



Oregon

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October 9, 2007

To: Claimant and Interested Persons

From: Cora R. Parker, Acting Director



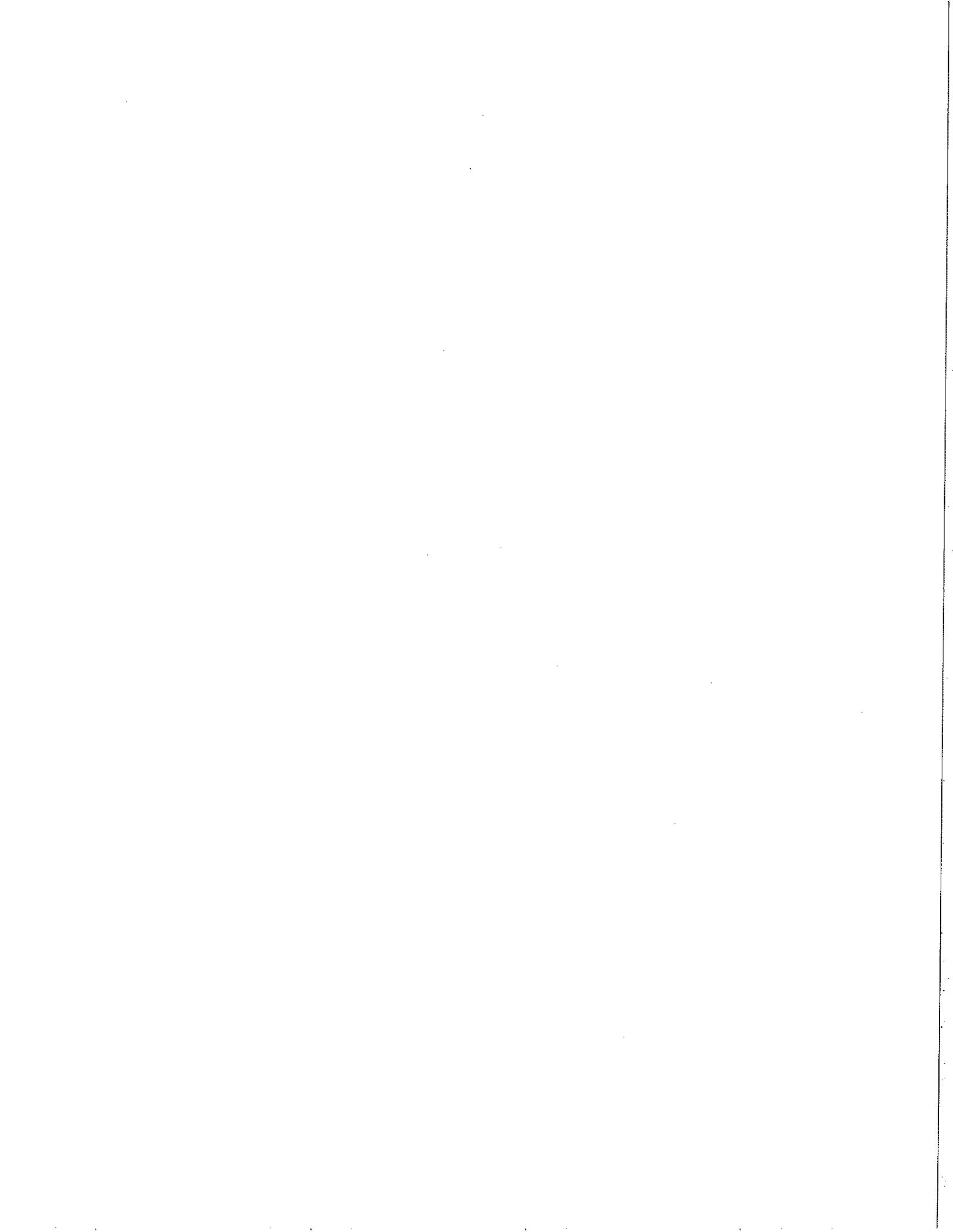
Re: Ballot Measure 37 (ORS 197.352) Claim Number M131443

Claimant: Joan R. Hildebrand

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 9, 2007

STATE CLAIM NUMBER: M131443

NAME OF CLAIMANT: Joan R. Hildebrand

MAILING ADDRESS: PO Box 193
Langlois, Oregon 97450

PROPERTY IDENTIFICATION: Township 30S, Range 14W
Section 13: tax lot 200
Section 24: tax lot 3200
Coos County

