

**ORS 197.352 (BALLOT MEASURE 37) CLAIM FOR COMPENSATION**

**OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
Draft Staff Report and Recommendation**

October 18, 2007

**STATE CLAIM NUMBER:** M131076  
Report A<sup>1</sup>

**NAMES OF CLAIMANTS:** Remi and Rose Coussens  
R & R Coussens, Inc.

**MAILING ADDRESS:** 8200 NW Glencoe Road  
Hillsboro, Oregon 97124

**PROPERTY IDENTIFICATION:<sup>2</sup>** Township 1N, Range 3W  
Section 12: tax lots 1700, 1800 and 2100  
Section 13: tax lot 600  
Washington County

**OTHER CONTACT INFORMATION:** Paul Coussens  
PO Box 760  
Banks, Oregon 97106

**DATE RECEIVED BY DAS:** November 22, 2006

**DEADLINE FOR FINAL ACTION:<sup>3</sup>** May 15, 2008

**I. SUMMARY OF CLAIM**

The claimants, Remi and Rose Coussens, and R & R Coussens, Inc. seek compensation in the amount of \$10,464,135<sup>4</sup> 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 378.88-acre subject property<sup>5</sup> into five-acre parcels and to

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<sup>1</sup> Eight tax lots were identified in claim M131076. This staff report addresses only the tax lots identified above. The remaining tax lots are addressed in companion Report B.

<sup>2</sup> Tax lots 600, 1700 and 2100 contain portions that are located in adjacent sections or townships. However, the tax lots are shown on the assessment maps as indicated above.

<sup>3</sup> ORS 197.352, as originally enacted, required that final action on claims made under Measure 37 be made within 180 days of the date the claim was filed.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.

<sup>4</sup> This amount represents total compensation sought for all eight tax lots subject to this claim.

<sup>5</sup> The 378.88-acre subject property includes four tax lots. Tax lot 600 consists of 85.60 acres; tax lot 1700 consists of 80.25 acres; tax lot 1800 consists of 38.41 acres; and tax lot 2100 consists of 174.62 acres.

## **Findings of Fact**

This claim was submitted to DAS on November 22, 2006, for processing under OAR 125, division 145. The claim identifies “all state land use regulations adopted after” September 5, 1967, for tax lot 600 and July 14, 1971, for tax lots 1700, 1800 and 2100, “that would be applicable to the property,” 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**

Claimants Remi and Rose Coussens acquired tax lot 600 on August 31, 1967, as reflected by warranty deeds included with the claim, and tax lots 1700, 1800 and 2100 on July 9, 1971, as reflected by a guardian’s deed included with the claim.<sup>6</sup> However, on July 21, 1993, Remi and Rose Coussens conveyed tax lots 600, 1700, 1800 and 2100 to R & R Coussens, Inc., an Oregon corporation, as reflected by a bargain and sale deed included with the claim. The Washington County Assessor’s Office confirms R & R Coussens, Inc.’s current ownership of the subject property.

## **Conclusions**

Claimant R & R Coussens, Inc. is an “owner” of the subject property as that term is defined by ORS 197.352(11)(C), as of July 21, 1993. Claimants Remi and Rose Coussens are not “owners” 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

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<sup>6</sup> The deed by which claimants Remi and Rose Coussens acquired tax lot 2100 reserved a life estate in a two-acre residential area on that tax lot for Ethel A. Beach. However, according to the Social Security Death Index (SSDI), Ethel Beach died in October, 1976. Therefore, R & R Coussens, Inc. is an owner of all of tax lot 2100 as conveyed to it by claimants Remi and Rose Coussens.

subject to compliance with Goal 3, and OAR 660, division 5, as implemented through the county's acknowledged EFU zone, and the applicable provisions of ORS 215 then in effect.<sup>11</sup> In July, 1993, ORS 215.213 (1993 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) (1993 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.

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 R & R Coussens, Inc. acquired the property on July 21, 1993.

### **Conclusions**

The current zoning requirements, minimum lot size and dwelling standards established by Goal 3, ORS 215 and OAR 660, division 33, were all enacted or adopted after R & R Coussens, Inc. acquired the subject property in 1993 and do not allow the claimants' desired division or development of this portion of the property. However, the claim does not establish whether or to what extent the claimants' desired use of the subject property complies with the standards for land divisions and development under Goal 3 and OAR 660, division 5, as implemented through Washington County's comprehensive plan and EFU zone and applicable provisions of ORS 215, in effect when R & R Coussens, Inc. acquired the property on July 21, 1993.

As explained in Section V.(1), claimants Remi and Rose Coussens are not "owners" of the subject property as that term is defined in ORS 197.352(11)(C). Therefore, no laws enforced by the Commission or the department restrict Remi and Rose Coussens' use of the subject property with the effect of reducing the fair market value 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 R & R Coussens, Inc.'s use of the subject property, and that may continue to apply to R & R Coussens, Inc.'s 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 R & R Coussens, 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.

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<sup>11</sup> 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).

