



Multnomah County Oregon

Board of Commissioners & Agenda

connecting citizens with information and services

BOARD OF COMMISSIONERS

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MARCH 27, 28 & 29, 2007 BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:00 a.m. Tuesday Executive Session
Pg 2	9:30 a.m. Wednesday if needed Budget Work Session
Pg 3	9:30 a.m. Thursday Public Comment
Pg 4	9:50 a.m. Thursday Public Hearing on Measure 37 Claim by Elbridge and Dorothy Hardin
Pg 4	10:10 a.m. Thursday Public Hearing on Measure 37 Claim by Mark Knieriem
Pg 4	10:30 a.m. Thursday Public Hearing on Measure 37 Claim by Gary and Faye M. Jones
Pg 4	10:50 a.m. Thursday Public Hearing on Measure 37 Claim by David Eddy

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30
Saturday, 10:00 AM, Channel 29
Sunday, 11:00 AM, Channel 30
Tuesday, 8:00 PM, Channel 29

Produced through MetroEast Community Media
(503) 667-8848, ext. 332 for further info
or: <http://www.mctv.org>

Tuesday, March 27, 2007 - 9:00 AM
Multnomah Building, Sixth Floor Commissioners Conference Room 635
501 SE Hawthorne Boulevard, Portland

EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(e) and (h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by County Attorney Agnes Sowle. 1 HOUR REQUESTED.
-

Wednesday, March 29, 2007 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

IF NEEDED BUDGET WORK SESSION

- WS-1 Multnomah County Budget Work Session on Fiscal Year 2008 Budget - Board Program Selection Round 2. This meeting is open to the public however no public testimony will be taken. Facilitated by Karyne Dargan, the Public Strategies Group and Invited Staff. 1 HOUR REQUESTED.

CABLE PLAYBACK INFO:

Wednesday, March 28 - 9:30 AM LIVE Channel 29
Saturday, March 31 - 2:00 PM Channel 29
Sunday, April 1 - 11:00 AM Channel 29
Monday, April 2 - 8:00 PM Channel 29

Thursday, March 29, 2007 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM

DEPARTMENT OF COMMUNITY SERVICES

- C-1 RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to NICHOLAS C. and DANIELLE M. QUATROCHI
- C-2 RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to TRINITY MISSION HEALTH AND REHAB OF PORTLAND, LIMITED PARTNERSHIP
- C-3 Budget Modification DCS-04 Reclassifying One Position in Road Engineering, as Determined by the Class/Comp Unit of Central Human Resources

DEPARTMENT OF COMMUNITY JUSTICE

- C-4 Budget Modification DCJ-15 Reclassifying 1.00 FTE Data Analyst Position to a Research and Evaluation Analyst 1, as Determined by the Class/Comp Unit of Central Human Resources

REGULAR AGENDA

PUBLIC COMMENT - 9:30 AM

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

DEPARTMENT OF COMMUNITY JUSTICE - 9:30 AM

- R-1 Budget Modification DCJ-16 Appropriating \$175,000 of One-Time-Only Funding from the State of Oregon, Oregon Youth Authority (OYA) for Gang Intervention Services

DEPARTMENT OF HEALTH - 9:35 AM

- R-2 Budget Modification HD-06 Appropriating \$110,000 in Revenue from the Gates Foundation to the Health Department for Research and Evaluation Services
- R-3 Budget Modification HD-18 Appropriating \$27,400 in Additional Revenue for the Health Department's Regional Emergency Preparedness Program
- R-4 NOTICE OF INTENT to Submit a Proposal to the Health Resources and Services Administration's Enhancing Linkages to HIV Primary Care and Services in Jail Settings Demonstration Models Grant Competition

COMMISSION ON CHILDREN, FAMILIES AND COMMUNITY - 9:45 AM

- R-5 NOTICE OF INTENT to Apply for Verizon Wireless, West Area HopeLine Grant

DEPARTMENT OF COMMUNITY SERVICES - 9:50 AM

- R-6 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief from Regulations to Allow Development of a Single Family Residence on Each of Two Properties Located Adjacent to 4510 SE 302nd Avenue (Case File T1-06-079)
- R-7 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim Filed by Mark Knieriem for \$96,167.00 in Compensation or Relief from Regulations to Allow the Legalization of a 2.00 Acre Parcel in the Multiple Use Agriculture – 20 Zone on Property East of 29805 East Woodard Road [T1N, R4E, Sec 31DA, TL 500] (Case File T1-06-099)
- R-8 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Gary and Faye M. Jones for \$210,000 in Compensation or Relief from Regulations that Prohibit Division of 1.79 Acres into Three Parcels and Building a Residence on Two of the Parcels for Property Located at 6141 SE 302nd Avenue [T1S, R4E, Sec 18DD, TL 200] (Case File T1-06-103)
- R-9 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by David Eddy for \$380,000 in Compensation or Relief from Regulations to

Allow for the Development of a Single Family Residence on Property
Located at 20303 NW Sauvie Island Road [T2N, R1W, Sec 07D, TL 1600]
(Case File T1-06-110)

BOARD COMMENT - 11:10 AM

Opportunity (as time allows) for Commissioners to provide informational comments to Board and public on non-agenda items of interest or to discuss legislative issues.

MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

ALL MEETINGS ARE OPEN TO THE PUBLIC

Public testimony will be taken at the public hearings listed in red (*italic*) below.
Unless otherwise noted, all sessions will be held in the Multnomah Building, First
Floor Commissioners Boardroom 100, 501 SE Hawthorne, Portland.
Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

Cable coverage of the 2007-2008 budget work sessions, hearings and Thursday Board meetings are produced through MetroEast Community Media. Call 503 667-8848, extension 332 or log onto <http://www.mctv.org> for cable channel program information. The budget work sessions, hearings and Board meetings will be available for viewing via media streaming at <http://www.co.multnomah.or.us/cc/pastmeetings.shtml>. Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

Wed, Mar 21

9:30 a.m. to 11:30 a.m.

Budget Work Session on Composite Rankings with Outcome Teams

CABLE PLAYBACK INFO:

Wednesday, March 21 - 9:30 AM LIVE Channel 29

Saturday, March 24 - 2:00 PM Channel 29

Sunday, March 25 - 11:00 AM Channel 29

Monday, March 26 - 8:00 PM Channel 29

Wed, Mar 21

1:00 p.m. to 3:00 p.m.

Budget Work Session on Composite Rankings with Outcome Teams

CABLE PLAYBACK INFO:

Wednesday, March 21 - 1:00 PM LIVE Channel 29

Saturday, March 24 - 4:00 PM Channel 29

Sunday, March 25 - 1:00 PM Channel 29

Monday, March 26 - 10:00 PM Channel 29

Wed, Mar 28

9:30 a.m. to 10:30 p.m.

IF NEEDED! Budget Work Session on Results of Program Offer Rankings Round 2

CABLE PLAYBACK INFO:

Wednesday, March 28 - 9:30 AM LIVE Channel 29

Saturday, March 31 - 2:00 PM Channel 29

Sunday, April 1 - 11:00 AM Channel 29

Monday, April 2 - 8:00 PM Channel 29

MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

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Thu, April 12
9:30 a.m.

**Third Quarter Financial Report and General Fund
Forecast Update**

CABLE PLAYBACK INFO:

Thursday, April 12 - 9:30 AM LIVE Channel 30
Saturday, April 14 - 10:00 AM Channel 29
Sunday, April 15 - 11:00 AM Channel 30
Tuesday, April 17 - 8:00 PM Channel 29

Thu, April 19
9:30 a.m. to 12:00 p.m.

***Chair Ted Wheeler's 2007-2008 Executive Budget
Message
Public Hearing and Consideration of Resolution
Approving 2007-2008 Executive Budget for
Submission to Tax Supervising and Conservation
Commission***

CABLE PLAYBACK INFO:

Thursday, April 19 - 9:30 AM LIVE Channel 30
Saturday, April 21 - 10:00 AM Channel 29
Sunday, April 22 - 11:00 AM Channel 30
Tuesday, April 24 - 8:00 PM Channel 29

Tue, April 24
9:30 a.m. to 12:00 p.m.

Budget Work Session if needed

CABLE PLAYBACK INFO:

Tuesday, April 24 - 9:30 AM LIVE Channel 29
Friday, April 27 - 8:00 PM Channel 29

MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

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Saturday, April 28 - 2:00 PM Channel 29

Sunday, April 29 - 11:00 AM Channel 29

Tue, April 24

6:00 p.m. to 8:00 p.m.

Public Hearing on the 2007-2008 Multnomah County Budget - Multnomah County East Building, Sharron Kelley Conference Room, 600 NE 8th, Gresham

CABLE PLAYBACK INFO:

Tuesday, April 24 - 6:00 PM LIVE Channel 29

Friday, April 27 - 10:30 PM Channel 29

Saturday, April 28 - 4:30 PM Channel 29

Sunday, April 29 - 1:30 PM Channel 29

Thu, April 26

9:30 a.m.

Public Hearing and Consideration of Approval of the 2007-2008 Dunthorpe Riverdale Sanitary Service District No. 1 Proposed Budget for Submittal to Tax Supervising and Conservation Commission

Public Hearing and Consideration of Approval the 2007-2008 Mid-County Street Lighting Service District No. 14 Proposed Budget for Submittal to Tax Supervising and Conservation Commission

CABLE PLAYBACK INFO:

Thursday, April 26 - 9:30 AM LIVE Channel 30

Saturday, April 28 - 10:00 AM Channel 29

Sunday, April 29 - 11:00 AM Channel 30

Tuesday, May 1 - 8:00 PM Channel 29

MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

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Tue, May 1

9:30 a.m. to 12:00 p.m.

Budget Work Session if needed

CABLE PLAYBACK INFO:

Tuesday, May 1 - 9:30 AM LIVE Channel 29

Friday, May 4 - 8:00 PM Channel 29

Saturday, May 5 - 2:00 PM Channel 29

Sunday, May 6 - 11:00 AM Channel 29

Tue, May 8

6:00 p.m. to 8:00 p.m.

***Public Hearing on the 2007-2008 Multnomah County
Budget - North Portland Library Conference Room,
512 N Killingsworth, Portland***

CABLE PLAYBACK INFO:

(No Live Coverage)

Friday, May 11 - 10:30 PM Channel 29

Saturday, May 12 - 4:30 PM Channel 29

Sunday, May 13 - 1:30 PM Channel 29

Tue, May 15

9:30 a.m. to 12:00 p.m.

**Budget Work Session on Results of Round 1 Board
Program Offer Selection**

CABLE PLAYBACK INFO:

Tuesday, May 15 - 9:30 AM LIVE Channel 29

Friday, May 18 - 8:00 PM Channel 29

Saturday, May 19 - 2:00 PM Channel 29

Sunday, May 20 - 11:00 AM Channel 29

MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

ALL MEETINGS ARE OPEN TO THE PUBLIC

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Mon, May 21

9:30 a.m. to 11:30 a.m.