OTHER CONTACT INFORMATION: Tricia Brown
PO Box 31
Langlois, Oregon 97450

DATE RECEIVED BY DAS: November 28, 2006

DEADLINE FOR FINAL ACTION:¹ May 21, 2008

I. SUMMARY OF CLAIM

The claimant, Joan Hildebrand, seeks compensation in the amount of \$2 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 claimant desires compensation or the right to divide the 320-acre subject property² into 20- to 40-acre parcels, and develop a dwelling on one of the resulting parcels.³ The subject property is located at the geographical coordinates described above, near Langlois, in Coos 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.

² The 320-acre subject property includes two tax lots. Tax lot 200 consists of 160 acres and tax lot 3200 consists of 240 acres.

³ The claim also indicates that the claimant desires to sell the newly-created parcels for development. In effect, the claimant requests that a decision of the department to "not apply" (waive) certain laws as set forth in this report be transferable with the property. ORS 197.352 only authorizes a state agency to waive a law in order to allow the current owner a use of the property permitted at the time that owner acquired the property. A determination of transferability is beyond the scope of relief that the department may grant under ORS 197.352. The Oregon

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 Joan Hildebrand's division of tax lot 200 into 20- to 40-acre parcels, and to her development of a dwelling on one of the resulting parcels: 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, enacted or adopted after January 20, 1979. These laws will not apply to the claimant only to the extent necessary to allow her to use tax lot 200 for the use described in this report, and only to the extent that use was permitted when she acquired that tax lot in 1979.

The department has further determined that the claim is not valid as it relates to tax lot 3200 because the claimant's desired use of that tax lot was prohibited under the laws in effect when the claimant acquired that tax lot in 2002. (See the complete recommendation in Section VI of this report.)

III. COMMENTS ON THE CLAIM

Comments Received

On July 25, 2006, 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 15-day notice.

The comment 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.) (See the comment letter 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 criterion to an application submitted by the owner, whichever is later; or

Department of Justice has advised the department that "[i]f the current owner of the real property conveys the property before a new use allowed by the public entity is established, then the entitlement to relief will be lost."

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 criterion, whichever is later.

Findings of Fact

This claim was submitted to DAS on November 28, 2006, for processing under OAR 125, division 145. The claim generally identifies laws adopted after January 20, 1979, that prohibit uses allowed prior to January 20, 1979, and House Bill 3661 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

The claimant, Joan Hildebrand, acquired tax lot 200 on January 20, 1979, as reflected by a warranty deed included with the claim; and tax lot 3200 on November 25, 2002, as reflected by a bargain and sale deed included with the claim.⁴ The Coos County Assessor’s Office confirms the claimant’s current ownership of the subject property.

Conclusions

The claimant, Joan Hildebrand, is an “owner” of the subject property as that term is defined by ORS 197.352(11)(C), as of January 20, 1979, for tax lot 200, and as of November 25, 2002, for tax lot 3200.

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 claimant’s use of private real property in a manner that reduces the fair market value of the

⁴ The claimant originally acquired tax lot 3200 on January 20, 1979. However, on February 13, 2002, the claimant transferred tax lot 3200 to Robert J. Hildebrand by a recorded contract of sale. The claimant re-acquired tax lot 3200 on November 25, 2002, through a bargain and sale deed from Deborah Hildebrand, the widow of Robert Hildebrand.

property relative to how the property could have been used at the time the claimant or a family member acquired the property.

Findings of Fact

The claim indicates that the claimant desires to divide the 320-acre subject property into 20- to 40-acre parcels and to develop a dwelling on one of the resulting parcels, and that current land use regulations prevent the desired use.⁵

The claim is based generally on the applicable provisions of state law that require Exclusive Farm Use (EFU) and forest zoning and restrict uses on EFU- and forest-zoned land.

A portion of the subject property is zoned EFU by Coos County as required by Goal 3, in accordance with ORS 215 and OAR 660, division 33, because the claimant's property is "agricultural land" as defined by Goal 3.⁶ 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.

