Oregon
Theodore R. Kulongoski, Governor

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July 11, 2007

To: Interested Persons

From: Lane Shetterly, Director

Re: Ballot Measure 37 (ORS 197.352) Claim Number M130768

Claimants: Larry and Roseann Ismert

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

This Final Staff Report and Recommendation and the Final Order constitute the final decision on this claim. No further action will be taken on this matter.

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

IN THE MATTER OF THE CLAIM FOR	)	FINAL ORDER
COMPENSATION UNDER ORS 197.352	)	CLAIM NO. M130768
(BALLOT MEASURE 37) OF	)	
Larry and Roseann Ismert, CLAIMANTS	)	

Claimants: Larry and Roseann Ismert (the Claimants)

Property: Township 40S, Range 13W, Section 20 and 21, Tax lot 5000
Curry County (the Property)

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 ORS 197.352. 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 ORS 197.352, the State of Oregon will not apply the following laws to Larry and Roseann Ismert's division of the 21.56-acre subject property into one 3-acre parcels and one 18.56-acre parcel or to their development of a dwelling on the resulting 18.56-acre parcel: applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, divisions 6, and 33, enacted or adopted after each claimant acquired an interest in the property. These land use regulations will not apply to the claimants only to the extent necessary to allow them to use the subject property for the use described in this report, and only to the extent that use was permitted when Larry Ismert acquired the property on December 14, 1986, and when Roseann Ismert acquired the property on December 27, 1994. The department acknowledges that the relief to which is the claimants are entitled under ORS 197.352 may not allow Larry Ismert to use the subject property and will not allow Roseann Ismert to use the subject property in the manner set forth in the claim.

2. The action by the State of Oregon provides the state's authorization to the claimants to use the subject property for the use described in this report, subject to the standards in effect on when Larry Ismert acquired the property on December 14, 1986, and when Roseann Ismert acquired it

on December 27, 1994. On December 14, 1986, the property was subject to compliance with Goals 3 and 4, and OAR 660, divisions 5, and 6, as implemented through Curry County's acknowledged FG zone, and the applicable provisions of ORS 215 then in effect. On December 27, 1994, the property was subject to applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, division 33, currently 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 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 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 the claimants 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 the claimants to use the subject property, it may be necessary for them 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 the claimants 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 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 ORS 197.352, 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 ORS 197.352, OAR 125, division 145, and ORS 293.

FOR DLCD AND THE LAND CONSERVATION AND DEVELOPMENT COMMISSION:

Lane Shetterly, Director
DLCD
Dated this 11th day of July, 2007.

FOR the DEPARTMENT OF ADMINISTRATIVE SERVICES:

Janice K. Dean, SSD Administrator
DAS, State Services Division
Dated this 11th day of July, 2007.

NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF

You are entitled, or may be entitled, to judicial remedies including the following:

1. 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 or the Circuit Court in the county in which you reside.

2. A cause of action under ORS 197.352 (Measure 37 (2004)): If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under ORS 197.352, the present owner of the property, or any interest therein, shall have a cause of action in the circuit court in which the real property is located.

(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."

ORS 197.352 (BALLOT MEASURE 37) CLAIM FOR COMPENSATION

OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
Final Staff Report and Recommendation

July 11, 2007

STATE CLAIM NUMBER:	M130768
NAMES OF CLAIMANTS:	Larry and Roseann Ismert
MAILING ADDRESS:	PO Box 6037 Pistol River, Oregon 97444
PROPERTY IDENTIFICATION:	Township 40S, Range 13W, Section 20 and 21 Tax lot 5000 Curry County
DATE RECEIVED BY DAS:	November 15, 2006
DEADLINE FOR FINAL ACTION:[1]	May 7, 2008

I. SUMMARY OF CLAIM

The claimants, Larry and Roseann Ismert, seek compensation in the amount of $75,000 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 21.56-acre subject property into one 3-acre parcel and one 18.56-acre parcel and to develop a dwelling on the resulting 18.56-acre parcel. The subject property is located on Carpenterville Road and South Bank Pistol River Road, near Pistol River, in Curry County. (See claim.)

II. SUMMARY OF STAFF RECOMMENDATION

Based on the findings and conclusions set forth below, the Department of Land Conservation and Development (the department) has determined that the claim is valid. 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 Larry and Roseann Ismert's division of the 21.56-acre subject property into one 3-acre parcel and one 18.56-acre parcel and to their development of a dwelling on the resulting 18.56-acre parcel: applicable provisions of Statewide Planning Goals 3 (Agricultural Lands) and 4 (Forest Lands), ORS 215 and Oregon Administrative Rules (OAR) 660, divisions 6, and 33,

[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.

enacted or adopted after each claimant acquired the subject property. These land use regulations will not apply to the claimants only to the extent necessary to allow them to use the subject property for the use described in this report, and only to the extent that use was permitted when Larry Ismert acquired the property on December 14, 1986, and when Roseann Ismert acquired the property on December 27, 1994. The department acknowledges that the relief to which the claimants are entitled under ORS 197.352 may not allow Larry Ismert to use the subject property, and will not allow Roseann Ismert to use the subject property, in the manner set forth in the claim. (See the complete recommendation in Section VI of this report.)

