

**Memo Date:** March 12, 2007  
**Hearing Date:** April 3, 2007



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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works Dept./Land Management Division

**PRESENTED BY:** BILL VANVACTOR, COUNTY ADMINISTRATOR  
KENT HOWE, PLANNING DIRECTOR

**AGENDA ITEM TITLE:** In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA06-7102, Carpenter)

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**BACKGROUND**

**Applicant:** Edward B. Carpenter and Fern L. Carpenter

**Current Owner:** Carpenter Loving Trust

**Agent:** None

**Map and Tax lot(s):** 21-03-04 #2200, 21-03-05 #2000, 21-03-05 #2100

**Acreage:** Approximately 59 acres in total; #2000 is 8 acres, #2100 is 19 acres and 2200 is 32 acres

**Current Zoning:** E40, LC 16.212 (Exclusive Farm Use), /FP, LC16. 244 (Floodplain Combining Zone), LC 16.254 (Greenway Development Permit), LC 16.253 (Riparian Regulations)

**Date Property Acquired:** December 30, 1975, the property is acquired by Edward B. Carpenter and Fern L. Carpenter (WD #8211013))

August 29, 1991, the property is placed into the Carpenter Loving Trust (B&SD #9141979)

**Date claim submitted:** November, 28 2006

**180-day deadline:** May 27, 2007

**Land Use Regulations in Effect at Date of Acquisition:** FF20 (Farm-Forestry 20 District)

**Restrictive County land use regulation:** Minimum parcel size of forty acres and limitations on new dwellings in the E40 (Exclusive Farm Use) zone (LC 16.212).

## **ANALYSIS**

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

### **1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and**

The current owner of the subject property is the Carpenter Loving Trust. Edward B. Carpenter and Fern L. Carpenter acquired an interest in the property on December 30, 1975 (WD #8211013). On that date the property was zoned FF20. On August 29, 1991, the property was placed into the Carpenter Loving Trust (B&SD #9141979).

It is unclear if the ownership interests of Edward B. Carpenter and Fern L. Carpenter has been maintained because the applicant has failed to supply information concerning the revocability of the Carpenter Loving Trust.

### **2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and**

No credible evidence demonstrating a loss in the fair market value of the property has been submitted. The applicant has submitted a statement claiming that "5 acre home sites are worth \$150,000 each". However, when the property was acquired in 1975 by Edward B. Carpenter and Fern L. Carpenter, 5 acre lots were not permitted in the FF20 zone.

### **3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.**

The minimum lot size and restrictions on new dwellings in the E40 zone do not appear to be exempt regulations.

In addition, the greenway development permit regulations of LC 16.254 and the riparian regulations of LC 16.253 apply to this property but the applicant has not provided any evidence that specifically demonstrates how these regulations have lowered the fair market value of the property.

Regulations found within the /FP (Floodplain Combining Zone) of LC16.244 are exempt regulations as defined by LC 2.710 (2) and cannot be waived.

## **CONCLUSION**

There is insufficient evidence to determine the validity of this claim.

## **RECOMMENDATION**

If additional information is not submitted at the hearing, the County Administrator recommends the Board direct him to deny the claim.