Budget Work Session if needed

CABLE PLAYBACK INFO:

Tuesday, May 21 - 9:30 AM LIVE Channel 29

Thursday, May 24 - 8:00 PM Channel 29

Saturday, May 26 - 9:00 PM Channel 29

Sunday, May 27 - 9:00 AM Channel 29

Mon, May 21

1:00 p.m. to 3:00 p.m.

Budget Work Session if needed

CABLE PLAYBACK INFO:

Tuesday, May 21 - 1:00 PM LIVE Channel 29

Thursday, May 24 - 10:00 PM Channel 29

Sunday, May 27 - 6:00 PM Channel 29

Tuesday, May 29 - 8:00 PM Channel 29

Tue, May 22

9:30 a.m. to 12:00 p.m.

**Budget Work Session on Results of Round 2 Board
Program Offer Selection**

CABLE PLAYBACK INFO:

Tuesday, May 22 - 9:30 AM LIVE Channel 29

Friday, May 25 - 8:00 PM Channel 29

Saturday, May 26 - 2:00 PM Channel 29

Sunday, May 27 - 11:00 AM Channel 29

MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

ALL MEETINGS ARE OPEN TO THE PUBLIC

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Tue, May 22

6:00 p.m. to 8:00 p.m.

***Public Hearing on the 2007-2008 Multnomah County
Budget - Multnomah Building, Commissioners
Boardroom 100, 501 SE Hawthorne, Portland***

CABLE PLAYBACK INFO:

Tuesday, May 22 - 6:00 PM LIVE Channel 29

Friday, May 25 - 10:30 PM Channel 29

Saturday, May 26 - 4:30 PM Channel 29

Sunday, May 27 - 1:30 PM Channel 29

Wed, May 23

9:30 a.m. to 12:00 p.m.

Budget Work Session if needed

CABLE PLAYBACK INFO:

Wednesday, May 23 - 9:30 AM LIVE Channel 29

Saturday, May 26 - 6:30 PM Channel 29

Sunday, May 27 - 3:30 PM Channel 29

Monday, May 28 - 8:00 PM Channel 29

Tue, May 29

9:30 a.m. to 12:00 p.m.

Budget Work Session if needed

CABLE PLAYBACK INFO:

Tuesday, May 29 - 9:30 AM LIVE Channel 29

Friday, June 1 - 8:00 PM Channel 29

Saturday, June 2 - 2:00 PM Channel 29

Sunday, June 3 - 11:00 AM Channel 29

MULTNOMAH COUNTY 2007-2008 BUDGET WORK SESSIONS AND HEARINGS

ALL MEETINGS ARE OPEN TO THE PUBLIC

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Thu, Jun 7
9:30 a.m.

Public Hearing and Resolution Adopting the 2007-2008 Budget for Dunthorpe Riverdale Sanitary Service District No. 1 and Making Appropriations
Public Hearing and Resolution Adopting the 2007-2008 Budget for Mid-County Street Lighting Service District No. 14 and Making Appropriations

Thu, Jun 7
10:00 a.m.

Tax Supervising and Conservation Commission Public Hearing on the Multnomah County 2007-2008 Budget

Thu, Jun 7
10:30 a.m. to 12:00 p.m.

Public Hearing and Resolution Adopting the 2007-2008 Budget for Multnomah County Pursuant to ORS 294

CABLE PLAYBACK INFO:

Thursday, June 7 - 9:30 AM LIVE Channel 30
Saturday, June 9 - 10:00 AM Channel 29
Sunday, June 10 - 11:00 AM Channel 30
Tuesday, June 12 - 8:00 PM Channel 29



Commissioner Jeff Cogen, District 2

MULTNOMAH COUNTY OREGON

501 SE Hawthorne, Suite 600
Portland, Oregon 97214
(503) 988-5219 phone
(503) 988-5440 fax
www.co.multnomah.or.us/cc/ds2/
____@co.multnomah.or.us

MEMORANDUM

TO: Chair Ted Wheeler
Commissioner Maria Rojo de Steffey
Commissioner Lisa Naito
Commissioner Lonnie Roberts
Clerk of the Board Deb Bogstad

FROM: Marissa Madrigal
Chief of Staff to Commissioner Jeff Cogen

DATE: 1/10/2006

RE: Board Meeting Excused Absences

Commissioner Cogen will be will be out of town for a family vacation March 26th through March 30th, 2007 and will miss the Executive Session March 27th, Budget Work Session March 28th and Regular Meeting March 29th.



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST short form

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: C-1
Est. Start Time: 9:30 AM
Date Submitted: 03/15/07

Agenda Title: RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to NICHOLAS C. and DANIELLE M. QUATROCHI

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested: March 29, 2007 Time Requested: Consent Item
Department: Community Services Division: Tax Title
Contact(s): Gary Thomas
Phone: 503-988-3590 Ext. 22591 I/O Address: 503/4/TT
Presenter(s): Gary Thomas

General Information

1. What action are you requesting from the Board?

The Tax Title Section is requesting the Board to approve the private sale of a tax foreclosed property to NICHOLAS C. & DANIELLE M. QUATROCHI.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The subject property is a strip that came into county ownership through the foreclosure of delinquent tax liens on September 19, 2001. The parcel is more or less 2' x 100' and contains approximately 200 square feet. The subject strip is located between 1202 & 1212 SW Falcon St. The strip appears to have been created in 1960 as the result of a survey that was completed. The survey noted that the eave of the detached garage located at 1212 SW Falcon St encroached onto the adjacent property. To compensate for this the two foot wide strip was divided from the adjacent property.

The strip remained in the name of the then current property owner of 1212 SW Falcon. The legal description for the strip was never incorporated into the legal when the property sold. Property taxes were paid on the strip for a number of years until it came into county ownership in 2001. The former address for the property at 1212 SW Falcon St was 1210 SW Falcon St. The former house was demolished and the existing house at 1212 SW Falcon St was constructed. The detached garage was not demolished and remains where it was when the 1960 survey was completed. The attached aerial photo shows a vacant lot except for the detached garage. A new house has since been constructed on

the site as evidenced by the photo in Exhibit C. We propose to sell the strip to the current owners of the 1212 SW Falcon St property.

The attached Exhibit A, a plat map shows the location of the parcel. Exhibit B, an aerial photo, shows the strip in relation to the adjacent properties. A photo, Exhibit C, shows the driveway and detached garage with the house to the right of the driveway.

Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.

This action affects our Vibrant Communities Program Offer by placing a tax foreclosed property back onto the tax roll.

3. Explain the fiscal impact (current year and ongoing).

The private sale will allow for the recovery of a portion of the delinquent taxes, fees, and expenses. The sale will also reinstate the property on the tax roll (see Exhibit D).

4. Explain any legal and/or policy issues involved.

No legal issues are expected. The parcel will be sold "As Is" without guarantee of clear title.

5. Explain any citizen and/or other government participation that has or will take place.

No citizen or government participation is anticipated.

EXHIBIT A

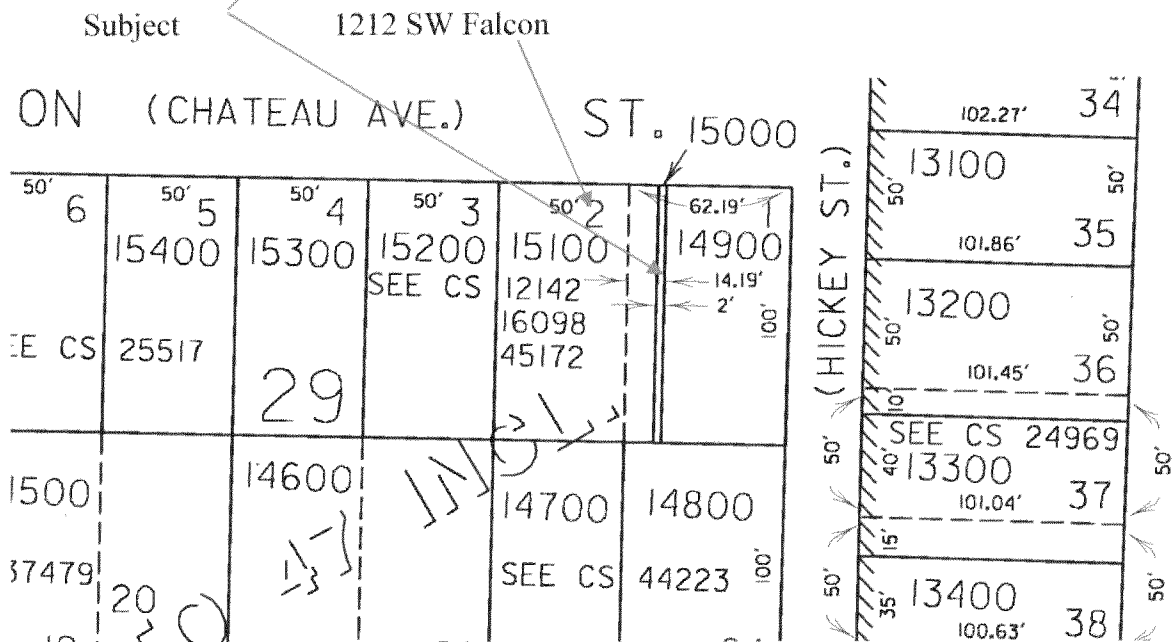
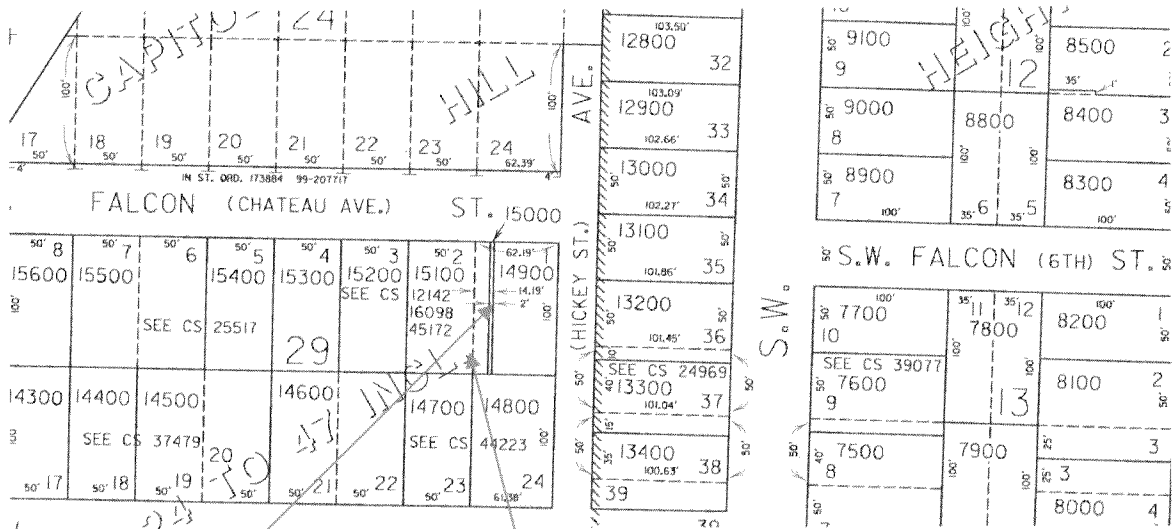


