

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 07-048

Order Denying Ballot Measure 37 Request of Mark Knieriem Relating to the Parcel of Real Property Located East of 29805 E. Woodard Rd., Troutdale

The Multnomah County Board of Commissioners Finds:

- a. **Party:** Mark Knieriem is the Ballot Measure 37 Claimant who filed a demand for compensation to Multnomah County on November 29, 2006.
- b. **Subject Real Property:** This claim relates to the parcel of real property located East of 29805 E. Woodard Rd., Troutdale, Multnomah County, Oregon more specifically described as:

TL 500, Sec 31DA, T1N, R4E, W.M.
Tax Account # R64973-4150

- c. **Adequacy of Demand for Compensation:**

The materials submitted by the Claimant constitute a complete written demand for compensation as required by Multnomah County Code 27.520.

On November 29, 2006, the Claimant submitted a completed Measure 37 Claim Form, alternative valuation information, a copy of the deed which transferred ownership of the property to the Claimant, a title report and chain of title, familial documentation, narrative and materials prepared for land use application in 1995 that was never submitted, copies of the regulations which the Claimant asserts reduces the property value, and a \$1500 deposit to the County. These and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

The Board finds that the claim materials submitted by the Claimant constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

- d. **Relevant Dates of Property Ownership:**

The Claimant has failed to establish that he obtained an interest in the property prior to the County's adoption of the regulations challenged in this claim.

The Claimant is challenging the 20 acre minimum lot size provisions in the current MUA-20 zoning regulations. MCC 35.2855(C). MUA-20 zoning first applied to the subject property on October 6, 1977. At that time, the applicable minimum lot size was 20 acres as well. MCC 3.134 a. (1977). This minimum lot size requirement has been in effect ever since 1977.

While the Claimant's family acquired the property in February, 1928, a deed submitted by the Claimant shows that he acquired the subject parcel on September 29, 1993. County assessment records identify the Claimant as the current owner of the property. These documents, the title report, and other information provided by the Claimant show his continual ownership since 1993 and are sufficient to establish that he acquired an interest in the property after the county adopted the MUA-20 regulations.

The Board finds that the Claimant's acquisition of an interest in the subject parcel on September 29, 1993, occurred after the County's 1977 adoption of the regulations challenged in this claim.

e. **County Codes as a Restriction on Use of the Property:**

The Claimant has failed to establish that the challenged regulations have restricted his use of the property.

The MUA-20 zoning code has applied to the subject property since October 6, 1977. MCC 3.134 a. (1977). Unless an exception applies, the minimum allowable lot size is 20 acres in this zone. The subject 2 acre parcel was created in September, 1993. The Claimant has not established that an exception to the 20 acre minimum lot size applied at that time or since. Therefore, the parcel was unlawfully created. MCC 11.15.2138 (A) (1990). The subject parcel also violated County partition rules that require the preparation of a plat when creating new properties. The partition rules have been in effect since 1978 and prohibit issuance of development permits on non-compliant properties. MCC 1.200 (B) (1978).

The Board finds that the Claimant has failed to establish that the challenged regulations have restricted his use of the subject parcel because County regulations prohibited the proposed uses prior to the Claimant's acquisition of the parcel and continuously thereafter.

f. **County Code Restrictions Reduce Fair Market Value:**

The Claimant has failed to establish that the challenged regulations have reduced the fair market value of the property.

The MUA-20 zone prohibited the creation of the 2 acre parcel acquired by the Claimant that is the subject of this claim. MCC 11.15.2138 (A) (1990). The zoning code has continued to prohibit the creation of that 2 acre lot ever since. MCC 36.2855 (A) (2003). Since the proposed use has never been allowed on the subject property, the challenged regulations have not caused a reduction in the fair market value of the property.

The Board finds that the Claimant has failed to establish that the challenged regulations have reduced the fair market value of the subject parcel because County regulations prohibited the proposed uses prior to the Claimant's acquisition of the parcel and continuously thereafter.

g. **Public Notice**

This action is before the Board under MCC 27.530(N), which authorizes the Planning Director to determine whether a claim is complete and allows the Director to recommend to the Board that the claim be denied if it is invalid on its face. Section 3.50 of the County

Charter requires notice to the public of all Board agenda matters. This notice was provided. The Claimant and persons who own land within 750 feet of the subject property received notice by mail.

h. **Validity of Claim for Compensation:** The Board finds that:

(1) The claim materials submitted by the Claimant constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

(2) The Claimant's acquisition of an interest in the subject property on September 29, 1993, occurred after the County's 1977 adoption of the regulations challenged in this claim.

(3) The Claimant has failed to establish that the challenged regulations have restricted his use of the subject parcel because County regulations prohibited the proposed uses prior to the Claimant's acquisition of the parcel and continuously thereafter.

(4) The Claimant has failed to establish that the challenged regulations have reduced the fair market value of the subject parcel because County regulations prohibited the proposed uses prior to the Claimant's acquisition of the parcel and continuously thereafter.

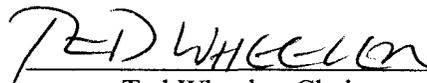
The Multnomah County Board of Commissioners Orders:

Based on the above findings, the Claimant's request is denied.

ADOPTED this 29th day of March, 2007.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Jed R. Tomkins, Assistant County Attorney

SUBMITTED BY:

Agnes Sowle, County Attorney