to 0.50-acre parcels and to its development of a dwelling, including some recreational amenities, on each parcel, and to its development of a community water and sewer system: applicable provisions of Statewide Planning Goals 3 (Agricultural Lands) and 11 (Public Facilities and Services), ORS 215 and Oregon Administrative Rules (OAR) 660, divisions 11, and 33, enacted or adopted after December 30, 1976. These laws will not apply to Pine Meadow Ranch, Inc. only to the extent necessary to allow it to use the subject property for the use described in this report, and only to the extent that use was permitted when it acquired the property on December 30, 1976.

The department has determined that the claim is not valid as to claimant Dorro Sokol because she is not an owner of the subject property. (See the complete recommendation in Section VI of this report.)

III. COMMENTS ON THE CLAIM

Comments Received

On June 25, 2007, pursuant to OAR 125-145-0080, the Oregon Department of Administrative Services (DAS) provided written notice to the owners of surrounding properties. According to DAS, two written comments were received in response to the 15-day notice.

One of the comments does not address whether the claim meets the criteria for relief under ORS 197.352. Comments concerning the effects a use of the subject property may have on surrounding areas are generally not something that the department is able to consider in determining whether to waive a state law. If funds do become available to pay compensation, then such effects may become relevant in determining which claims to pay compensation for instead of waive a state law.

The other comment is relevant to whether claimant Dorro Sokol is an owner of the subject property; whether a state law restricts the claimants' use of the subject property; and whether the restriction of the claimants' use of the subject property reduces the fair market value of the property. The comment has been considered by the department in preparing this report. (See the comment letters in the department's claim file.)

IV. TIMELINESS OF CLAIM

Requirement

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from land use regulations enacted prior to the effective date of Measure 37 (December 2, 2004), within two years of that effective date, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner, whichever is later; or
2. For claims arising from land use regulations enacted after the effective date of Measure 37 (December 2, 2004), within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

Findings of Fact

This claim was submitted to DAS on November 22, 2006, for processing under OAR 125, division 145. The claim summarily identifies all statewide planning goals and provisions of ORS 215 enacted since March 1, 1971, as the basis for the claim. Only laws that were enacted or adopted prior to December 2, 2004, are the basis for this claim.

Conclusions

The claim has been submitted within two years of the effective date of Measure 37 (December 2, 2004), based on land use regulations enacted or adopted prior to December 2, 2004, and is therefore timely filed.

V. ANALYSIS OF CLAIM

1. Ownership

ORS 197.352 provides for payment of compensation or relief from specific laws for "owners" as that term is defined in ORS 197.352. ORS 197.352(11)(C) defines "owner" as "the present owner of the property, or any interest therein."

Findings of Fact

Claimant Dorro Sokol acquired the subject property on March 1, 1971, as reflected by a recorded deed and assignment of contract included with the claim. However, on December 30, 1976, Dorro Sokol conveyed all of her ownership interest in the subject property to Pine Meadow Ranch, Inc. Although Dorro Sokol has an ownership interest in Pine Meadow Ranch, Inc., Pine Meadow Ranch, Inc. is a separate and distinct entity. Dorro Sokol no longer has any individual ownership interest in the subject property.

Claimant Pine Meadow Ranch, Inc. acquired the subject property on December 30, 1976, as reflected by a recorded warranty deed included with the claim. The Deschutes County

Assessor's Office confirms Pine Meadow Ranch, Inc.'s current ownership of the subject property.

Conclusions

Claimant Pine Meadow Ranch, Inc. is an "owner" of the subject property as that term is defined by ORS 197.352(11)(C), as of December 30, 1976. Claimant Dorro Sokol is not an "owner" of the subject property as that term is defined in ORS 197.352(11)(C).

2. The Laws That are the Basis for This Claim

In order to establish a valid claim, ORS 197.352(1) requires, in part, that a law must restrict the claimants' use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants acquired the property.

Findings of Fact

The claim indicates that the claimants desire to divide the 213.86-acre subject property into approximately one-hundred 0.25-acre to 0.50-acre parcels and to develop a dwelling, including some recreational amenities, on each undeveloped resulting parcel and to develop a community water and sewer system, and that current land use regulations prevent the desired use.²

The claim is based generally on the applicable provisions of state law that require Exclusive Farm Use (EFU) zoning and restrict uses on EFU-zoned land. The claimants' property is zoned EFU-Sisters Cloverdale (EFU-SC) by Deschutes County as required by Goal 3, in accordance with ORS 215 and OAR 660, division 33, because the claimants' property is "agricultural land" as defined by Goal 3.³ Goal 3 became effective on January 25, 1975, and required that agricultural lands as defined by Goal 3 be zoned EFU pursuant to ORS 215.

