



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:** E133552

**CLAIMANT:** B.A. Hanten<sup>1</sup>  
8519 Galice Road  
Merlin, OR 97532

**MEASURE 37 PROPERTY IDENTIFICATION:** Township 35S, Range 7W, Section 7  
Tax lot 200  
Josephine County

**AGENT CONTACT INFORMATION:** Robert Hart  
Bob Hart Consulting  
5126 W Evans Creek Road  
Rogue River, OR 97537

The claimant, B.A. Hanten, filed a claim with the state under ORS 197.352 (2005) (Measure 37) on December 2, 2006, for property located at 8599 Galice Road, near Merlin, in Josephine 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 7 of Measure 49, which allows the Department of Land Conservation and Development (the department) to authorize up to ten 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. Qualification Requirements

To qualify for a home site approval under the Section 7 option, a claimant must file an appraisal that establishes the reduction in the fair market value of the property as required by Section 7 (6) of Measure 49. The appraisal must be filed with the department or with the county if the claim is

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<sup>1</sup> An obituary obtained from the Grants Pass Daily Courier indicates that B.A. Hanten passed away on May 10, 2008. Under Measure 49, if a claimant dies on or after December 6, 2007, entitlement to prosecute a claim passes to the person that acquires the claim property by devise or by operation of law.

being processed by the county, within 180 days after the date the claimant files the election to obtain relief under Section 7 of Measure 49.

### **Findings of Fact and Conclusions**

The claimant, B.A. Hanten, elected to proceed under the Section 7 option, with the state on June 23, 2008. The claimant was required to submit an appraisal by December 20, 2008, within 180 days after the date he filed his election. No appraisal has been received by the department.

Because this requirement has not been met, the claimant is not entitled to any relief under Section 7 of Measure 49, and, therefore, the remaining approval criteria will not be evaluated.

### **II. COMMENTS ON THE PRELIMINARY EVALUATION**

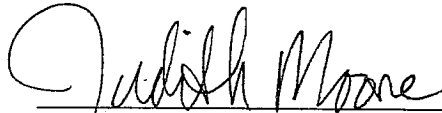
The department issued its Preliminary Evaluation for this claim on September 28, 2009. Pursuant to OAR 660-041-0090, the department provided written notice to the owners of surrounding properties. Comments received have been taken into account by the department in the issuance of this Final Order of Denial.

### **III. CONCLUSION**

Based on the analysis above, the claimant does not qualify for any Measure 49 home site approvals. The claimant did not submit an appraisal within 180 days after the date he filed his election as required by Section 8(5) of Measure 49.

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:



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Judith Moore, Division Manager  
Dept. of Land Conservation and Development  
Dated this 3<sup>rd</sup> day of May 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 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 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.