EXHIBIT B



Location of the recently constructed 1212 SW Falcon St

Subject strip

EXHIBIT C



detached garage

1212 SW Falcon St

EXHIBIT D
PROPOSED PROPERTY LISTED FOR PRIVATE SALE

LEGAL DESCRIPTION:

ELY 2' OF WLY 14.19' OF LOT 1 BLOCK 29

CAPITOL HILL

ADJACENT PROPERTY ADDRESS:

1212 SW Falcon ST

TAX ACCOUNT NUMBER:

R126904

GREENSPACE DESIGNATION:

No designation

SIZE OF PARCEL:

Approximately 200 square feet

ASSESSED VALUE:

\$200

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE

BACK TAXES & INTEREST:

\$180.55

TAX TITLE MAINTENANCE COST & EXPENSES:

\$16.67

RECORDING FEE:

\$26.00

SUB-TOTAL

\$223.22

MINIMUM PRICE REQUEST OF PRIVATE SALE

\$100.00

Required Signature

**Department/
Agency Director:**

M. Cecilia Johnson

Date: 03/15/07

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing the Private Sale of a Tax Foreclosed Property to NICHOLAS C. and DANIELLE M. QUATROCHI

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes, the following described real property:

ELY 2' OF WLY 14.19' OF LOT 1 BLOCK 29 CAPITOL HILL

- b. The property has an assessed value of \$200.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the irregular shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. NICHOLAS C. & DANIELLE M. QUATROCHI have agreed to pay \$100, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of \$100 the Chair on behalf of Multnomah County is authorized to execute a deed conveying to NICHOLAS C. and DANIELLE M. QUATROCHI the above described real property within Multnomah County, Oregon.

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 _____
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Dept. of Community Services

Until a change is requested, all tax statements
Shall be sent to the following address:
NICHOLAS C. & DANIELLE M. QUATROCHI
1212 SW FALCON ST
PORTLAND OR 97219

After recording, return to:
MULTNOMAH COUNTY
TAX TITLE DIVISION
503/4

Deed D072130 For R126904

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to NICHOLAS C. and DANIELLE M. QUATROCHI, Grantees, the following described real property:

ELY 2' OF WLY 14.19' OF LOT 1 BLOCK 29

CAPITOL HILL

The true consideration paid for this transfer is \$100.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 29th day of March 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 29th day of March 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 07-045

Authorizing the Private Sale of a Tax Foreclosed Property to NICHOLAS C. and DANIELLE M. QUATROCHI

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes, the following described real property:

ELY 2' OF WLY 14.19' OF LOT 1 BLOCK 29 CAPITOL HILL
- b. The property has an assessed value of \$200.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the irregular shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. NICHOLAS C. & DANIELLE M. QUATROCHI have agreed to pay \$100, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. Upon Tax Title's receipt of the payment of \$100 the Chair on behalf of Multnomah County is authorized to execute a deed conveying to NICHOLAS C. and DANIELLE M. QUATROCHI the above described real property within Multnomah County, Oregon.

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


Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Dept. of Community Services

Page 1 of 2- Resolution 07-045 and Deed Authorizing Private Sale

Until a change is requested, all tax statements
Shall be sent to the following address:
NICHOLAS C. & DANIELLE M. QUATROCHI
1212 SW FALCON ST
PORTLAND OR 97219

After recording, return to:
MULTNOMAH COUNTY
TAX TITLE DIVISION
503/4

Deed D072130 For R126904

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to NICHOLAS C. and DANIELLE M. QUATROCHI, Grantees, the following described real property:

ELY 2' OF WLY 14.19' OF LOT 1 BLOCK 29

CAPITOL HILL

The true consideration paid for this transfer is \$100.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 29th day of March 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

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Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09

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Shall be sent to the following address:
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TAX TITLE DIVISION
503/4

Deed D072130 For R126904

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ELY 2' OF WLY 14.19' OF LOT 1 BLOCK 29 CAPITOL HILL

The true consideration paid for this transfer is \$100.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

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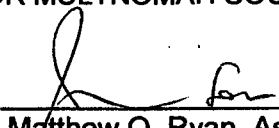
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By


Matthew O. Ryan, Assistant County Attorney

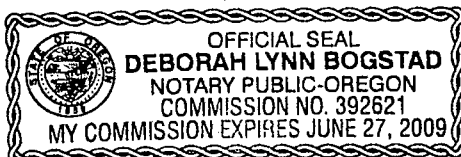
STATE OF OREGON)

COUNTY OF MULTNOMAH) ss

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Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09





MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST short form

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: C-2
Est. Start Time: 9:30 AM
Date Submitted: 03/13/07

Agenda Title: RESOLUTION Authorizing the Private Sale of a Tax Foreclosed Property to TRINITY MISSION HEALTH AND REHAB OF PORTLAND, LIMITED PARTNERSHIP

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested: March 29, 2007 Time Requested: Consent Item
Department: Community Services Division: Tax Title
Contact(s): Gary Thomas
Phone: 503-988-3590 Ext. 22591 I/O Address: 503/4/TT
Presenter(s): Gary Thomas

General Information

1. What action are you requesting from the Board?

The Tax Title Section is requesting the Board to approve the private sale of a tax foreclosed property to TRINITY MISSION HEALTH & REHAB OF PORTLAND, LIMITED PARTNERSHIP.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The subject property is a long, narrow strip that came into county ownership through the foreclosure of delinquent tax liens on September 29, 1997. The parcel is more or less 3' x 153' and contains approximately 417 square feet. The subject strip appears to have been created at the time of a 1960 sale of the property where 10435 SE Cora is currently located. The legal description on that 1960 deed left off the 3 foot wide strip and a separate tax lot was created. Property taxes were paid on the strip for a number of years until the mid 1970's and it eventually came into county ownership.

The subject strip was offered for sale at a 1983 public auction and was purchased by an individual who used to purchase tax foreclosed properties for speculative purposes. In the late 1980's property tax payments were discontinued and it once again came into county ownership in 1997. In the 1980's a City of Portland sewer lien was assessed against the property, which may have been a reason the purchaser stopped the property tax payments. In 2005, Tax Title paid the city liens to avoid additional interest accumulating.

We propose to sell the strip to the owners of the adjacent property at 10435 SE Cora. This same property owner also owns the adjacent, vacant tax lot #5800.

The attached Exhibit A, a plat map shows the location of the property. Exhibit B, an aerial photo, shows the parcel in relation to the adjacent properties.

Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.

This action affects our Vibrant Communities Program Offer by placing a tax foreclosed property back onto the tax roll.

3. Explain the fiscal impact (current year and ongoing).

The private sale will allow for the recovery of a portion of the delinquent taxes, fees, and expenses. The sale will also reinstate the property on the tax roll (see Exhibit C).

4. Explain any legal and/or policy issues involved.

No legal issues are expected. The parcel will be sold "As Is" without guarantee of clear title.

5. Explain any citizen and/or other government participation that has or will take place.

No citizen or government participation is anticipated.

EXHIBIT A

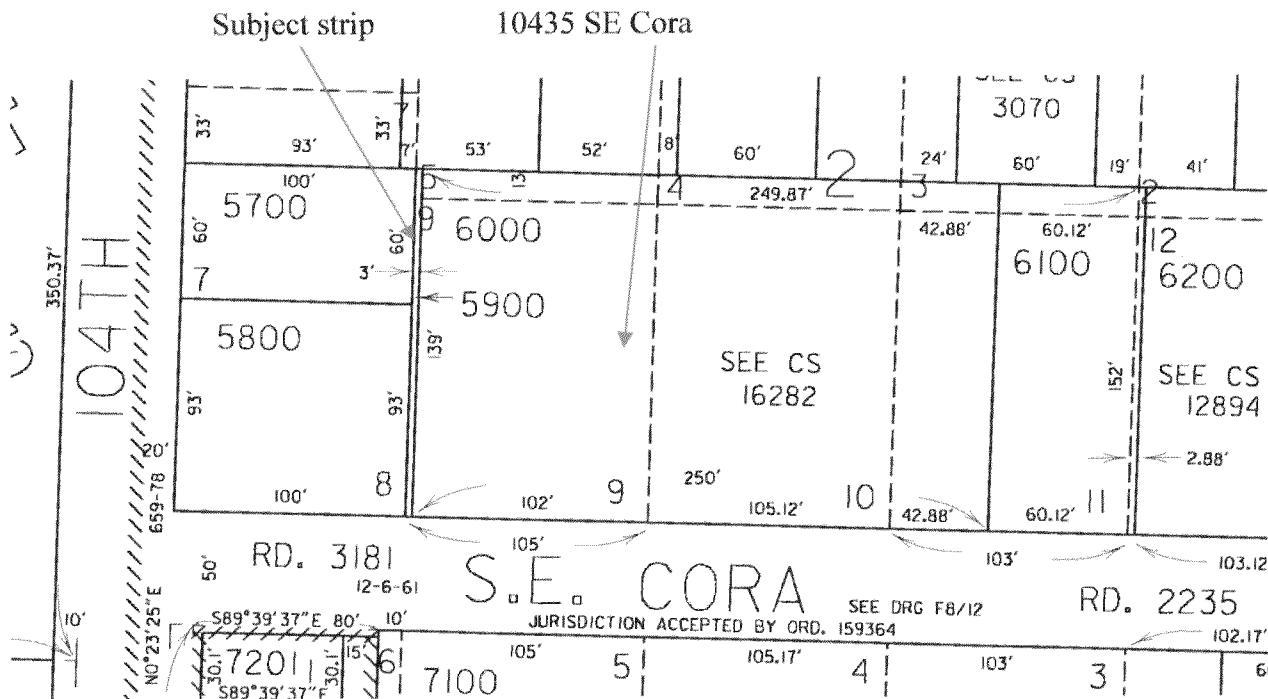


EXHIBIT B.



County owned strip

10435 SE Cora St

EXHIBIT C
PROPOSED PROPERTY LISTED FOR PRIVATE SALE

LEGAL DESCRIPTION:

In that certain TAX FORECLOSURE DEED dated the 25th day of September 1997 recorded on September 29, 1997 at Recording Entry No. 97148786 in the Multnomah County Deed Records; and more particularly described as item no 4, at Page 4 of said TAX FORECLOSURE DEED

ADJACENT PROPERTY ADDRESS: 13405 SE Cora

TAX ACCOUNT NUMBER: R310703

GREENSPACE DESIGNATION: No designation

SIZE OF PARCEL: Approximately 417 square feet

ASSESSED VALUE: \$400

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE

BACK TAXES & INTEREST:

TAX TITLE MAINTENANCE COST & EXPENSES:

RECORDING FEE:

SUB-TOTAL

MINIMUM PRICE REQUEST OF PRIVATE SALE

	\$119.53
	\$841.27
	\$26.00
	\$986.80
	\$400.00

Required Signature

**Department/
Agency Director:**

M. Cecilia Johnson

Date: 03/12/07

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing the Private Sale of a Tax Foreclosed Property to TRINITY MISSION HEALTH AND REHAB OF PORTLAND, LIMITED PARTNERSHIP

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County acquired through the foreclosure of liens for delinquent real property taxes, the following described real property:

In that certain TAX FORECLOSURE DEED dated the 25th day of September 1997 recorded on September 29, 1997 at Recording Entry No. 97148786 in the Multnomah County Deed Records; and more particularly described as item no 4, at Page 4 of said TAX FORECLOSURE DEED

- b. The property has an assessed value of \$400.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the irregular shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. Tax Title has received a \$400 payment from TRINITY MISSION HEALTH & REHAB OF PORTLAND, LIMITED PARTNERSHIP, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. The Chair on behalf of Multnomah County is authorized to execute a deed conveying to TRINITY MISSION HEALTH & REHAB OF PORTLAND, LIMITED PARTNERSHIP the above described real property within Multnomah County, Oregon.