Current land use regulations, particularly ORS 215.263, 215.284 and 215.780 and OAR 660, division 33, enacted or adopted pursuant to Goal 3, prohibit the division of EFU-zoned land into parcels less than 80 acres and establish standards for development of dwellings on existing or proposed parcels on that land.

ORS 215.780 establishes an 80-acre minimum size for the creation of new lots or parcels in EFU zones and became effective on November 4, 1993 (Chapter 792, Oregon Laws 1993).

ORS 215.263 (2005 edition) establishes standards for the creation of new parcels for non-farm uses and dwellings allowed in an EFU zone.

² The claimants summarily list numerous state land use laws as applicable to this claim, but do not establish how the laws either apply to the claimants' desired use of the subject property or restrict its use with the effect of reducing its fair market value. On their face, most of the regulations either do not apply to the claimants' property or do not restrict the claimants' desired use of the property with the effect of reducing its fair market value. This report addresses only those regulations that the department finds are applicable to and restrict the claimants' desired use of the subject property, based on the claimant's description of their desired use.

³ The claimants' property is "agricultural land" because it contains Natural Resources Conservation Service Class I-VI soils.

OAR 660-033-0135 (applicable to farm dwellings) became effective on March 1, 1994, and interprets the statutory standard for a primary dwelling in an EFU zone under ORS 215.283(1)(f). OAR 660-033-0130(4) (applicable to non-farm dwellings) became effective on August 7, 1993, and was amended to comply with ORS 215.284(4) on March 1, 1994.⁴

Goal 11, which also became effective on January 25, 1975, generally prohibits urban levels of public facilities and services on lands that are outside of an Urban Growth Boundary (UGB). Goal 11 and its implementing rules have two components: one that prohibits an owner from utilizing urban-level facilities or services to serve the property, and another that prohibits service providers from extending their facilities to serve property outside a UGB. The former can restrict a claimant's use of property. The latter is a restriction on service providers. Goal 11 and OAR 660, division 11 (adopted in 1984 and amended in 1998), apply to the claimants' use of the property only to the extent that they restrict the development of urban-level public or community sewer or water facilities on the subject property.

Claimant Pine Meadow Ranch, Inc. acquired the subject property after the adoption of the statewide planning goals, but before the Commission acknowledged Deschutes County's land use regulations to be in compliance with the statewide planning goals pursuant to ORS 197.250 and 197.251.⁵ At that time, the property was designated in the comprehensive plan as Recreation Residential and zoned A-1 (40) by Deschutes County. However, because the Commission had not acknowledged the county's plan and land use regulations when Pine Meadow Ranch, Inc. acquired the subject property on December 30, 1976, the statewide planning goals, and Goal 3 in particular, applied directly to Pine Meadow Ranch, Inc.'s property when it acquired it.⁶

As adopted on January 25, 1975, Goal 3 required that agricultural land be preserved and zoned for EFU pursuant to ORS 215. The Goal 3 standard for land divisions involving property where the local zoning was not acknowledged required that the resulting parcels must be of a size that is "appropriate for the continuation of the existing commercial agricultural enterprise within the area." Further, ORS 215.263 (1973 edition) only authorized the partition of land subject to EFU zoning, and required that all divisions of land subject to EFU zoning comply with the legislative intent set forth in ORS 215.243 (Agricultural Land Use Policy). Thus, Pine Meadow Ranch Inc.'s opportunity to divide the subject property when it acquired it in 1976 was limited to land divisions that were consistent with Goal 3, which required that the resulting parcels be (1)

⁴ The Commission adopted amendments to OAR 660-033-0100, -0130 and -0135 to comply with House Bill 3326 (Chapter 704, Oregon Laws 2001, effective on January 1, 2002), which were effective on May 22, 2002. These amendments clarified but did not further restrict dwelling standards for EFU-zoned land.

⁵ Deschutes County's comprehensive plan and land use regulations were acknowledged by the Commission for compliance with Goal 3 on May 11, 1981.

