Oregon
Tina Kotek, Governor

Department of Land Conservation and Development
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Final Order and Authorization to Use Property

In Response To	Claim for just compensation under Oregon Revised Statutes 195.300 to 195.336 (Measure 49)
State Claim Number:	49-25-0002
Claimants:	William F. and Chrystalyn S. Bush 62710 Wagon Wheel Drive Saint Helens, OR 97051
Claim Property:	Township 5 north, Range 1 west, Section 19, Lot 302, Columbia County
Primary Contact or Agent:	William Bush 62710 Wagon Wheel Drive Saint Helens, OR 97051
Decision	Authorization to Use Property Without Applying Certain Land Use Regulations

The claimants, William F. and Chrystalyn S. Bush, filed a claim with the state under Oregon Revised Statutes (ORS) 195.300 through 195.336 (also known as Measure 49) on July 23, 2025, for property on Wagon Wheel Drive north of the intersection with Smith Road, near Saint Helens, in Columbia County.

The Department of Land Conservation and Development (DLCD or Department) reviewed the claim and issues this Final Order and Authorization to Use Property in response to the claim.

I. ANALYSIS OF CLAIM

To qualify for just compensation under ORS 195.300 through 195.336, the claim must meet each of the following requirements.

1. The Claimant Is an Owner of the Property

ORS 195.310 requires that the claimant be an owner of the property. ORS 195.300(18) defines "[o]wner" as:

> "(a) The owner of fee title to the property as shown in the deed records of the county where the property is located;
> "(b) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
> "(c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner."

Findings of Fact and Conclusions:

According to the bargain and sale deed submitted by the claimants, William Bush and Crystalynn Bush, are the owners of fee title to the property as shown in the Columbia County deed records and, therefore, are owners of the property under ORS 195.300.

Columbia County has confirmed that the claimants are the current owners of the property.

2. All Owners of the Property Have Consented in Writing to the Claim

ORS 195.312 requires that all owners of the property must consent to the claim in writing.

Findings of Fact and Conclusions:

The claimants are the only owners of the property; therefore, all owners of the property have consented to the claim in writing.

3. One or More New Land Use Regulations Restrict the Residential Use of the Property

ORS 195.305 states that just compensation may be due "if a public entity enacts one or more land use regulations that restrict the residential use of private real property."

Findings of Fact and Conclusions:

The property is currently zoned Primary Forest Zone - 80 (PF-80) by Columbia County, in accordance with ORS chapter 215 and Oregon Administrative Rule (OAR) 660, division 6, because the property is "forest land" under Statewide Planning Goal 4. Applicable provisions of ORS chapter 215 and OAR 660, division 6, enacted or adopted pursuant to Goal 4, generally prohibit the establishment of a lot or parcel less than 80 acres in size in a forest zone, and regulate the establishment of dwellings on new or existing lots or parcels.

The claim property consists of 9.97 acres. Therefore, state land use regulations prohibit the claimants from establishing a dwelling on the claim property.

Columbia County Zoning Ordinance section 506.4 would allow a template forest land dwelling in the forest zone on properties less than 80 acres if the property qualifies under a template test in accordance with ORS 215.750. The claimants submitted a template analysis showing that the property does not qualify for a template forest land dwelling in the forest zone due to House Bill 2225 (2019).

4. Claimant Acquired the Property Prior to the New Land Use Regulation

ORS 195.305(3) states that just compensation is not required for "land use regulations that were enacted prior to the claimant's acquisition date."

ORS 195.328 states that "a claimant's acquisition date is the date the claimant became the owner of the property as shown in the deed records of the county in which the property is located. If there is more than one claimant for the same property under the same claim and the claimants have different acquisition dates, the acquisition date is the earliest of those dates."

Findings of Fact and Conclusions

Columbia County deed records indicate that the claimants acquired the property on May 21, 2018. This claim is based on House Bill 225 from the 2019 regular session of the Oregon Legislative Assembly. The bill took effect for land within Columbia County on November 1, 2021; therefore, the claimants acquired the property prior to the new land use regulation.

5. Residential Use was Lawfully Permitted Prior to the New Land Use Regulation

ORS 195.305 states that an owner is entitled to just compensation if "If a public entity enacts one or more land use regulations that restrict the residential use of private real property * * * and that reduce the fair market value of the property." A land use regulation restricts the residential use if and only if the use was lawfully permitted before the public entity enacted the regulation.

Findings of Fact and Conclusions

Prior to the new land use regulation, HB 2225 (2019), the claim property was subject to the requirements in Columbia County's zoning ordinance for Primary Forest Zone - 80 (PF-80). The zoning ordinance allows a dwelling to be established in the zone through "Template Dwelling for Tracts Smaller than 80 Acres" in section 506.4 in accordance with ORS 215.750. Prior to the new land use regulation, Columbia County approved a template test for the claim property. The approval stated that the county "would accept and entertain an application for a Conditional Use Permit to place one dwelling on the property.” Therefore, the claimants lawfully could have established the requested dwelling on their date of acquisition.

6. The Claim was Filed Within the Time Limit

ORS 195.312(5) requires that a claimant file a claim for the property with the state within five years after the date the new land use regulation was enacted.

Findings of Fact and Conclusions

This claim is based on House Bill 2225 from the 2019 regular session of the Oregon Legislative Assembly. The bill took effect for land within Columbia County on November 1, 2021, as provided in section 3, subsection (1), paragraph (b). The five-year period to file a claim will expire on November 1, 2026. The claimants filed this claim with the state on July 23, 2025; therefore, the claim is timely, as provided in ORS 195.312(5) and ORS 195.330.