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 _____
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
M. Cecilia Johnson, Director, Dept. of Community Services

Until a change is requested, all tax statements
Shall be sent to the following address:
TRINITY MISSION HEALTH & REHAB OF PORTLAND, LP
C/O COVENANT DOVE, INC
ATTN: JUDY ULLERY
475 JACK KRAMER DRIVE
MEMPHIS, TN 38117

After recording, return to:
MULTNOMAH COUNTY
TAX TITLE DIVISION 503/4

Deed D072128 For R310703

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to TRINITY MISSION HEALTH & REHAB OF PORTLAND, LP, Grantees, the following described real property:

In that certain TAX FORECLOSURE DEED dated the 25th day of September 1997 recorded on September 29, 1997 at Recording Entry No. 97148786 in the Multnomah County Deed Records; and more particularly described as item no 4, at Page 4 of said TAX FORECLOSURE DEED

The true consideration paid for this transfer is \$400.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 29th day of March 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 29th day of March 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.

Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09

BOGSTAD Deborah L

From: GRACE Becky J
Sent: Monday, March 26, 2007 8:25 AM
To: BOGSTAD Deborah L
Cc: THOMAS Gary A
Subject: RE: March 29 Agenda Private Sale Legal Description Page Number Verification

Deb,
I'm so sorry but it is the 5th page – I can't figure out how I pulled this one off but I did a great job it just about made it through to the meeting. I'm so sorry for your trouble please change all documents to the 5th page Gary verified it for me on the private sale R310703 Trinity Mission Health & Rehab of Portland, LP.

Thanks,

-----Original Message-----

From: BOGSTAD Deborah L
Sent: Friday, March 23, 2007 4:12 PM
To: GRACE Becky J
Cc: THOMAS Gary A
Subject: RE: March 29 Agenda Private Sale Legal Description Page Number Verification

Okay – but don't bother resending all the documents, I'll make the changes in the right spots and repost the corrected docs on the web. I won't change the Board copies because they don't read them anyway. Just so our originals are correct, that's the main thing! Have a wonderful weekend.

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

-----Original Message-----

From: GRACE Becky J
Sent: Friday, March 23, 2007 3:07 PM
To: BOGSTAD Deborah L
Cc: THOMAS Gary A
Subject: March 29 Agenda Private Sale Legal Description Page Number Verification

Deb, I think that it should be page 5 on the deed that we were talking about for R310703 but I want Gary to verify for me before I resend all of the documents to you. I will let you know first thing Monday Morning.

Sorry for the inconvenience!!

Becky Grace
Multnomah County Tax Title
PO Box 2716
Portland OR 97208
503-988-3590

3/27/2007

EXHIBIT C
PROPOSED PROPERTY LISTED FOR PRIVATE SALE

LEGAL DESCRIPTION:

In that certain TAX FORECLOSURE DEED dated the 25th day of September 1997 recorded on September 29, 1997 at Recording Entry No. 97148786 in the Multnomah County Deed Records; and more particularly described as item no 4, at Page 5 of said TAX FORECLOSURE DEED

ADJACENT PROPERTY ADDRESS: 13405 SE Cora

TAX ACCOUNT NUMBER: R310703

GREENSPACE DESIGNATION: No designation

SIZE OF PARCEL: Approximately 417 square feet

ASSESSED VALUE: \$400

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE

BACK TAXES & INTEREST:

TAX TITLE MAINTENANCE COST & EXPENSES:

RECORDING FEE:

SUB-TOTAL

MINIMUM PRICE REQUEST OF PRIVATE SALE

	\$119.53
	\$841.27
	\$26.00
	\$986.80
	\$400.00

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing the Private Sale of a Tax Foreclosed Property to TRINITY MISSION HEALTH AND REHAB OF PORTLAND, LIMITED PARTNERSHIP

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- b. The property has an assessed value of \$400.
- c. Although no written confirmation from the City of Portland was obtained, the Tax Title Division is confident that the irregular shape and size of the property make it unsuitable for the construction or placement of a dwelling thereon under current zoning ordinances and building codes, as provided under ORS 275.225.
- d. Tax Title has received a \$400 payment from TRINITY MISSION HEALTH & REHAB OF PORTLAND, LIMITED PARTNERSHIP, an amount the Board finds to be a reasonable price for the property in conformity with ORS 275.225.

The Multnomah County Board of Commissioners Resolves:

1. The Chair on behalf of Multnomah County is authorized to execute a deed conveying to TRINITY MISSION HEALTH & REHAB OF PORTLAND, LIMITED PARTNERSHIP the above described real property within Multnomah County, Oregon.

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 _____
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
M. Cecilia Johnson, Director, Dept. of Community Services

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C/O COVENANT DOVE, INC
ATTN: JUDY ULLERY
475 JACK KRAMER DRIVE
MEMPHIS, TN 38117

After recording, return to:
MULTNOMAH COUNTY
TAX TITLE DIVISION 503/4

Deed D072128 For R310703

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to TRINITY MISSION HEALTH & REHAB OF PORTLAND, LP, Grantees, the following described real property:

In that certain TAX FORECLOSURE DEED dated the 25th day of September 1997 recorded on September 29, 1997 at Recording Entry No. 97148786 in the Multnomah County Deed Records; and more particularly described as item no 4, at Page 5 of said TAX FORECLOSURE DEED

The true consideration paid for this transfer is \$400.

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BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

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Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 07-046

Authorizing the Private Sale of a Tax Foreclosed Property to TRINITY MISSION HEALTH AND REHAB OF PORTLAND, LIMITED PARTNERSHIP

The Multnomah County Board of Commissioners Finds:

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The Multnomah County Board of Commissioners Resolves:

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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

Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Dept. of Community Services

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BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

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Notary Public for Oregon
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In that certain TAX FORECLOSURE DEED dated the 25th day of September 1997 recorded on September 29, 1997 at Recording Entry No. 97148786 in the Multnomah County Deed Records; and more particularly described as item no 4, at Page 5 of said TAX FORECLOSURE DEED

The true consideration paid for this transfer is \$400.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 29th day of March 2007, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Ted Wheeler, Chair

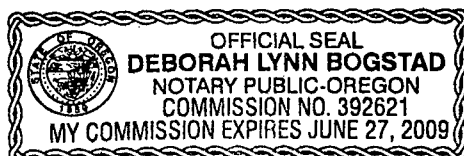
REVIEWED:

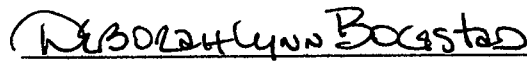
AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

This Deed was acknowledged before me this 29th day of March 2007, by Ted Wheeler, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.




Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/09



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST (long form)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-3 DATE 03-29-07
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: C-3
Est. Start Time: 9:30 AM
Date Submitted: 03/08/07

BUDGET MODIFICATION: DCS- 04

Agenda Title: Budget Modification DCS-04 Reclassifying One Position in Road Engineering, as Determined by the Class/Comp Unit of Central Human Resources

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	<u>March 29, 2007</u>	Amount of Time Needed:	<u>N/A</u>
Department:	<u>Community Services</u>	Division:	<u>Road Engineering</u>
Contact(s):	<u>Jerry Elliott</u>		
Phone:	<u>(503) 988-4624</u>	Ext.	<u>84624</u>
	I/O Address:		<u>455/2/224</u>
Presenter(s):	<u>Consent Calendar</u>		

General Information

1. What action are you requesting from the Board?

The Department is requesting the Board approve a budget modification for the reclassification of an Engineer 2 position in Road Engineering as determined by the Class/Comp Unit of Central Human Resources.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

Position number 700861 is currently in the ENGINEER 2 classification. Management requested a review of the classification of this position. The responsibilities of this position have changed over time. County Human Resources determined that the position best fits within the ENGINEER 3 classification effective 7/9/06. The incumbent will be reclassified with the position, as he has performed the duties of an ENGINEER 3 for at least six months.

This Budget Modification affects Program Offer #91013 – Road Engineering and Operations. It will not impact the results since this the work performed is included in the Program Offer.

3. Explain the fiscal impact (current year and ongoing).

Budget modification detail is attached. The Road Fund overall wage and related benefits increase for FY 2007 is \$2,758; it is matched with a decrease in Supplies. In future years this position will

have increases due to COLA, step increases and increased benefit costs.

4. Explain any legal and/or policy issues involved.

Management and employees have the right to request evaluation of the appropriateness of classifications. The Classification/Compensation Unit has a formal process for evaluating these requests. The reclassification for which approval is sought in this request has been reviewed by the Classification/Compensation Unit, and the position has been found to be wrongly classed. By contract and under our personnel rules, we are required to compensate employees appropriately based on this finding.

5. Explain any citizen and/or other government participation that has or will take place.

NA

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- What revenue is being changed and why?

NA

- What budgets are increased/decreased?

There is zero net increase or decrease. The total increase of \$2,758 in Personnel budget is offset by an equal decrease in Supplies.

- What do the changes accomplish?

This budget modification implements budget change and position change as described in this document.

- Do any personnel actions result from this budget modification? Explain.

Reclassification of existing position.

- How will the county indirect, central finance and human resources and departmental overhead costs be covered?

Any changes will be covered within existing departmental resources.

- Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?

This change is ongoing, contingent upon Board approval of future program offers related to this program

- If a grant, what period does the grant cover?

NA

- If a grant, when the grant expires, what are funding plans?

NA

<p><i>NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.</i></p>

ATTACHMENT B

BUDGET MODIFICATION: DCS - 04

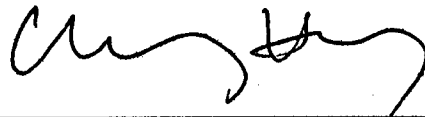
Required Signatures

**Elected Official or
Department/
Agency Director:**



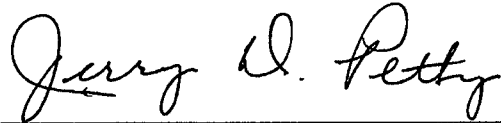
Date: 03/07/07

Budget Analyst:



Date: 03/07/07

Department HR:



Date: 03/06/07

Countywide HR:

Date: _____

Budget Modification ID: **DCS-04****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Internal Order	Accounting Unit		Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
					Cost Center	WBS Element						
1	90-50	1501	80		905110		60000	970,387	972,355	1,968		Increase Permanent
2	90-50	1501	80		905110		60130	311,397	312,029	632		Increase Salary Related Exp
3	90-50	1501	80		905110		60140	239,497	239,655	158		Increase Insurance Ben
4	90-50	1501	80			ROADE	60240	18,000	15,242	(2,758)		Decrease Supplies
5									0			
6									0			
7	72-10	3500	20		705210		50316		(158)	(158)		Risk Fund
8	72-10	3500	20		705210		60330		158	158		Risk Fund
9									0			
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28									0			
29									0			
										0	0	Total - Page 1
										0	0	GRAND TOTAL

ANNUALIZED PERSONNEL CHANGE

Change on a full year basis even though this action affects only a part of the fiscal year (FY).