⁶ The statewide planning goals became effective on January 25, 1975, and were applicable to legislative land use decisions and some quasi-judicial land use decisions prior to the Commission's acknowledgment of each county's comprehensive plan and implementing regulations. *Perkins v. City of Rajneeshpuram*, 300 Or 1 (1985); *Alexanderson v. Polk County*, 289 Or 427, rev. den 290 Or 137 (1980); *Sunnyside Neighborhood Assn. v. Clackamas County*, 280 Or 3 (1977); *Jurgenson v. Union County*, 42 Or App 505 (1979); and *1000 Friends of Oregon v. Benton County*, 32 Or App 413 (1978). After the county's plan and land use regulations were acknowledged by the Commission, the statewide planning goals and implementing rules no longer applied directly to such local land use decisions. *Byrd v. Stringer*, 295 Or 311 (1983). However, statutory requirements continue to apply, and insofar as the state and local provisions are materially the same, the local provisions must be interpreted consistent with the substance of the goals and implementing rules. *Forster v. Polk County*, 115 Or App 475 (1992) and *Kenagy v. Benton County*, 115 Or App 131 (1992).

appropriate for the continuation of the existing commercial agricultural enterprise in the area and (2) shown to comply with the legislative intent set forth in ORS 215.

Under the Goal 3 standards in effect on December 30, 1976, farm dwellings were allowed if they were determined to be "customarily provided in conjunction with farm use" under ORS 215.213(1)(e) (1975 edition). Non-farm dwellings were subject to compliance with ORS 215.213(3) (1975 edition).

Under Goal 11, as adopted in 1975, was "to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." It provided that "public facilities and services for rural areas should be provided at levels appropriate for rural use only and should not support urban uses."

The claim does not establish whether or to what extent the claimants' desired division and development of the subject property were allowed under the standards in effect when Pine Meadow Ranch, Inc. acquired the property on December 30, 1976.

Conclusions

The current zoning requirements, minimum lot size, dwelling standards and public facilities standards established by Goals 3 and 11, ORS 215 and OAR 660, divisions 11, and 33, do not allow the claimants' desired division or development of the subject property. However, the claim does not establish whether or the extent to which the claimants' desired use of the subject property complies with the standards for land divisions and development under the requirements of Goals 3 and 11 and ORS 215 in effect when Pine Meadow Ranch, Inc. acquired the subject property on December 30, 1976.

Those elements of Goal 11 that prohibit a public service provider from extending or establishing public facilities or services outside of an urban growth boundary restrict the actions of local government rather than the claimant's use of the property. That component of Goal 11 is not subject to ORS 197.352 and will continue to apply to those service providers. Only the general prohibition under Goal 11 on the claimants' establishment of an urban level of public facilities and services is subject to ORS 197.352 and restricts the claimants' desired use of the property.

This report addresses only those state laws that are identified in the claim, or that the department is certain apply to the subject property based on the uses that the claimants have identified. There may be other laws that currently apply to the claimants' use of the subject property, and that may continue to apply to the claimants' use of the property, that have not been identified in the claim. In some cases, it will not be possible to know which laws apply to a use of the subject property until there is a specific proposal for that use. When the claimants seek a building or development permit to carry out a specific use, it may become evident that other state laws apply to that use.

As explained in Section V.(1) of this report, the claimant, Dorro Sokol, is not an "owner" of the subject property as that term is defined in ORS 197.352(11)(C). Therefore, no laws enforced by the Commission or department restrict Dorro Sokol's use of the subject real property with the effect of reducing the fair market value of the property.

3. Effect of Regulations on Fair Market Value

In order to establish a valid claim, ORS 197.352(1) requires that the land use regulation(s) (described in Section V.(2) of this report) must have “the effect of reducing the fair market value of the property, or any interest therein.”

Findings of Fact

The claim includes an estimate of \$10 million as the reduction in the subject property’s fair market value due to the regulations that restrict the claimants’ desired use of the property. This amount is based on the claimants’ assessment of the property’s value.

Conclusions

As explained in Section V.(1) of this report, the claimants are Pine Meadow Ranch, Inc., which acquired the subject property on December 30, 1976, and Dorro Sokol, who is not an owner of the subject property as that term is defined in ORS 197.352(11)(C). Because she is not an owner of the subject property, no laws restrict Dorro Sokol’s use of the subject property with the effect of reducing the fair market value of the property.