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, 1994.⁷

A portion of the subject property is zoned Forest (F) by Coos County as required by Goal 4, in accordance with ORS 215 and OAR 660, division 6, because that portion of the claimant's property is "forest land" under Goal 4. Goal 4 became effective on January 25, 1975, and requires that forest land be zoned for forest use.

⁵ The claimant summarily cites state land use laws as applicable to this claim, but does not establish how any particular land use law either apply to the claimant's desired use of the subject property or restricts its use with the effect of reducing its fair market value. On their face, most of these regulations either do not apply to the claimant's property or do not restrict the claimant's 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 claimant's desired use of the subject property, based on the claimant's description of that desired use.

⁶ The claimant's property is "agricultural land" because it contains Natural Resources Conservation Service Class I-IV soils.

⁷ 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 under OAR 660, division 33, for EFU-zoned land.

Current land use regulations, including ORS 215.705 to 215.755 and 215.780 and OAR 660, division 6, enacted or adopted pursuant to Goal 4, generally prohibit the division of forest-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 generally establishes an 80-acre minimum size for the creation of new lots or parcels on forest-zoned land and became effective on November 4, 1993 (Chapter 792, Oregon Laws 1993). ORS 215.705 to 215.755 establish standards for the creation of new parcels and dwellings allowed in forest zones.

OAR 660, division 6, became effective on September 1, 1982, to implement Goal 4 and establish standards for divisions and development of land zoned for forest use, and was amended on March 1, 1994, to implement ORS 215.705 to 215.755 and 215.780. OAR 660-006-0025 interprets the goal and statutory standard for uses allowed in forest zones. OAR 660-006-0026 interprets land division requirements in forest zones, and 660-006-0027 and 660-006-0029 interpret the standards for dwellings in forest zones.

The claimant acquired tax lot 200 on January 20, 1979, after the adoption of the statewide planning goals, but before the Commission acknowledged Coos County's land use regulations to be in compliance with the statewide planning goals pursuant to ORS 197.250 and 197.251.⁸ At that time, the property was zoned Interim Exclusive Agricultural (IGA-20) by Coos County. However, because the Commission had not acknowledged the county's plan and land use regulations when the claimant acquired tax lot 200 on January 20, 1979, the statewide planning goals, and Goal 3 in particular, applied directly to tax lot 200 when the claimant acquired it.⁹

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, the claimant's opportunity to divide tax lot 200 when she acquired it in 1979 was limited to land divisions that were consistent with Goal 3, which required that the resulting parcels be (1) 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.

⁸ Coos County's comprehensive plan and land use regulations were acknowledged by the Commission for compliance with Goal 3 on August 29, 1985.

⁹ 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).

Under the Goal 3 standards in effect on January 20, 1979, farm dwellings were allowed if they were determined to be "customarily provided in conjunction with farm use" under ORS 215.213(1)(e) (1973 edition). Non-farm dwellings were subject to compliance with ORS 215.213(3) (1973 edition).

The claim does not establish whether or to what extent the claimant's desired division and development of the subject property were allowed under the standards in effect when she acquired tax lot 200 on January 20, 1979.

The claimant acquired tax lot 3200 on November 25, 2002. At that time, the property was subject to the regulations currently in effect, as described above.

Conclusions

The current zoning requirements, minimum lot size and dwelling standards established under the applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, divisions 6, and 33, for lands zoned for agriculture and forest use were enacted or adopted after the claimant acquired tax lot 200 in 1979 and before the claimant acquired tax lot 3200, and do not allow the claimant's desired division and development of that portion of the subject property. Laws enacted or adopted since the claimant acquired tax lot 3200 in 2002 do not restrict the claimant's desired use of that portion of the subject property relative to when the claimant acquired it in 2002. The claim does not establish whether or to what extent the claimant's desired use of tax lot 200 complies with the standards for land division and development under Goal 3 and ORS 215 applicable and in effect when the claimant acquired that portion of the subject property on January 20, 1979.

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 claimant has identified. There may be other laws that currently apply to the claimant's use of the subject property, and that may continue to apply to the claimant'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 the claimant seeks a building or development permit to carry out a specific use for tax lot 200, it may become evident that other state laws apply to that use.

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 \$2 million as the reduction in the subject property's fair market value due to the regulations that restrict the claimant's desired use of the property. This amount is based on the claimant's assessment of the property's value.