						ANNUALIZED			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1501	6236	61775	Engineer 2	700861	(1.00)	(72,987)	(23,422)	(15,833)	(112,242)
1501	6311	61775	Engineer 3	700861	1.00	74,994	24,066	15,994	115,054
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TOTAL ANNUALIZED CHANGES					0.00	2,007	644	161	2,812

CURRENT YEAR PERSONNEL DOLLAR CHANGE

Calculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

						CURRENT YEAR			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1501	6236	61775	Engineer 2	700861	(0.98)	(71,583)	(22,972)	(15,529)	(110,084)
1501	6311	61775	Engineer 3	700861	0.98	73,552	23,603	15,686	112,841
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TOTAL CURRENT FY CHANGES					0.00	1,968	632	158	2,758



MULTNOMAH COUNTY OREGON

DEPARTMENT OF COUNTY
MANAGEMENT
CENTRAL HUMAN RESOURCES
CLASSIFICATION/COMPENSATION UNIT

MULTNOMAH BUILDING
501 SE HAWTHORNE BLVD, 4th floor
PORTLAND OR 97214

PHONE (503) 988-5015
FAX (503) 988-3009
TDD (503) 988-5170

February 5, 2007

To: Robert Maestre, Acting Road Engineering Manager, DCS

From: Candace Busby, Class/Comp Unit, Central HR (503/4)

Subject: Reclassification Request # 642

We have completed our review of your request for a classification determination as outlined below.

Position Information

Date Request Received: January 9, 2007

Position Number: 700861

Current Classification: Engineer 2

Requested Classification: Engineer 3

Request is: ☒ Approved ☐ Denied

Allocated Classification: Engineer 3

Effective Date: July 9, 2006

Please note this classification decision is subject to any required Board of County Commissioners approval under County Personnel Rule 5-50-030 and is considered preliminary until such approval is received.

Incumbent/Employee Information

Name of Incumbent Employee: Harold Maxa

Incumbent Reclassified with Position: ☒ Yes ☐ No

New Job Class Seniority Date: July 9, 2006 (to be confirmed by Department HR Maintainer)

Employees that are reclassified with their position will be placed within the salary range for the new classification. Compensation will be determined in accordance with Personnel Rule 4-10-010 or applicable bargaining agreement. The employee's Department Human Resource Unit will provide a follow-up letter to the employee regarding the impact that the reclassification will have on compensation.

Reason for Classification Decision

An analysis of the duties and responsibilities of this position was conducted based on the submitted position description and supplemental information received. This position is the lead staff engineer for Road Engineering and a principal advisor to road engineering management on scoping of and long range planning for all road capital improvement projects. In this capacity the position has substantial responsibility for planning, preliminary engineering, design and construction of complex Multnomah County Transportation Capital Improvement Projects. The duties and responsibilities of this position are consistent with the Engineer 3 classification.

Appeal Rights

The outcome of a reclassification request may be appealed under Article 18 of the Local 88 contract by filing a Step 3 grievance within fifteen (15) days of receipt of this notification letter.

If you have any questions, please feel free to contact me at 503-988-5015 extension 24422.

cc: Employee
HR Representative
HR Maintainer *Jerry Petty*
Local 88
Class Comp File Copy



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST (long form)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-4 DATE 03-29-07
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: C-4
Est. Start Time: 9:30 AM
Date Submitted: 03/15/07

BUDGET MODIFICATION: DCJ - 15

Agenda Title: Budget Modification DCJ-15 Reclassifying 1.00 FTE Data Analyst Position to a Research and Evaluation Analyst 1, as Determined by the Class/Comp Unit of Central Human Resources

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	<u>March 29, 2007</u>	Amount of Time Needed:	<u>N/A</u>
Department:	<u>Dept. of Community Justice</u>	Division:	<u>Employee, Community & Clinical Svcs</u>
Contact(s):	<u>Shaun Coldwell</u>		
Phone:	<u>503-988-3961</u>	Ext.	<u>83961</u>
Presenter(s):	<u>Consent Calendar</u>		
I/O Address:	<u>503 / 250</u>		

General Information

1. What action are you requesting from the Board?

The Department of Community Justice (DCJ) requests approval of a budget modification to reclassify a vacant 1.00 FTE Data Analyst position which has been reviewed by the HR Class Comp and deemed necessary for changes in classification.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

Reclassification of a vacant 1.00 FTE Data Analyst [Data Ayst] position to a Research & Evaluation Analyst 1 [RE Ayst 1] position was approved for recommendation to the Board of County Commissioners by HR Class Comp on January 11, 2007, to become effective January 11, 2007 also. The position is located in the Employee, Community & Clinical Services Division, Program Offer 50003. Currently this position is vacant.

3. Explain the fiscal impact (current year and ongoing).

There is no fiscal impact to current year FY-2007.

4. Explain any legal and/or policy issues involved.

n/a

5. Explain any citizen and/or other government participation that has or will take place.

n/a

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- What revenue is being changed and why?

There is no revenue change.

- What budgets are increased/decreased?

There is no change to the budget.

- What do the changes accomplish?

1.00 FTE Data Analyst position is re-classed to a 1.00 FTE Research & Evaluation Analyst 1.

- Do any personnel actions result from this budget modification? Explain.

No

- How will the county indirect, central finance and human resources and departmental overhead costs be covered?

There is no net budgetary change, and therefore no impact on county indirect, central finance and human resources or departmental overhead costs.

- Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?

n/a

- If a grant, what period does the grant cover?

n/a

- If a grant, when the grant expires, what are funding plans?

n/a

<p><i>NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.</i></p>

ATTACHMENT B

BUDGET MODIFICATION: DCJ-15

Required Signatures

**Elected Official or
Department/
Agency Director:**

Sharon McNamee for Steve Lindsey

Date: 03/15/07

Budget Analyst:

CEE

Date: 03/14/07

Department HR:

Karin Lambert

Date: 03/15/07

Countywide HR:

Jandace J. Busby

Date: 03/15/07

Budget Modification ID: **DCJ-15****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1									0			
2									0			
3									0			
4									0			
5									0			
6									0			
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26									0			
27									0			
28									0			
29									0			
										0	0	Total - Page 1
										0	0	GRAND TOTAL

ANNUALIZED PERSONNEL CHANGEChange on a full year basis even though this action affects only a part of the fiscal year (FY).

						ANNUALIZED			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
50-05	6073	63269	Data Analyst	705156	(1.00)	(43,598)	(12,678)	(12,610)	(68,886)
50-05	6085	63269	Research & Evaluation Ayst 1	705156	1.00	43,598	12,678	12,610	68,886
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TOTAL ANNUALIZED CHANGES					0.00	0	0	0	0

CURRENT YEAR PERSONNEL DOLLAR CHANGECalculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

						CURRENT YEAR			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
50-05	6073	63269	Data Analyst	705156	(0.46)	(19,982)	(5,811)	(5,780)	(31,573)
50-05	6085	63269	Research & Evaluation Ayst 1	705156	0.46	19,982	5,811	5,780	31,573
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TOTAL CURRENT FY CHANGES					0.00	0	0	0	0



MULTNOMAH COUNTY OREGON

DEPARTMENT OF COUNTY
MANAGEMENT
CENTRAL HUMAN RESOURCES
CLASSIFICATION/COMPENSATION UNIT

MULTNOMAH BUILDING
501 SE HAWTHORNE BLVD, 4th floor
PORTLAND OR 97214

PHONE (503) 988-5015
FAX (503) 988-3009
TDD (503) 988-5170

January 11, 2007

To: Charlene Rhyne, DCJ, ECCS Quality Systems and Evaluation ✓
From: Candace Busby, Class/Comp Unit, Central HR (503/4)
Subject: Reclassification Request #618

We have completed our review of your request for a classification determination as outlined below.

Position Information

Date Request Received: November 7, 2006 Position Number: 705156

Current Classification: Data Analyst #6073

Requested Classification: Research & Evaluation Analyst 1 #6085

Request is: ☒ Approved ☐ Denied

Allocated Classification: Research & Evaluation Analyst 1 #6085

Effective Date: January 11, 2007

Please note this classification decision is subject to any required Board of County Commissioners approval under County Personnel Rule 5-50-030 and is considered preliminary until such approval is received.

Incumbent/Employee Information (If reclassification is approved and position is not vacant)

Name of Incumbent Employee: Vacant

Incumbent Reclassified with Position: ☐ Yes ☒ No

If Yes:

New Job Class Seniority Date: position is vacant

Employees that are reclassified with their position will be placed within the salary range for the new classification. Compensation will be determined in accordance with Personnel Rule 4-10-010 or applicable bargaining agreement. The employee's Department Human Resource Unit will provide a follow-up letter to the employee regarding the impact that the reclassification will have on compensation.

Per County Personnel Rule 5-50-030, employees reclassified downward will be placed on the recall list for reappointment to the higher classification. As such, the employee is placed on the _____ recall list. The employee's eligibility to remain on the list will expire on _____. The employee's Department Human Resource Unit will provide a follow-up letter to the employee regarding their recall list rights. (If employee is reclassified downward)

If No:

The reason the incumbent employee is not reclassified with the position:

☐ The change in duties, authority, and responsibility has not occurred gradually over a period of time

☐ Employee has not been performing the new duties for at least 6 months prior to the reclassification request

☒ Other: Position is vacant

If an employee is not reclassified with the position then the position must be filled using normal appointment procedures. Please consult with the Department Human Resource Unit to determine the appropriate process.

Reason for Classification Decision

An analysis was conducted of the duties and responsibilities of Research & Evaluation Analyst 1 and the submitted position description. After discussion with the department an updated position description was submitted on 12/21/06. The program manager has clarified the scope and responsibility of the position. Based on an analysis of the revised description and discussion with the program manager the position performs a majority of duties consistent with the Research & Evaluation Analyst 1 classification. The position utilizes a research background rather than a statistics or computer science background in performing assignments which is consistent with the Research & Evaluation Analyst 1 classification.

Appeal Rights

The outcome of a reclassification request may be appealed under Article 18 of the Local 88 contract by filing a Step 3 grievance within fifteen (15) days of receipt of this notification letter.