Under ORS 197.352, Pine Meadow Ranch, Inc. is due compensation for land use regulations that restrict the use of the subject property and have the effect of reducing its fair market value. Based on the findings and conclusions in Section V.(2) of this report, laws enacted or adopted since Pine Meadow Ranch, Inc. acquired the subject property restrict its desired use of the property. The claimants estimate that the effect of the regulations on the fair market value of the subject property is a reduction of \$10 Million.

Without an appraisal or other documentation and without verification of whether or the extent to which the claimants’ desired use of the subject property was allowed under the standards in effect when Pine Meadow Ranch, Inc. acquired the property, it is not possible to substantiate the specific dollar amount by which the land use regulations have reduced the fair market value of the property. Nevertheless, based on the evidence in the record for this claim, the department determines that the fair market value of the subject property has been reduced to some extent as a result of land use regulations enforced by the Commission or the department.

4. Exemptions Under ORS 197.352(3)

ORS 197.352 does not apply to certain land use regulations. In addition, under ORS 197.352(3), certain types of laws are exempt from ORS 197.352.

Findings of Fact

The claim is based on state land use regulations that restrict the use of the subject property, including applicable provisions of Goals 3 and 11, ORS 215 and OAR 660, divisions 11, and 33, which Deschutes County has implemented through its current EFU-SC zone. With the exception of provisions of Goals 3 and 11 and ORS 215 in effect when Pine Meadow Ranch, Inc. acquired the subject property on December 30, 1976, these land use regulations were enacted or adopted after it acquired the property.

Conclusions

Without a specific development proposal for the subject property, it is not possible for the department to determine all the laws that may apply to a particular use of the property, or whether those laws may fall under one or more of the exemptions under ORS 197.352. It appears that with the exception of provisions of Goals 3 and 11 and ORS 215 in effect in 1976, the statutory, goal and rule restrictions on division and development of the claimants' property were not in effect when Pine Meadow Ranch, Inc. acquired it, and therefore, these laws are not exempt under ORS 197.352(3)(E). Provisions of Goals 3 and 11 and ORS 215 in effect when Pine Meadow Ranch, Inc. acquired the subject property in 1976 are exempt under ORS 197.352(3)(E) and will continue to apply to the property.

Other laws in effect when Pine Meadow Ranch, Inc. acquired the subject property are also exempt under ORS 197.352(3)(E) and will continue to apply to its use of the property. There may be other laws that continue to apply to Pine Meadow Ranch Inc.'s use of the subject property that have not been identified in the claim. In some cases, it will not be possible to know which laws apply to a use of property until there is a specific proposal for that use. When Pine Meadow Ranch, Inc. seeks a building or development permit to carry out a specific use, it may become evident that other state laws apply to that use. In some cases, some of these laws may be exempt under ORS 197.352(3)(A) to (D).

As explained in Section V.(1) of this report, claimant Dorro Sokol is not an "owner" of the subject property as that term is defined in ORS 197.352(11)(C). Therefore, the issue of whether any laws are exempt from ORS 197.352 is not relevant to her claim.

This report addresses only those state laws that are identified in the claim, or that the department is certain apply to the subject property based on the uses that the claimants have identified. Similarly, this report only addresses the exemptions provided for under ORS 197.352(3) that are clearly applicable, given the information provided to the department in the claim. The claimants should be aware that the less information they provided to the department in the claim, the greater the possibility that there may be additional laws that will later be determined to continue to apply to their use of the subject property.

VI. FORM OF RELIEF

ORS 197.352(1) provides for payment of compensation to an owner of private real property if the Commission or the department has enforced one or more laws that restrict the use of the property in a manner that reduces its fair market value. In lieu of compensation, the department may choose to not apply the law in order to allow the present owner to carry out a use of the property permitted at the time the present owner acquired the property. The Commission, by rule, has directed that if the department determines a claim is valid, the Director of the department must provide only non-monetary relief unless and until funds are appropriated by the legislature to pay claims.