III. COMMENTS ON THE CLAIM

Comments Received

On May 21, 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, one written comment was received in response to the 10-day notice. The comment is relevant to whether the claimants are owners. The comment has been considered by the department in preparing this report.

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 15, 2006, for processing under OAR 125, division 145. The claim identifies Goals 3, 4 and 14 (Urbanization), ORS 215 and OAR 660, divisions 6, and 33, 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 Larry Ismert first acquired an interest in the property on June 2, 1970, as reflected by a bargain and sale deed included with the claim. However, the deed by which he acquired the property was subject to a life estate in favor of his mother, Elma Ismert, which reserved in her the exclusive right to use the property during her lifetime. Larry Ismert's interest did not provide him with any present right to use the property during the life of Elma Ismert. Larry Ismert acquired his present interest and right to use the property on December 14, 1986, as evidenced by a death certificate for Elma Ismert. Larry Ismert conveyed an interest in the property to his wife, claimant Roseann Ismert, on December 27, 1994, as reflected by a deed creating tenancy by the entirety included with the claim. Elma Ismert acquired the property from a family member, Otto Ismert, who acquired the subject property on May 23, 1908, as evidenced by an indenture included with the claim. The Curry County Assessor's Office confirms the claimants' current ownership of the subject property.

Conclusions

The claimants, Larry and Roseann Ismert, are "owners" of the subject property as that term is defined by ORS 197.352(11)(C). Larry Ismert has been an owner since December 14, 1986. Roseann Ismert has been an owner since December 27, 1994. The property has been owned by a "family member" of the claimants as defined by ORS 197.352(11)(A) since May 23, 1908.

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 or a family member acquired the property.

Findings of Fact

The claim indicates that the claimants desire to divide the 21.56-acre subject property into one 3-acre parcel and one 18.56-acre parcel and to develop a dwelling on the resulting 18.56-acre parcel, and that current land use regulations prevent the desired use.

The claim is based generally on the applicable provisions of state law that allow mixed agriculture-forest zoning and restrict uses on land zoned mixed agriculture-forest. The claimants' property is zoned Forest Grazing (FG) by Curry County. The county's FG zone is a mixed agricultural and forest land zone, in accordance with Goals 3 and 4, as implemented by OAR 660-006-0050. Goals 3 and 4 became effective on January 25, 1975, and required that

agricultural lands as defined by Goal 3 be zoned for farm uses and that forest lands under Goal 4 be zoned for forest uses. OAR 660-006-0050 authorizes local governing bodies to establish mixed agriculture-forest zones in accordance with both Goals 3 and 4 and OAR 660, divisions 6, and 33.

Under OAR 660-006-0050(2), effective on February 5, 1990, and subsequently amended on March 1, 1994, to comply with the provisions of House Bill 3661 (Chapter 792, Oregon Laws 1993), uses allowed in Exclusive Farm Use (EFU) zones under Goal 3 and forest zones under Goal 4 are allowed in mixed agriculture-forest zones.

For land divisions, OAR 660-006-0055 requires local governing bodies to apply the standards of OAR 660-006-0026 and 660-033-0100, which implement the minimum lot size requirements in ORS 215.780. ORS 215.780(1) establishes an 80-acre minimum for the creation of new lots or parcels in EFU and forest zones and became effective on November 4, 1993 (Chapter 792, Oregon Laws 1993).

For the approval and siting of dwellings, under OAR 660-006-0050(2) and (3), counties must apply either the OAR 660, division 6, or 33, standards based on the predominant use of the tract on January 1, 1993.[2] The provisions of OAR 660-006-0027 and 660-006-0029 apply to dwelling approval and siting where the predominant use of the tract on that date was forest, and the provisions of OAR 660-033-0030 and 660-033-0035 apply where the predominant use of the tract on that date was agriculture.

The claimants' family first acquired the subject property in 1908, prior to the adoption of the statewide planning goals and their implementing statutes and regulations. No county zoning applied to the subject property in 1908.

Conclusions

The current zoning requirements, minimum lot size and dwelling standards established pursuant to Goals 3 and 4, ORS 215 and OAR 660, divisions 6, and 33, for lands zoned for mixed agriculture-forest use, were enacted or adopted after the claimants' family acquired the subject property in 1908. These laws restrict the use of the subject property relative to the uses allowed when the claimants' family acquired 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."

[2] The claim does not include information regarding the predominant use of the property on January 1, 1993.

Findings of Fact

The claim includes an estimate of $75,000 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 subject property's value.

Conclusions

As explained in Section V.(1) of this report, the claimants are Larry and Roseann Ismert whose family acquired the subject property in 1908. Under ORS 197.352, the claimants are due compensation for land use regulations that restrict the use of the 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 the claimants' family acquired the subject property restrict the claimants' 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 $75,000.

Without an appraisal or other documentation, it is not possible to substantiate the specific dollar amount by which the land use regulations have reduced the fair market value of the subject 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 since the claimants' family acquired the property.