If you have any questions, please feel free to contact me at 503-988-5015 extension 24422.



cc: HR Representative, James Opoka ✓
Class Comp File Copy

#1

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 03.29.07

SUBJECT: _____

AGENDA NUMBER OR TOPIC: Public Comment

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Paul Phillips

ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE: _____ DAYS: _____ EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

RECEIVED APR 14 1999



walla walla clinic

55 WEST TIETAN • (509) 525-3720
WALLA WALLA, WASHINGTON 99362

April 6, 1999

Walter Hales, M.D.
821 Swift Boulevard
Richland, WA 99352

RE: PAUL A. PHILLIPS
DOB: 3/10/54

Dear Walter:

Paul Phillips is a 45-year-old originally right-handed male, but now left-handed with impaired vision, considered legally blind. He was injured on 7 October 1981 while working in the laundry in St. Joseph's Hospital, Lewiston, Idaho. He is not sure how he injured his hand, but he is concerned about his persisting pain. He has seen a host of different physicians but has not yet seen a hand surgeon.

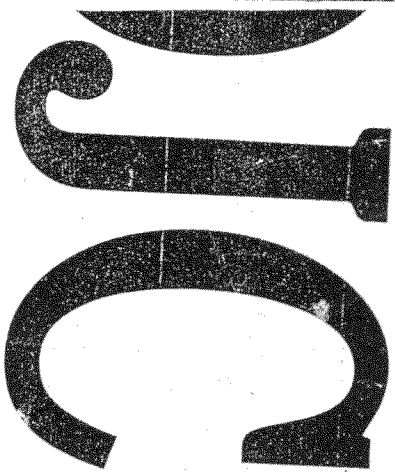
I think his right hand is quite normal but I cannot convince him of that because he thinks I am biased. I would appreciate your evaluation and recommendations for Paul. I thank you very much for your cooperation.

Sincerely,

ROBERT W. RUGGERI, M.D.
Department of Orthopaedic Surgery

RWR/kgb

1936 60 YEARS OF SERVICE 1996



PACESETTERS
Acme Business Consulting LLC has hired Brad Denney as a senior project leader.

PAGE 13

BLACK FRIDAY
Electronics retailers and Wal-Mart Stores were the early winners while some apparel chains faltered as the U.S. holiday shopping season started.

PAGE 5

New low-income housing in Pearl

The 240-unit Sika Apartments project, Portland's newest apartments for low- and moderate-income individuals and families, will have its grand opening today at 2:30 p.m. at Northwest 11th Avenue and Northrup Street. Speakers include Portland City Commissioner Erik Steen, Ed McNamara of Praxis Partners, Deborah Sawyer-Parks of Homestead Capital, Dave Castriano of U.S. Bank, and



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Plaintiffs use little-known theory to win against construction firm

The trial highlights companies increased efforts to minimize on-the-job injury reports

BY NATALIE WHITE
Dolan Newswire

BOSTON — In a case that highlights a disturbing trend of companies using incentive programs to minimize on-the-job injury reports, a South Dakota man recently won \$5 million in a bad faith claim against the construction company he worked for.

After a six day trial, Pennington County jurors in South Dakota ordered Hills Materials and its parent company, Oldcastle Materials, to pay Ron Hubbard \$65,000 in compensatory damages and \$5 million in punitive damages.

The plaintiffs claimed that a supervisor, spurred on by company policies and cash incentives, actively tried to get the insurance company to fight paying Hubbard's workers' compensation claims for surgeries related to carpal tunnel syndrome.

"This case examines the widespread practice of large construction companies providing cash incentives and bonuses to supervisors for underreporting injuries," said Michael Abourezk, who represented the plaintiff along with Alicia Garcia. "It's a very widespread practice all over the U.S. They're touted as safety programs, but what they really do is encourage people to minimize injuries to lower premiums and get bigger contracts for the construction companies."

Aiding and abetting

Hubbard, a welder, required two surgeries and expected workers' compensation insurance to cover the costs. But Hills Material fought him every step of the way, according to Abourezk, and convinced the insurance company, Liberty Mutual, to deny the claim.

Since Liberty Mutual settled quickly, the plaintiffs had to develop a legal strategy for going after the company itself.

"Really, the insurance company was the ventril-

quist dummy in this case. The employer was trying to speak through them," Abourezk said.

He said that Hills Material defended its action in part by saying that it wasn't responsible for granting or denying claims, that that was the role of the insurance company.

"They said, 'The insurance company handles claims. All we did was tell them what we thought, and we had a right to do that. If they didn't handle the claim the right way, then they are the ones who should be held accountable,'" Abourezk said.

Using a little-used theory, Abourezk argued that the construction company "aided and abetted in the commission of a tort" when it tried to convince the insurance company to deny medical claims from Ron Hubbard. The attorneys stumbled upon the theory while doing research on bad faith claims.

"We've all heard of aiding and abetting in the criminal context, but I'm embarrassed to say that I didn't even know it existed in the civil context," said Abourezk. "It's not really an exotic theory, and it's recognized by the Restatement of Torts. I'm not sure why it isn't used more. It simply says that if a party gives substantial assistance or encouragement to another party in the commission of a tort, they can be held liable for the tort."

In this instance, Abourezk wanted to hold the construction company and not the insurance company, which had settled earlier, responsible for preventing his client from collecting benefits for a work-related injury.

"In this case, we had an employer that vigorously got involved with calls to the insurance company asking them to deny the claims in the workers' compensation case," he said. "They even hired a lawyer to get the insurance company to deny the claim, and they offered to let their attorney represent the insurance company in the case. Basically, they wanted their own hand-picked hit man."

He said large construction companies are more likely to get lucrative contracts if they can show a cleaner safety sheet.

The case was Hubbard v. Hills Materials Co., Seventh Judicial Circuit, Pennington County, S.D.

5TH PAR
END

X-RAY REPORT

NAME: PHILLIPS, PAUL MEDICAL RECORD NO. 03 54 42

PHYSICIAN: Dr. Steven Topper DATE: 10-16-98

c.c. to patient: Paul A. Phillips
517 1/2 S.W. 13th
Pendleton, Oregon 97801

EXAM: MRI OF RIGHT HAND AND WRIST AND MRI OF FOREARM

PATIENT HISTORY: 44-year-old with right hand pain since 1981 extending into the right forearm; previous surgery 17 years ago (details unavailable).

MRI TECHNIQUE:

Siemens 1.0 tesla pulse sequences included the following for the forearm:

T1-W, Turbo STIR, coronal 4 mm. slices; PD and T2-W Turbo SPIN echo axial 4 mm. slices extending from the mid forearm through the distal carpal row.

MRI SEQUENCES FOR WRIST AND HAND included the following:

T1-W, Turbo STIR coronal 3 mm. slices; PD and T2-W axial conventional SPIN echo 4 mm. slices; T2-W axial fat suppression 4 mm. slices; 2D FLASH T2*W coronal 3 mm. slices. All of the hand and wrist sequences included the distal radius and ulna through the MCP joints.

MRI OF FOREARM FINDINGS:

Signal intensities of bone marrow, cortex, musculature and subcutaneous fat are within normal limits. No mass lesions, edema or abnormal fluid collections are identified in the forearm region. An effusion is noted in the proximal carpal row particularly near the navicular bone and also at the ulnar side of the proximal carpal row with further details discussed below.

MRI OF FOREARM IMPRESSION:

NO SIGNIFICANT ABNORMALITIES IN THE FOREARM. EFFUSION SEEN AT THE WRIST.

MRI OF WRIST AND HAND FINDINGS:

Bone marrow signal intensities are abnormal at the carponavicular bone and the lunate bone where cysts are noted in the cancellous bone. The cyst at the carponavicular bone is eccentrically located at the subcortical area of the dorsal aspect proximal end measuring

JK Page 1 of 2 pages

X-RAY REPORT

Page 2 - X-RAY REPORT CONTINUED
PHILLIPS, PAUL
Dr. Steven Topper
October 16, 1998

approximately 4 mm. diameter. Immediately adjacent to the cyst is an effusion in the proximal carpal row joint space extending toward the radial aspect of the navicular bone. The rest of the navicular bone has normal signal intensity with no evidence of avascular necrosis. The lunate carpal bone has a similar cluster of eccentrically located cysts also at the dorsal surface with thin, possibly discontinuous cortex.


Joint space effusion is noted at the ulnar side of the proximal carpal row particularly around the palmar aspect near the triangular fibrocartilage complex. The TFCC has irregular increased signal intensity and linear defects extending through its central substance. The radial attachment is discontinuous. Ulnar collateral attachment of the TFCC is also tenuous and ill-defined. No excess fluid accumulation is identified in the distal radial ulnar joint to confirm TFCC tear. Additional increased signal intensity on T2-weighted images particularly on the fat suppression axial sequence is identified in the dorsal soft tissues immediately adjacent to the proximal carpal row near midline suggesting edema displacing extensor tendons dorsally. All the tendons and musculature have normal features otherwise. No other carpal bone abnormalities are detected. The flexor retinaculum is normal in thickness. The median nerve has normal configuration and signal intensity.

MRI RIGHT WRIST AND HAND IMPRESSION:

POSSIBLE INTEROSSEOUS GANGLION OF THE CARPONAVICULAR BONE WITH ASSOCIATED EFFUSION. A 4 MM. CYST WITH OTHERWISE SIMPLE FEATURES LOCATED AT THE DORSAL MARGIN OF THE BASE OF THE CARPONAVICULAR BONE HAS CORTICAL THINNING/POSSIBLE DISCONTINUITY IMMEDIATELY ADJACENT TO THE EFFUSION AND MAY IN FACT COMMUNICATE WITH THE EFFUSION.

SIMILAR CYSTS OF SMALLER SIZE IN THE LUNATE BONE WITH POSSIBLY DISCONTINUOUS CORTEX AGAIN AT THE DORSAL SURFACE WITHOUT ASSOCIATED EFFUSION. NO ADJACENT EFFUSION BUT POSSIBLY OF SIMILAR ETIOLOGY.

TRIANGULAR FIBROCARTILAGE COMPLEX INJURIES SUGGESTED BY INHOMOGENEITY AND DISCONTINUOUS ATTACHMENTS BUT WITHOUT DISTAL RADIAL ULNAR JOINT EFFUSION TO CONFIRM ACTUAL TEAR.

 Page 2 of 3 pages

St. Anthony Hospital

† CATHOLIC HEALTH
INITIATIVES

1601 S.E. Court Ave. Pendleton, OR 97801-3297 Phone: 541-278-3228 Fax: 541-278-3219

X-RAY REPORT

Page 3 - X-RAY REPORT CONTINUED
PHILLIPS, PAUL
Dr. Steven Topper
October 16, 1998

EDEMA IN THE PERIARTICULAR SOFT TISSUES DORSAL TO THE PROXIMAL CARPAL ROW, DISPLACING EXTENSOR TENDONS BUT WITHOUT WELL DEFINED BORDERS SUGGESTING EDEMA/INFLAMMATORY CHANGES, POSSIBLY A RUPTURED GANGLION CYST.



