



OREGON DEPARTMENT OF LAND CONSERVATION AND
DEVELOPMENT

ORS 195.300 to ORS 195.336 (MEASURE 49) SUPPLEMENTAL REVIEW
OF MEASURE 37 CLAIM
Final Order of Denial

STATE ELECTION NUMBER:

E131298¹

CLAIMANT:

Maurice E. Brooks
86261 Franklin Blvd
Eugene, OR 97405

MEASURE 37 PROPERTY
IDENTIFICATION:

Township 20S, Range 3W, Section 3
Tax lot 600²
Lane County

The claimant, Maurice Brooks, filed a claim with the state under ORS 197.352 (2005) (Measure 37) on November 27, 2006, for property located at 80996 Highway 99, near Creswell, in Lane County. ORS 195.300 to ORS 195.336 (Measure 49) entitles claimants who filed Measure 37 claims to elect supplemental review of their claims. The claimant has elected supplemental review of his Measure 37 claim under Section 6 of Measure 49, which allows the Department of Land Conservation and Development (the department) to authorize up to three home site approvals to qualified claimants.

This Final Order of Denial is the conclusion of the supplemental review of this claim.

I. ANALYSIS OF CLAIM

A. Maximum Number of Home Sites for Which the Claimant May Qualify

Under Section 6 of Measure 49, the number of home site approvals authorized by the department cannot exceed the lesser of the following: three; the number stated by the claimant in the election materials; or the number described in a Measure 37 waiver issued by the state, or if no waiver was issued, the number of home sites described in the Measure 37 claim filed with the state. The Measure 37 waiver issued for this claim describes industrial uses, subject to the claimant's

¹ The claimant also has submitted a claim for property not contiguous to the subject property which is identified as E129908.

² The Measure 37 claim property consists of tax lots 600 and 700. The claimant was denied relief on tax lot 700 under Measure 37 because laws enacted or adopted since the claimant acquired tax lot 700 in 2002 do not restrict the claimant's desired use of that tax lot relative to when the claimant acquired it. The claimant did not indicate that he would like the department to review his eligibility for relief under Measure 49 for tax lot 700. Therefore, this Final Order addresses only the claimant's eligibility for relief for tax lot 600 and all references to Measure 37 claim property refer only to tax lot 600.

compliance with the applicable standards in effect on February 20, 1978. The claimant has requested a zoning change for tax lot 600 from residential to industrial zoning in the election material. The claimant did not request any home sites in the election material. Measure 49 directs the department to authorize an otherwise prohibited number of home sites and does not provide for the more specific relief requested here. Therefore, the claimant is not eligible for any relief under Section 6 of Measure 49.

Because the claimant has requested relief that is not available under Measure 49, the remaining approval criteria will not be evaluated.

II. COMMENTS ON THE PRELIMINARY EVALUATION

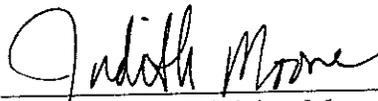
The department issued its Preliminary Evaluation for this claim on December 3, 2009. Pursuant to OAR 660-041-0090, the department provided written notice to the owners of surrounding properties. No written comments were received in response to the 28-day notice.

III. CONCLUSION

Based on the analysis above, the claimant, Maurice Brooks, does not qualify for Measure 49 home site approvals because Measure 49 directs the department to authorize an otherwise prohibited number of home sites and does not provide for the more specific relief requested here.

IT IS HEREBY ORDERED that this Final Order of Denial is entered by the Director of the Department of Land Conservation and Development as a final order of the department and the Land Conservation and Development Commission under ORS 197.300 to ORS 195.336 and OAR 660-041-0000 to 660-041-0160.

FOR THE DEPARTMENT AND THE LAND
CONSERVATION AND DEVELOPMENT
COMMISSION:



Judith Moore, Division Manager
Dept. of Land Conservation and Development
Dated this 25th day of January 2010.

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 is available to anyone who is an owner of the property as defined in Measure 49 that it the subject of this final determination, or a person who timely submitted written evidence or comments to the department concerning this final determination.
2. 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 must be filed in the Circuit Court in the county in which the affected property is located. Upon motion of any party to the proceedings, the proceedings may be transferred to any other county with jurisdiction under ORS 183.484 in the manner provided by law for change of venue.
3. Judicial review of this final determination is limited to the evidence in the record of the department at the time of its final determination. Copies of the documents that comprise the record are available for review at the department's office at 635 Capitol St. NE, Suite 150, Salem, OR 97301-2540. Judicial review is only available for issues that were raised before the department with sufficient specificity to afford the department an opportunity to respond.