

Memo Date: March 14, 2007
Order Date: April 3, 2007



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 (PA06-7126, Defoe2)

BACKGROUND

Applicant: Ronald Major Defoe
Current Owner: Ronald Major Defoe
Agent: None
Map and Tax lot: 16-04-07, #100 and 16-04-08-20, #300
Acreage: 61 acres
Current Zoning: E-40 (Exclusive Farm Use)
Date Property Acquired: October 15, 1998 (Deed #98-83097)
Date claim submitted: November 29, 2006
180-day deadline: May 28, 2007
Land Use Regulation in Effect at Date of Acquisition: E-25 (Exclusive Farm Use)
Restrictive County land use regulation: Minimum parcel size of twenty five acres and limitations on new dwellings in the E25 (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 is Ronald Major Defoe. He states his family acquired the property in 1913. However, according to the title report, the Defoe family first acquired an interest in the property on October 15, 1998, when Jill Riehl conveyed the property to Karla Kay Defoe (Deed #98-83097). The applicant has not explained this apparent conflict.

On October 15, 1998, the property was zoned E-25 (Exclusive Farm Use). Ronald Major Defoe acquired an interest in the property on April 15, 2005, (deed #2005-027084). Currently, the property is zoned E-25. The applicant has not identified any restrictive regulation enacted or enforced since the Defoe family acquired the property. Specifically, the current minimum lot size and dwelling restrictions were applicable in 1998 when the Defoe family acquired an interest in the property.

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

The property was zoned E-25 when it was acquired by the Defoe family. The claimant has estimated a reduction in fair market value of the property at \$450,000. The claimant has not provided any competent analysis of value reduction other than the claimant's opinion. The County Administrator has not waived the requirement for an appraisal. In addition, because the current minimum lot size and dwelling restrictions were applicable when the Defoe family acquired the property, there does not appear to be any reduction in value.

The claimant has not demonstrated a reduction in fair market value of the property as a result of the current land use regulations.

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 E25 zone appear to be exempt regulations because they were enacted and applied to the property prior to the earliest date of acquisition by the Defoe family and there does not appear to be a reduction in fair market value from enforcement of a restrictive land use regulation. The claimant has not identified any other restrictive land use regulations that allegedly reduce the fair market value of the property.

CONCLUSION

It appears this is not a valid claim because the minimum lot size and dwelling restrictions were applicable when the Defoe family acquired the property in 1998.

RECOMMENDATION

The County Administrator recommends the Board direct him to deny the claim.