FRANK ERICKSON, M.D.,
RADIOLOGIST

FE/lg

D: 10-17-98

T: 10-19-98 13:55

LIST OF EXHIBITS

Paul A. Phillips

544-64-5929

(Claimant)

(Social Security Number)

(Wage Earner)(Leave Blank in Title XVI cases
or if name is same as above)

<u>EXHIBIT</u> <u>NO.</u>	<u>DESCRIPTION</u>	<u>NO.OF</u> <u>PAGES</u>
1.	Notice of Disapproved Claim dated 1-20-82 with attached Disability Determination and Transmittal dated 1-19-82 and Application for Disability Insurance Benefits filed 12-23-81	9
2.	Application for Disability Insurance Benefits filed 3-24-86	4
3.	Disability Determination and Transmittal dated 6-17-86	4
4.	Social Security Notice dated 7-2-86	1
5.	Request for Reconsideration filed 10-20-86	2
6.	Report of Contact dated 10-20-86	1
7.	Disability Determination and Transmittal dated 11-24-86 with attached Residual Functional Capacity Assessment dated 11-20-86	8
8.	Notice of Reconsideration dated 12-3-86	3
9.	Request for Hearing filed 1-29-87	2
10.	Earnings Record with attached Report of Contact dated 4-5-86	3
11.	Disability Report dated 12-22-81	8
12.	Vocational Report dated 12-22-81	4
13.	Work Activity Report dated 12-22-81	4
14.	Vocational Report dated 3-24-86	6
15.	Disability Report dated 3-24-86	8
16.	Questionnaire filled out by claimant daed 4-18-86	8
17.	Questionnaire filled out by claimant dated 4-18-86	8
18	Hearing Before Vocational Rehabilitation Division 8-28-85	6

19	Medical Record Emergency Outpatient, St. Jos. Hospital 10/7/81	3
20	Medical Report, R. D. Thorson M.D 10/13/80 - 11/24/81 Professional Qualifications not available	6
21	Medical Report, James F. Conaty M.D. 12/16/81 with Professional Qualifications	3
22	Medical Report, Larry Harries M.D, 6/24/76 - 1/25/82 with Professional Qualifications	18
23	Medical Report, James E. Haug. O.D., 9/10/82	1
24	Medical Report, John B. Rule, M.D. 3/30/83 with Professional Qualifications	3
25	Medical Report, E. G. Spier O.D. 4/4/83	2
26	Medical Report, Jaques P. Herter PhD 4/12/83	3
27	Medical Report, Charles F. McMahon M.D. 6/7/83, with Professional Qualifications	4
28	Medical Report, Robert Kelso, PhD 7/18/82	17
29	Medical Report, T. Wesley Hunter, M.D. 7/19/87 with Professional Qualifications	2
30	Medical Report, John A. Carolan M.D. 10/24/83 with Professional Qualifications	2
31	Medical Report, James E. Cashman, M.D. 8/28/84 with Professional Qualifications	3
32	Medical Records, Memorial Hospital of Carbon County Rawlins, Wyo. 10/19/84	9
33	Medical Report, D. L. Shutt Ed. D. 12/19/84	4
34	Medical Report, Terrel L. Templeman, Ph.D 3/25/85 - 4/1/85	4
35	Medical Record, Pendleton Orthopedic Clinic, P.C. 4/10/85	1
36	Medical Report, Andrea C. Tongue, M.D. 4/23/85 with Professional Qualifications	2
37	Medical Report, Louis J. Feves M.D., 2/11/85 and 3/4/86 with Professional Qualifications	6
38	Medical Records, Umatilla County Mental Health Clinic 5/5/86	4

1020 E Caroline
Port Angeles Washington 98362

LIST OF EXHIBITS

Paul A. Phillips

544-64-5929

(Claimant)

(Social Security Number)

(Wage Earner)(Leave Blank in Title XVI cases
or if name is same as above)

EXHIBIT NO.	DESCRIPTION	NO. OF PAGES
39	Medical Report, John H. Diehl, M.D, 6/2/87 with Professional Qualifications	4
40	Medical Report, Bruce L. Till, M.D. and Stanley Simons, M.D. 1964 - 10/10/86 with Professional Qualifications	20
<u>EVIDENCE RECEIVED PRIOR TO THE HEARING</u>		
41.	Vocational Evaluation, The Gottsche Rehabilitation Center dated 7/18-22/83	11
42.	Report from Curt Hibbard, Director Plant Operations & Maintenance St. Joseph Regional Medical Center dated 7/16/87	1
43.	Letter from Betty Simonson, Cl's Mother (undated)	1
44.	Letter to Wilmer B. Hill, ALJ from Claimant dated 7/21/87	1
45.	Claimant's Questionnaire dated (date stamped 7/23/87)	10
46	Photo of Lens (submitted 7/28/87	1
47.	Medical Records, St. Anthony Hospital 4/13/73 - 6/26/74	8
48	Letter to Vocational Expert and Resume	3

Paul .A. Phillips

From: Paul .A. Phillips <offl@oregontrail.net>
To: <1stlady@gov.state.id.us>
Sent: Thursday, July 29, 1999 1:24 AM
Attach: ps000005.JPG; ps000006.JPG; P1261906.bmp; Black white.JPG; Not BROKEN bones growth rings.JPG
Subject: 4Th reply

I'm sorry the last 2 center pictures were wrong ones .



15 West 10th Avenue
 Kennewick, WA 99336
 Telephone (509) 585-9333
 FAX (509) 582-9321

821 Swin Boulevard
 Richland, WA 99352
 Telephone (509) 946-6144
 FAX (509) 946-7253

James R. Hazel, M.D.
 Orthopedic Surgeon
 Sports Medicine
 Consultant to the
 American Basketball
 Association

Walter J. Hales, M.D.
 Orthopedic Surgeon
 Consultant to the
 American Basketball
 Association
 Consultant to the
 American Football
 Association

Mark R. Merrill, M.D.
 Orthopedic Surgeon
 Consultant to the
 American Basketball
 Association

Kimberly S. Lamson
 CPA
 Chief Administrative

Robert Ruggeri, M.D.
 55 W. Tictan
 Walla Walla, WA 99362

April 30, 1999

Re: PAUL PHILLIPS
 DOS: 4-26-99

Dear Dr. Ruggeri,

I had a chance to evaluate Paul Phillips who came to see me at your suggestion on April 26. This 45 year old white male, apparently legally blind, came in concerning this painful right hand. He describes it as beginning in 1991 when he was working at St. Joseph's Hospital in Idaho. He was working in laundry he says moving about 6-8 tons of laundry a day at work, working a good 10 hour days 6 days a week for a four year period. Suddenly one day without any specific injury his arm became painful and he simply could not use it anymore he states. He has had multiple work ups and evaluations and treatments. I would estimate somewhere between 10-15 physicians have evaluated and attempted treatment for this including physicians in Lewiston, Rollings, WY, and then of course in Pendleton, OR and Walla Walla. These evaluations included an MRI done in October ordered by a Dr. Steven Topper and read by Frank Erickson, which in my opinion are totally over-read and they are reading way too much detail into the findings. To make a long story short this patient is a difficult historian and has seemed very fixated on this going clear back to 1991 and insisting on multiple evaluations and examinations.

However, there is one very definite finding that is present and that is he has marked instability and pain in the metacarpal trapezial joint of his right thumb. Obviously others have recognized this as he presented today in the office with a thumb post splint. I don't know if that was ordered by yourself or some time before he saw you. Most of his complaints center on the distal forearm then radiating up on the dorsal radial aspect of the wrist and thumb. I explained to him that based on this one time exam his history and exam seems out of proportion to that one single problem. I would not be comfortable based on this one time examination suggesting that is his major problem although it could be. I recommend that he be more specific about what his symptoms are, keep a diary and we will talk again in three weeks. If his symptoms seem consistent with that perhaps this does warrant surgical treatment.

PAUL PHILLIPS, Cont.

In this case I definitely would recommend a fusion rather than an arthroplasty since in my experience it is much more reliable for giving pain relief and that is his chief complaint. There are no particular demands that would require obtaining full abduction and extension of the thumb such as piano playing.

Thank you again for the chance to see and help in the care of this patient.

Sincerely,

Walter J. Hailes, M.D.

WJH:amw

NORTHWEST PRIMARY CARE

PHILLIPS, PAUL A.
Patient Name

03-64-38
X-Ray No.

3/10/54
Age/DOB

Walter Buhl, M.D.
Physician

1/11/05
Date

Reason for Examination:

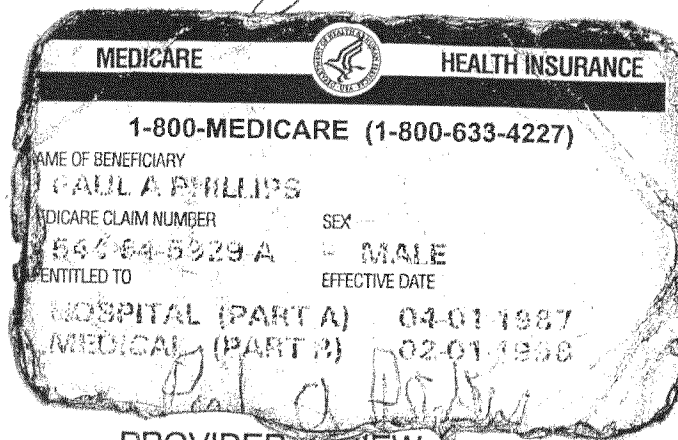
Pain and disability; small bone cysts of carpal bones documented by MRI examination of 10/16/98, with post-traumatic changes in the triangular fibrocartilage complex and displacement of tendons.

RIGHT WRIST:

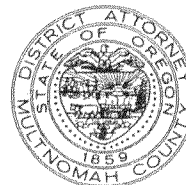
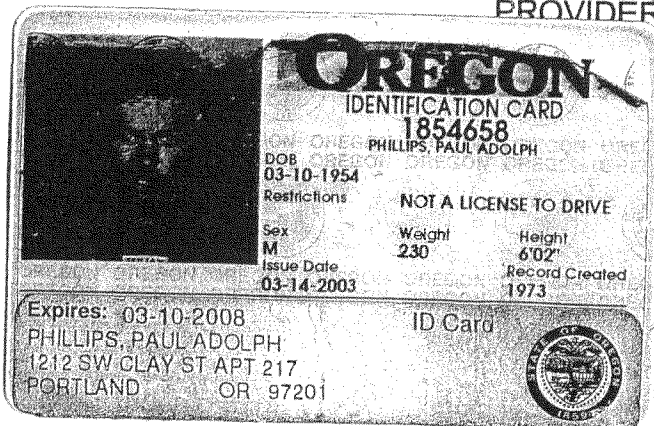
Palmar, oblique and lateral views without comparison show minimal posterior angulation of the distal radial articular plane suggestive of remote fracture. No further osseous or joint abnormality is demonstrable.

HGW:ns
D&T: 1/12/05

HANS G. WANDEL, M.D., F.A.C.R.



PROVIDER REVIEW:



DISTRICT ATTORNEY
MULTNOMAH COUNTY
1021 S.W. 4TH AVENUE,
ROOM 600
PORTLAND, OR 97204

(503) 988-3162

NORTHWEST PRIMARY CARE GROUP, P.C.
REPORT OF RADIOLOGICAL CONSULT

connection
Log In Now

CHA About CHA

(.pdf)
(.pdf)
(.pdf)

FACTS ABOUT The Catholic Health Association of the United States

The Catholic Health Association of the United States (CHA) is the national leadership organization representing the Catholic health ministry. CHA's more than 2,000 members form the nation's largest group of not-for-profit Catholic health care systems, sponsors, facilities, health plans, and related organizations. Since its founding in 1915, CHA has worked to strengthen the Catholic health ministry so that it can provide care to everyone, particularly the poor and vulnerable populations.