Conclusions

As explained in Section V.(1) of this report, the claimant is Joan Hildebrand who acquired tax lot 200 on January 20, 1979, and tax lot 3200 on November 25, 2002. No state laws enacted or adopted since the claimant acquired tax lot 3200 restrict the use of the property relative to the uses allowed in 2002. Therefore, the fair market value of that tax lot has not been reduced as a result of land use regulations enforced by the Commission or the department.

Under ORS 197.352, the claimant is due compensation for land use regulations that restrict the use of tax lot 200 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 claimant acquired tax lot 200 restrict the claimant's desired use of that tax lot. The claimant estimates that the effect of the regulations on the fair market value of the subject property is a reduction of \$2 million.

Without an appraisal or other documentation and without verification of whether or the extent to which the claimant's use of tax lot 200 was allowed under the standards in effect when she acquired that portion of 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 the subject property, including applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, divisions 6, and 33, which Coos County has implemented through its current EFU and F zones. With the exception of provisions of Goal 3 and ORS 215 adopted before January 20, 1979, these state land use regulations were not in effect when the claimant acquired tax lot 200. As set forth in Section V.(2) of this report, all of the state land use regulations were in effect when the claimant acquired tax lot 3200 in 2002.

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. With the exception of provisions of Goal 3 and ORS 215 in effect when the claimant acquired tax lot 200 in 1979, it appears that the general statutory, goal and rule restrictions on residential division and development were not in effect when the claimant acquired that portion of the property and, therefore, are exempt under ORS 197.352(3)(E). Provisions of Goal 3 and ORS 215 in effect

when the claimant acquired tax lot 200 in 1979 are exempt under ORS 197.352(3)(E) and will continue to apply to tax lot 200. All of the state land use regulations that restrict the claimant's desired use of tax lot 3200 were in effect when the claimant acquired that tax lot and, therefore, these state land use regulations are exempt under ORS 197.352(3)(E) as to tax lot 3200.

Other laws in effect when the claimant acquired the subject property are exempt under ORS 197.352(3)(E) and will also continue to apply to the claimant's use of the property. 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 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 OAR 660, division 6, are exempt under ORS 197.352(3)(B).

There may be other laws that continue to apply to the claimant'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 the claimant seeks a building or development permit to carry out a specific use of tax lot 200, it may become evident that other state laws currently apply to that use and may continue to apply to that use. In some cases, some of these laws may be exempt under ORS 197.352(3)(A) to (D).

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 claimant has 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 claimant should be aware that the less information she has 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 her 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 the claimant's desired use of tax lot 3200 relative to what was permitted when the claimant acquired that portion of the subject property in 2002 and do not reduce the fair market value of that property. Laws enforced by the Commission or the department do restrict the claimant's desired use of tax lot 200. 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 \$2 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 tax lot 200, 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 claimant's desired use of tax lot 200 was allowed under the standards in effect when she acquired that tax lot. 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 Joan Hildebrand to use tax lot 200 for a use permitted at the time she acquired that tax lot on January 20, 1979.

Conclusions

Based on the record and the foregoing findings and conclusions, the claimant has not established that she is entitled to relief under ORS 197.352(1) for tax lot 3200 as a result of land use regulations enforced by the Commission or the department because no state land use regulations restrict the claimant's desired use of tax lot 3200 relative to uses permitted when she acquired that portion of the subject property, with the effect of reducing the property's fair market value. Therefore, the department recommends that the claim as to tax lot 3200 be denied.

The department further recommends that the claim be approved as to tax lot 200, 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 Joan Hildebrand's division of tax lot 200 into 20- to 40-acre parcels, and to her development of a dwelling on one of the resulting parcels: applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, divisions 6, and 33, enacted or adopted after January 20, 1979. These land use regulations will not apply to the claimant only to the extent necessary to allow her to use tax lot 200 for the use described in this report, and only to the extent that use was permitted when she acquired tax lot 200 on January 20, 1979.

2. The action by the State of Oregon provides the state's authorization to the claimant to use tax lot 200 for the use described in this report, subject to the standards in effect on January 20, 1979. On that date, tax lot 200 was subject to compliance with the provisions of Goal 3 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 the claimant first obtains that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit; a land use decision; a "permit" as defined in ORS 215.402 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 the claimant 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 claimant to use the subject property, it may be necessary for her 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 claimant 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 claimant.

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 claimant or the claimant's 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 claimant 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.