Findings of Fact

Based on the findings and conclusions set forth in this report, laws enforced by the Commission or the department do not restrict claimant Dorro Sokol's desired use of the subject property

because she is not an owner of the subject property. Laws enforced by the Commission or the department do restrict claimant Pine Meadow's Ranch, Inc.'s desired use of the subject property. The claim asserts that existing state land use regulations enforced by the Commission or the department have the effect of reducing the fair market value of the subject property by \$10 million. However, because the claim does not provide an appraisal or other relevant evidence demonstrating that the land use regulations described in Section V.(2) reduce the fair market value of the subject property, a specific amount of compensation cannot be determined. In order to determine a specific amount of compensation due for this claim, it would also be necessary to verify whether or the extent to which the claimants' desired use of the subject property was allowed under the standards in effect when Pine Meadow Ranch, Inc. acquired the property. Nevertheless, based on the record for this claim, the department has determined that the laws on which the claim is based have reduced the fair market value of the subject property to some extent.

No funds have been appropriated at this time for the payment of claims. In lieu of payment of compensation, ORS 197.352 authorizes the department to modify, remove or not apply all or parts of certain land use regulations to allow Pine Meadow Ranch, Inc. to use the subject property for a use permitted at the time it acquired the property on December 30, 1976.

Conclusions

Based on the record before the department, the claimant, Dorro Sokol, has not established that she is entitled to relief under ORS 197.352(1) as a result of land use regulations enforced by the Commission or the department because she is not an owner of the subject property. Therefore, the department recommends that this claim be denied as to Dorro Sokol.

The department otherwise recommends that the claim be approved as to Pine Meadow Ranch, Inc., subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Pine Meadow Ranch, Inc.'s division of the 213.86-acre subject property into approximately one-hundred 0.25-acre to 0.50-acre parcels and to its development of a dwelling, including some recreational amenities, on each parcel, and to its development of a community water and sewer system: applicable provisions of Goals 3 and 11, ORS 215 and OAR 660, divisions 11, and 33, enacted or adopted after December 30, 1976. These land use regulations will not apply to Pine Meadow Ranch, Inc. only to the extent necessary to allow it to use the subject property for the use described in this report, and only to the extent that use was permitted when it acquired the property on December 30, 1976. Goal 11 will not apply only to the extent that it prohibits Pine Meadow Ranch, Inc. from establishing an urban level of public facilities and services to serve the development of the property. Goal 11 will continue to apply to public service providers seeking to extend or establish public facilities to serve the subject property.
2. The action by the State of Oregon provides the state's authorization to Pine Meadow Ranch, Inc. to use the property for the use described in this report, subject to the standards in effect on December 30, 1976. On that date, the property was subject to applicable provisions of Goals 3 and 11 and ORS 215 then in effect.

3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject 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 Pine Meadow Ranch, Inc. 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 227.160, other permits or authorizations from local, state or federal agencies and restrictions on the use of the subject property imposed by private parties.

4. Any use of the subject property by Pine Meadow Ranch, Inc. under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) 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 ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

5. Without limiting the generality of the foregoing terms and conditions, in order for Pine Meadow Ranch, Inc. to use the subject property, it may be necessary for it to obtain a decision under ORS 197.352 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 Pine Meadow Ranch, Inc. from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the subject property by Pine Meadow Ranch, Inc.

6. Nothing in this report or the state's final order for this claim constitutes any determination of ownership by the State of Oregon as to submerged or submersible lands, or as to public rights to the use of waters of the state.

VII. NOTICE OF OPPORTUNITY TO COMMENT

This staff report is not a final decision by the department and does not authorize any use of the property that is the subject of this report. OAR 125-145-0100 provides an opportunity for the claimants or the claimants' authorized agent and any third parties who submitted comments under OAR 125-145-0080 to submit written comments, evidence and information in response to the draft staff report and recommendation. Such response must be filed no more than 15 calendar days after the date this report is mailed to the claimants and any third parties. Responses to this draft staff report and recommendation will be considered only as comments related to the claim described in this report. All responses must be delivered to the Oregon Department of Administrative Services (DAS), Measure 37 Unit, Risk Management-State Services Division, 1225 Ferry Street SE, U160, Salem, Oregon 97301-4292 and will be deemed timely filed if either postmarked on the 15th day, or actually delivered to DAS by the close of business on the 15th day. Note: Please reference the claim number, claimant name and clearly mark your comments as "Draft Staff Report comments." Comments must be submitted in writing only. Those comments submitted electronically or by facsimile will not be accepted.