7. Residential Use Is Not Restricted by a Land Use Regulation Described in ORS 195.305(3)

ORS 195.305(3) states that just compensation is not required for land use regulations that were enacted prior to claimant’s acquisition date or to land use regulations:

> “(a) That restrict or prohibit activities commonly and historically recognized as public nuisances under common law;
> “(b) That restrict or prohibit activities for the protection of public health and safety;
> “(c) To the extent the land use regulations are required to comply with federal law; or
> “(d) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing.
> “(e) That plan and rezone land to an industrial zoning classification for inclusion within an urban growth boundary; or
> “(f) That plan and rezone land within an urban growth boundary to an industrial zoning classification.”

Findings of Fact and Conclusions

Based on the documentation submitted by the claimants, it does not appear that residential use is restricted by land use regulations described in ORS 195.305(3).

8. The New Land Use Regulations Caused a Reduction in the Fair Market Value of the Claim Property.

ORS 195.310(1)(d) states that just compensation may be due if "one or more land use regulations * * * has reduced the fair market value of the property." ORS 195.310(2) and (3) set several requirements for analyzing a reduction in fair market value.

a. Claimant Must Provide an Appraisal of Fair Market Value Before and After Enactment of the Land Use Regulation.

ORS 195.310(2) requires that "A claimant must provide an appraisal showing the fair market value of the property one year before the enactment of the land use regulation and the fair market value of the property one year after the enactment."

Findings of Fact and Conclusions

The claimants provided an appraisal showing that the fair market value of the claim property was $239,000 before enactment, and $72,500 after enactment; therefore, this requirement has been met.

b. The appraisal must be prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308.

ORS 195.310(2)(a) requires that "The appraisal must * * * [b]e prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308."

Findings of Fact and Conclusions

The claimants submitted an appraisal by Charles Gregory Lamunyan, who is an Oregon Certified Residential Appraiser (CR00981); therefore, this requirement has been met.

c. The appraisal must comply with Standards of Professional Appraisal Practice.

ORS 195.310(2)(b) requires that "The appraisal must * * * [c]omply with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989."

Findings of Fact and Conclusions

The claimant's appraiser confirmed that the appraisal has been completed in conformance with Uniform Standards of Professional Appraisal Practice (*See* Appraisal at 14); therefore, this requirement has been met.

d. The appraisal must determine the highest and best use of the property.

ORS 195.310(2)(c) requires that "The appraisal must * * * expressly determine the highest and best use of the property at the time the land use regulation was enacted."

Furthermore, ORS 195.310(3) requires that "relief may not be granted under this section if the highest and best use of the property at the time the land use regulation was enacted was not the use that was restricted by the land use regulation."

Findings of Fact and Conclusions

The appraisal determines that the highest and best use of the claim property at the time the land use regulations were enacted was "Improvement w/ Single Family Residence." The claim is for establishing a dwelling for residential use; therefore, this requirement has been met.

II. COMMENTS ON THE NOTICE

The department provided notice of this claim on January 15, 2026, to owners of surrounding properties. The department also provided notice to the Columbia County Planning Division. The department received comments and used them in issuing this Final Order.

Susan Kennedy responded with questions and a request for more information. The response did not comment on the claim.

Columbia County Planning Division provided comments that did not take a position regarding approval or denial of the claim. The county provided background information about the property and about the county process for approving dwellings in forest zones. That information was consistent with the information provided by the applicant and was used to analyze the claim.

Kelly Cox provided comments in support of the claim. The comments described the neighborhood around the claim property and potential benefits of approval. The comments did not directly address the approval criteria.

III. CONCLUSION

Based on the analysis above, the claimants qualify for just compensation under ORS 195.300 through 195.336.

IV. AUTHORIZATION TO USE PROPERTY

ORS 195.310(6) provides two options in response to a valid claim:

"(a) Compensate the claimant for the reduction in the fair market value of the property; or

"(b) Authorize the claimant to use the property without application of the land use regulation to the extent necessary to offset the reduction in the fair market value of the property."

The department does not have funds to compensate the claimants; therefore, this Final Order authorizes the claimants to use the property without application of HB 2225 (2019). Specifically, the claimants are authorized to establish a dwelling on the claim property subject to the following terms:

1. No land divisions are authorized by this final order.

2. The dwelling that the claimants are authorized to establish by this final order must comply with all applicable standards governing the siting or development of the dwelling except for those requirements in HB 2225 that prohibit the establishment of the dwelling. This final order does not waive any land use regulations enacted by entities other than the State of Oregon.

3. This final order does not authorize the establishment of a land division or dwelling in violation of a land use regulation described in ORS 195.305(3) or in violation of any other law that is not a land use regulation as defined by ORS 195.300(14).

4. This final order only authorizes the claimants to establish a dwelling on the claim property. No additional development is authorized on contiguous property for which no claim was filed.

5. If the claimants transferred ownership interest in the claim property prior to the date of this order, this order is rendered invalid and does not authorize development.

6. When the claimants have lawfully established the dwelling authorized by this order, it will have the legal status of a lawful nonconforming use and may be continued lawfully as provided by ORS 215.130.

7. 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, this 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.

It is hereby ordered that this Final Order is entered by the Director of the Department of Land Conservation and Development as a final order of the Department and of the Land Conservation and Development Commission under ORS 197.300 to ORS 195.336 and OAR 660-041-0000 to 660-041-0160.

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Kirstin Greene, AICP
Deputy Director
Department of Land Conservation and Development
Dated this 9th day of March 2026.

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 (as defined in ORS 195.300) of the claim property that is 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 claim 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.