## **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 the general statutory, goal and rule restrictions on division and development of the subject property are not exempt under ORS 197.352(3)(E) only to the extent they were enacted or adopted after R & R Coussens, Inc. acquired the property on July 21, 1993. Provisions of Goal 3, ORS 215 and OAR 660 in effect when R & R Coussens, Inc. acquired the subject property in July 1993 are exempt under ORS 197.352(3)(E) and will continue to apply to the property.

Other laws in effect when R & R Coussens, Inc. acquired the subject property are also exempt under ORS 197.352(3)(E) and will continue to apply to R & R Coussens, Inc.'s use of the property. There may be other laws that continue to apply to R & R Coussens, 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 the subject property until there is a specific proposal for that use. When R & R Coussens, 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, claimants Remi and Rose Coussens are not "owners" 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 their 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 have 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 R & R Coussens, Inc.'s 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 Remi and Rose Coussens' desired use of the subject property

or other form of authorization or consent, the order will not authorize the use of the property unless R & R Coussens, 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 property by R & R Coussens, 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 R & R Coussens, 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 R & R Coussens, 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 R & R Coussens, 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.

**ORS 197.352 (BALLOT MEASURE 37) CLAIM FOR COMPENSATION**

**OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
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October 18, 2007

**STATE CLAIM NUMBER:** M131076  
Report B<sup>1</sup>

**NAMES OF CLAIMANTS:** Remi and Rose Coussens  
R & R Coussens Investments, Inc.

**MAILING ADDRESS:** 8200 NW Glencoe Road  
Hillsboro, Oregon 97124

**PROPERTY IDENTIFICATION:<sup>2</sup>** Township 1N, Range 3W  
Section 12: tax lots 2300, 2400 and 2500  
Section 13: tax lot 100  
Washington County

**OTHER CONTACT INFORMATION:** Paul Coussens  
PO Box 760  
Banks, Oregon 97106

**DATE RECEIVED BY DAS:** November 22, 2006

**DEADLINE FOR FINAL ACTION:<sup>3</sup>** May 15, 2008

**I. SUMMARY OF CLAIM**

The claimants, Remi and Rose Coussens, and R & R Coussens Investments, Inc. seek compensation in the amount of \$10,464,135<sup>4</sup> 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 241.41-acre subject property<sup>5</sup> into 5-acre parcels and to develop a dwelling on each resulting undeveloped parcel. The subject property is

<sup>1</sup> Eight tax lots were identified in claim M131076. This staff report addresses only the tax lots identified above. The remaining tax lots are addressed in companion Report A.

<sup>2</sup> Tax lots 100, 2300 and 2400 contain portions that are located in adjacent sections or townships. However, the tax lots are shown on the assessment maps as indicated above.

<sup>3</sup> 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.

<sup>4</sup> This amount represents total compensation sought for all eight of the tax lots subject to this claim.

<sup>5</sup> The 241.41-acre subject property includes four tax lots. Tax lot 100 consists of 103.21 acres; tax lot 2300 consists of 57.73 acres; tax lot 2400 consists of 62.97 acres; and tax lot 2500 consists of 17.50 acres.

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 identifies “all state land use regulations adopted after” September 12, 1958, for tax lot 2500; September 7, 1967, for the northern approximately 83 acres of tax lot 100, and tax lots 2300 and 2400; and October 9, 1984, for the southeastern approximately 20 acres of tax lot 100, “that would be applicable to the property,” 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**

Claimants Remi and Rose Coussens acquired tax lot 2500 on September 12, 1958; the northern approximately 83-acre portion of tax lot 100, the northwestern and eastern portions of tax lot 2300, and tax lot 2400 on August 23, 1967, as reflected by warranty deeds included with the claim. Remi and Rose Coussens acquired the southwestern approximately 10-acre portion of tax lot 2300 on August 31, 1967, and the southeastern approximately 20-acre portion of tax lot 100 on October 8, 1984, as evidenced by recorded deeds included with the claim. However, on December 21, 1993, Remi and Rose Coussens conveyed tax lots 100, 2400, 2500 and the northwestern and eastern portions of tax lot 2300 to R & R Coussens Investments, Inc., an Oregon corporation, as reflected by a bargain and sale deed included with the claim.<sup>6</sup> The approximately 10-acre southwestern portion of tax lot 2300 was conveyed to another entity, R & R Coussens, Inc., which is not a claimant under this ORS 197.352 demand for compensation. The Washington County Assessor’s Office confirms R & R Coussens

<sup>6</sup> In that deed, claimants Remi and Rose Coussens reserved a life estate in “the dwelling and dwelling-related buildings” that are located on the northwestern and eastern portions of tax lot 2300. Since Remi and Rose Coussens did not reserve a life estate in any of the land surrounding the buildings, the life estate in the dwelling and dwelling-related buildings does not affect R & R Coussens Investments, Inc.’s desired division and development of the property.

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

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 in a marginal lands county under ORS 215.213. OAR 660-033-0130(4)(e) (applicable to non-farm dwellings in marginal lands counties) became effective on August 7, 1993.

