



**Memo Date:** March 21, 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 (PA06-7112, Woodard2)

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## **BACKGROUND**

**Applicant:** Steve Woodard

**Current Owner:** Steve Woodard Living Trust

**Agent:** Micheal M. Reeder

**Map and Tax Lots:** 21-02-07, tax lots #800, 801, and the portion of tax lot #1000 that is zoned F2 (Impacted Forest Land)

**Acreage:** approximately 60 acres

**Current Zoning:** F2 (Impacted Forest Land)

**Date Property Acquired:** June 4, 1948 (WD # 87377)

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

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

**Land Use Regulations in Effect at Date of Acquisition:** unzoned

**Restrictive County land use regulation:** Minimum parcel size of eighty acres and limitations on new dwellings in the F2 (Impacted Forest Land) zone (LC 16.211).

## **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 the Steve Woodard Revocable Trust. Ernest Stephen (Steve) Woodard acquired a springing executory interest in the property as one of the children of Oscar Woodard named in the deed on June 4, 1948, when it was unzoned (WD #87377). Oscar Woodard's interest in the property was in the form of a life estate, and there is insufficient information to determine the date Oscar Woodard's life estate ended and the property became vested in the four named children. Other conveyances in the record also confuse the ownership issue.

The title report states the vestee acquired title under deeds dated October 20, 1997 and recorded January 16, 1998 (#9803087 & #9803088) and has been in continuous title since that date. Currently, the property is zoned F2.

On October 20, 1997, the property was placed into a Trust (WD #9803087). The Trust is considered a new owner but it is revocable and Steve Woodard is the Trustee. As a result, the ownership interest of Steve Woodard appears to be continued.

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

The property was unzoned when it was acquired by the current owner. The minimum lot size and limitations on new dwellings in the F2 zone prevent the current owner from developing the property as could have been allowed when he acquired it. The alleged reduction in fair market value is \$2,383,739, based on the submitted appraisal.

The applicant is also claiming that the following sections of Lane Code have restricted the use of the subject property:

LC13.050 – These provisions apply to subdivision and partitioning of property. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

LC15.070, 15.080, 15.137 & 15.138 – These provisions apply to road and driveway approach spacing standards and building setbacks from roads. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

**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 do not appear to be exempt regulations.

**CONCLUSION**

It appears this could be a valid claim if the ownership issues can be clarified.

**RECOMMENDATION**

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