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 Goal 3, ORS 215 and OAR 660, division 33, which Curry County has implemented through its current FG zone. All of these land use regulations were enacted or adopted after the claimants' family acquired the subject property.

Conclusions

It appears that none of the general statutory, goal and rule restrictions on residential division and development of the subject property were in effect when the claimants' family acquired the property on May 23, 1908. As a result, these laws are not exempt under ORS 197.352(3)(E). Laws in effect when the claimants' family acquired the subject property are exempt under ORS 197.352(3)(E) and do not provide a basis for compensation. In addition, other land use laws enacted or adopted for a purpose set forth in ORS 197.352(3)(A) to (D) are also exempt and would not provide a basis for compensation.

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 restrict the claimants' 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 $75,000. 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 the claimants' family 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 Larry Ismert to use the subject property for a use permitted at the time he acquired the property on December 14, 1986, and to allow Roseann Ismert to use the property for a use permitted at the time she acquired the property on December 27, 1994.

When Larry Ismert acquired the subject property on December 14, 1986, the property was subject to Curry County's acknowledged comprehensive plan and FG zone.[3] At that time, the claimants' desired use of the property would have been subject to compliance with Goal 3 or 4, and OAR 660, division 5, or 6, as implemented through the county's acknowledged FG zone, and the applicable provisions of ORS 215 then in effect.[4]

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[3] Curry County's FG zone was acknowledged by the Commission for compliance with Goals 3 and 4 on February 17, 1984.

[4] After the county's comprehensive plan and land use regulations were acknowledged by the Commission as complying with the statewide planning goals, the goals and implementing rules no longer applied directly to individual 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).

At the time Roseann Ismert acquired an interest in the subject property, it was zoned FG by Curry County and subject to the current lot size and dwelling standards under Goal 3, ORS 215 and OAR 660, division 33, and as described in Section V.(2) of this report.

In addition to the applicable provisions of Goals 3 and 4, ORS 215 and the provisions of OAR 660 in effect when Larry Ismert acquired the property on December 14, 1986, and when Roseann Ismert acquired the property on December 27, 1994, and other laws in effect when either of the claimants acquired the subject property, there may be other laws that apply to the claimants' use of the property that have not been identified in the claim. In addition, the department notes that ORS 215.730 and OAR 660, division 6, particularly OAR 660-006-0027, -0029 and -0035, include fire protection standards for dwellings and structures in forest and mixed agriculture-forest zones. ORS 197.352 (3)(B) specifically exempts regulations "restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes. . . ." Accordingly, the siting standards for dwellings and structures in forest zones in ORS 215.730 and in forest and mixed agriculture-forest zones in OAR 660, division 6, are exempt under ORS 197.352(3)(B).

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, and depending on when they were enacted or adopted, may continue to apply to the claimants' property. In addition, some of these laws may be exempt under ORS 197.352(3)(A) to (D) and will continue to apply to the subject property on that basis.

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 have provided to the department in their 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.

Conclusions

Based on the record, the department recommends that the claim be approved, 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 Larry and Roseann Ismert's division of the 21.56-acre subject property into one 3-acre parcels and one 18.56-acre parcel or to their development of a dwelling on the resulting 18.56-acre parcel: applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, divisions 6, and 33,

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On December 14, 1986, ORS 215.263 (1985 edition) required that divisions of land in EFU zones be "appropriate for the continuation of the existing commercial agricultural enterprise within the area" or not smaller than the minimum size in the county's acknowledged plan. ORS 215.283(1)(f) (1985 edition) generally allowed farm dwellings "customarily provided in conjunction with farm use." Non-farm dwellings were allowed under ORS 215.283(3) if they were determined to be compatible with farm use, not interfere seriously with accepted farm practices, not materially alter the stability of the land use pattern in the area and be situated on generally unsuitable land for the production of farm crops and livestock.

enacted or adopted after each claimant acquired an interest in the property. These land use regulations will not apply to the claimants only to the extent necessary to allow them to use the subject property for the use described in this report, and only to the extent that use was permitted when Larry Ismert acquired the property on December 14, 1986, and when Roseann Ismert acquired the property on December 27, 1994. The department acknowledges that the relief to which is the claimants are entitled under ORS 197.352 may not allow Larry Ismert to use the subject property and will not allow Roseann Ismert to use the subject property in the manner set forth in the claim.

2. The action by the State of Oregon provides the state's authorization to the claimants to use the subject property for the use described in this report, subject to the standards in effect on when Larry Ismert acquired the property on December 14, 1986, and when Roseann Ismert acquired it on December 27, 1994. On December 14, 1986, the property was subject to compliance with Goals 3 and 4, and OAR 660, divisions 5, and 6, as implemented through Curry County's acknowledged FG zone, and the applicable provisions of ORS 215 then in effect. On December 27, 1994, the property was subject to applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, division 33, currently 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 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 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 the claimants 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 the claimants to use the subject property, it may be necessary for them 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 the claimants 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 the claimants.

VII. COMMENTS ON THE DRAFT STAFF REPORT

The department issued its draft staff report on this claim on June 13, 2007. OAR 125-145 0100(3), provided 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.