At the time R & R Coussens Investments, Inc. acquired the subject property, excluding an approximately 10-acre southwestern portion of tax lot 2300, the property was subject to Washington County's acknowledged comprehensive plan and EFU zone.<sup>9</sup> That zone generally required 76 acres for the creation of a new farm parcel and allowed for both farm dwellings and non-farm parcels and dwellings. At that time, the claimants' desired use of the property would have been subject to compliance with Goal 3, and OAR 660, division 33, as implemented through the county's acknowledged EFU zone, and the applicable provisions of ORS 215 then in effect.<sup>10</sup> In December, 1993, ORS 215.213 (1993 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) (1993 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.

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 R & R Coussens Investments, Inc. acquired the property, excluding the approximately 10-acre southwestern portion of tax lot 2300, on December 21, 1993.

### **Conclusions**

The current zoning requirements, minimum lot size and dwelling standards established by Goal 3, ORS 215 and OAR 660, division 33, were all enacted or adopted after R & R Coussens Investments, Inc. acquired the subject property, excluding an approximately 10-acre southwestern portion of tax lot 2300, in December 1993 and do not allow the claimants' desired division or development of the property. However, the claim does not establish whether or to what extent the claimants' desired use of the subject property complies with the standards for land divisions and development under Goal 3 and OAR 660, division 33, as implemented through Washington County's comprehensive plan and EFU zone and applicable provisions of

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<sup>9</sup> Washington County's EFU zone was acknowledged by the Commission for compliance with Goal 3 on July 30, 1984.

<sup>10</sup> 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).

R & R Coussens Investments, Inc. acquired the subject property, excluding the approximately 10-acre southwestern portion of tax lot 2300, 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 \$10,464,135.

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 R & R Coussens Investments, Inc. acquired the property, excluding the approximately 10-acre southwestern portion of tax lot 2300, 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, excluding the approximately 10-acre southwestern portion of tax lot 2300, 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, except for the approximately 10-acre southwestern portion of tax lot 2300, including applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, which Washington County has implemented through its current EFU zone. With the exception of amendments enacted or adopted after December 21, 1993, Goal 3, ORS 215 and OAR 660 were in effect when R & R Coussens Investments, Inc. acquired the subject property, excluding the approximately 10-acre southwestern portion of tax lot 2300.

#### **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 the general statutory, goal and rule restrictions on division and development of the subject property are not exempt under ORS 197.352(3)(E) only to the extent they were enacted or adopted after R & R Coussens Investments, Inc. acquired the property, excluding the approximately 10-acre southwestern portion of tax lot 2300, on December 21, 1993. Provisions of Goal 3, ORS 215 and OAR 660 in effect when R & R Coussens Investments, Inc. acquired the subject property, excluding the approximately 10-acre southwestern portion of tax lot 2300, in December 1993 are exempt under ORS 197.352(3)(E) and will continue to apply to the property.

Other laws in effect when R & R Coussens Investments, Inc. acquired the subject property, excluding the approximately 10-acre southwestern portion of tax lot 2300, are also exempt under ORS 197.352(3)(E) and will continue to apply to R & R Coussens Investments, Inc.'s use of the property. There may be other laws that continue to apply to R & R Coussens Investments, Inc.'s use of the subject property, excluding the approximately 10-acre southwestern portion of tax lot

acquired the property, excluding the approximately 10-acre southwestern portion of tax lot 2300. 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 R & R Coussens Investments, Inc. to use the subject property, excluding the approximately 10-acre southwestern portion of tax lot 2300, for a use permitted at the time it acquired the property on December 21, 1993.

### **Conclusions**

Based on the record before the department, claimants Remi and Rose Coussens have not established that they are entitled to relief under ORS 197.352(1) as a result of land use regulations enforced by the Commission or the department because they are not owners of the subject property, and R & R Coussens Investments, Inc. has not established it is entitled to relief under ORS 197.352(1) for the approximately 10-acre southwestern portion of tax lot 2300 as a result of land use regulations enforced by the Commission or the department because it is not an owner of that portion of the property. Therefore, the department recommends denial of the claim as to Remi and Rose Coussens and as to R & R Coussens Investments, Inc. for the approximately 10-acre southwestern portion of tax lot 2300.

The department otherwise recommends that the claim be approved as to R & R Coussens Investments, 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 R & R Coussens Investments, Inc.'s division of the 241.41-acre subject property, excluding the approximately 10-acre southwestern portion of tax lot 2300, into 5-acre parcels or to its development of a dwelling on each resulting undeveloped parcel: applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, enacted or adopted after December 21, 1993. These land use regulations will not apply to R & R Coussens Investments, 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 21, 1993. The department acknowledges that the relief to which R & R Coussens Investments, Inc. is entitled under ORS 197.352 may not allow it 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 R & R Coussens Investments, Inc. to use the property, excluding the approximately 10-acre southwestern portion of tax lot 2300, for the use described in this report, subject to the standards in effect on December 21, 1993. On that date, the property was subject to compliance with Goal 3 and OAR 660, division 33, as implemented by Washington County's acknowledged EFU zone, and the applicable provisions 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