CHA Member organizations include:

- **61 Catholic health care systems**

- Range in size from two or three health care facilities in a single metropolitan area to more than 100 organizations in 19 states
- Are active in developing integrated networks and partnerships across the full continuum of care, including such services as home care, primary care, physician groups, long-term care, assisted living, and hospice
- Minister through shelters, food programs, and hundreds of other community outreach efforts
- Sometimes act as full or partial owners of health maintenance organizations (HMOs)

- **More than 614 Catholic hospitals**

- 86 percent of which are in health care systems
- 28 percent of which are in rural areas
- Particularly concentrated in the Midwest, West Coast, and Northeast regions of the country
- Many engaged in a wide range of non-acute care services, as described above
- An additional 63 hospitals that are other-than-Catholic, but that belong to Catholic systems, are also members of CHA

- **More than 700 Catholic continuum of care/long-term care facilities**

- 19 percent of which are in rural areas

- **261 sponsors**, a term for the religious congregations, dioceses, and other "owners" of health care organizations. Most Catholic health care organizations were founded by religious congregations of women (e.g., Daughters of Charity, Sisters of Mercy) that continue to oversee and help govern these services. Some systems are sponsored by more than one religious congregation and have combined their facilities into a single, "co-sponsored" system. A few systems are sponsored by a body of lay persons authorized to carry on and steward the ministry in a structure called a "public juridic person." These sponsoring structures are becoming more common as religious congregations become smaller, prompting them to seek new ways to continue the ministry.

June 2002

Strategic Plan
Form 990

About CHA
Trustees & Committees
Award Programs

Services (.pdf)
Membership

Group Ruling Memorandum

CHAUSA.ORG

and many local companies will be involved in the project. The Carnegie project will help the local economy while also providing the region with a center for art exhibits, classes and performances.

The community already has shown its interest in seeing the historic Carnegie building pre-

for downtown Charleston.

At a time when the downtown area is reeling from the loss of structures due to fires, it is especially timely to invest in the preservation of this architecturally interesting building. To help with the Carnegie Campaign, contact the arts center at 278-9201.

I see Dave with the railing. from seem point taining to die

In t pour build All anotl proc good

The for shoe othe ente that of st and

Al the prop smol the towa

Cast Oregonian Sept. 4, 1999 page 8A

Open forum

Don't get hurt while working at the hospital

Open letter to Gov. John Kitzhaber:
SDSD is going to terminate my medical health insurance after almost a year.

I have growth rings (don't laugh) and my right thumb and forearm were broken and injured at a hospital Oct. 7, 1981. My right thumb has had cartilage at both ends dislocated out of socket

from the broken thumb and my forearm broken at two places. I'm blind 20/400.

In the one year of health insurance, I got rides to medical appointments using Oregon state vehicles, gasoline, and of course drivers. I sure learned my lesson.

The worst place in the world to get injured is at a hospital as an employee. I was put in a cast that day and have never recovered from the injury.

PAUL A. PHILLIPS
Pendleton

9/4/99



W

#2-

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 3/29/7

SUBJECT: HB 3405

related to telephone directories BLUE PAGES

AGENDA NUMBER OR TOPIC: _____

FOR: ☒ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Jim Long

ADDRESS: 10730 SW 72nd Ave

CITY/STATE/ZIP: PORTLAND, OR 97223

PHONE: DAYS: (503) 647-0021 EVES: _____

EMAIL: bluepgs @ yahoo.com FAX: _____

SPECIFIC ISSUE: Support for the Above legislation

WRITTEN TESTIMONY: _____

Thousands of omissions, errors, and inconsistencies
have occurred in recent BLUE PAGES.

The Oregon Dept of Justice encourages legislation
to clarify the state's authority

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

House Bill 3405

Sponsored by Representatives GALIZIO, SCHAUFLEER; Representatives BOONE, BUCKLEY, GREENLICK, NELSON, G SMITH, Senators AVAKIAN, BURDICK, G GEORGE, JOHNSON, MORRISETTE, WESTLUND (at the request of Jim Long)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Establishes requirements for telephone directories.

A BILL FOR AN ACT

Relating to telephone directories.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 759.

SECTION 2. (1) Any telephone directory provided to telephone customers in this state must include a separate, blue-bordered section appearing near the front of the directory that includes:

(a) The names, addresses and telephone numbers of government offices, including all city, county, special district, regional authority, port, tribal, state and federal offices that are located within the geographical area in which the directory is distributed;

(b) The names, addresses and telephone numbers of public schools that are located within the geographical area in which the directory is distributed; and

(c) A government and human services guide.

(2) The separate, blue-bordered section required by subsection (1) of this section may include toll-free and other telephone numbers for services available to customers that are provided by agencies located outside of the geographical area in which the directory is distributed.

(3) The Public Utility Commission shall by rule establish standards for implementing this section.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST (long form)

APPROVED: MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-1 DATE 03-29-07
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: R-1
Est. Start Time: 9:30 AM
Date Submitted: 03/15/07

BUDGET MODIFICATION: DCJ - 16

Budget Modification DCJ-16 Appropriating \$175,000 of One-Time-Only
Agenda Funding from the State of Oregon, Oregon Youth Authority (OYA) for Gang
Title: Intervention Services

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date:	<u>March 29, 2007</u>	Amount of Time Needed:	<u>5 minutes</u>
Department:	<u>Dept. of Community Justice</u>	Division:	<u>Juvenile Services Division</u>
Contact(s):	<u>Shaun Coldwell</u>		
Phone:	<u>503-988-3961</u>	Ext.	<u>83961</u>
	I/O Address:		<u>503 / 250</u>
Presenter(s):	<u>Dave Koch and Thach Nguyen</u>		

General Information

1. What action are you requesting from the Board?

The Department of Community Justice (DCJ) requests approval of a budget modification to appropriate \$175,000 from Oregon Youth Authority (OYA) to provide gang intervention services for youth offenders.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The State of Oregon Emergency Board announced in December 2006 that one time only Gang Involvement money through the Oregon Youth Authority was available to applicants. Multnomah County applied and was awarded funding in four program areas: Youth Work Internship, Eye Movement Desensitization & Reprocessing, Global Appraisal of Individual Needs and PLATO Learning Software.

The Multnomah Youth Work Internship Program is a skill development and employment internship program for gang affected youth. The youth will attend skill building classes and/or be placed in an

internship program. The program provides highly structured and closely supervised group activities and work internship opportunities that address issues contributing to delinquency. These activities include educational assessment, job readiness, conflict resolution, life skills, and victim impact sessions that help youth develop empathy so they can understand what they have done.

DCJ will increase its capacity to effectively address mental health disorders in gang-involved youth by training clinicians who work with gang-involved youth to incorporate Eye Movement Desensitization and Reprocessing (EMDR) into their existing addiction treatment programs. This training will enable DCJ, in accordance with SB 267, to incorporate a widely recognized Evidence-based practice into its menu of offerings to high-risk, gang-involved youth.

DCJ will increase its capacity to effectively assess gang-involved youth needing addiction and mental health services by sending four clinicians to a "Train the Trainer" conference on the Global Appraisal of Individual Needs (GAIN). The GAIN is "a series of standardized instruments designed to integrate the assessment for both clinical (e.g., diagnosis, bio-psycho-social assessment, placement, and treatment planning) and program evaluation (needs assessment, clustering, fidelity, outcomes, and benefit cost) purposes."

The PLATO Learning software is an academic credit recovery program designed to expose students to instructional content, problem solving, and computer technology while allowing students to learn at their own pace. The software program meets the accreditation requirements of the State of Oregon. Plato Courses are complete electronic courses that address high school graduation requirements integrating courseware, web activities, and offline activities. This software increases current capacity by purchasing 15 new licenses. PLATO allows youth to achieve academic credits during their stay in juvenile detention while helping keep gang youth engaged in school.

This grant complements program offers 50011 Juvenile Assessment & Treatment for Youth, 50015 Juvenile Gang Resource Intervention Team, 50022 Juvenile Accountability Programs and 50023 Juvenile Detention Services.

3. Explain the fiscal impact (current year and ongoing).

This budget modification includes revenue and expenditures covering the period March 19, 2007 through June 30, 2007.

4. Explain any legal and/or policy issues involved.

N/A

5. Explain any citizen and/or other government participation that has or will take place.

N/A

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- **What revenue is being changed and why?**

The Oregon Youth Authority (OYA) Grant revenue increases by \$175,000.

- **What budgets are increased/decreased?**

Juvenile Services Division increases by \$162,882.

Central Indirect increases by \$4,007.

Department Indirect increases by \$8,111.

- **What do the changes accomplish?**

Personnel increases \$51,747 to provide one full time Limited Duration Juvenile Counselor position and two full time Temporary Community Work Leader positions.

Pass Through & Program Support increases \$26,000 for youth stipends.

Professional Services increases \$9,340. \$3,900 is for youth computer classes and \$5,440 is for supervised EMDR practice for staff.

Supplies increases by \$3,385

Food increases by \$10,920 to provide meals and snacks to the youth participating in the Youth Investment Program.

Education & Training increases \$45,404. \$29,100 is for EMDR staff training. \$16,304 is for GAIN staff training.

Software Licenses & Maintenance increase \$16,087. This purchases 15 2-year licenses of the PLATO Learning Environment computer software.

- **Do any personnel actions result from this budget modification? Explain.**

A 1.00 FTE Juvenile Counselor is added. This position is limited duration through 6/30/07.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

The Grant provides for Central Indirect and Department Indirect costs.

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

The revenue is one-time-only and must be spent by June 30, 2007. Programs requesting funding are one time only type services, but services which will yield returns into the future.

- **If a grant, what period does the grant cover?**

March 19, 2007 through June 30, 2007.

- **If a grant, when the grant expires, what are funding plans?**

There are no funding plans after the grant ends.

<p><i>NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.</i></p>

ATTACHMENT B

BUDGET MODIFICATION: DCJ - 16

Required Signatures

**Elected Official or
Department/
Agency Director:**

Shannon McNamee for Steve Lacey

Date: 03/15/07

Budget Analyst:

CE

Date: 03/14/07

Department HR:

Karin Lambert

Date: 03/15/07

Countywide HR:

Jandace J. Buxley

Date: 03/15/07

ANNUALIZED PERSONNEL CHANGEChange on a full year basis even though this action affects only a part of the fiscal year (FY).

						ANNUALIZED			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
50-50	6272	64296	Juvenile Counselor	TBD	1.00	55,286	17,741	13,311	86,338
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
			TOTAL ANNUALIZED CHANGES		1.00	55,286	17,741	13,311	86,338

CURRENT YEAR PERSONNEL DOLLAR CHANGECalculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

						CURRENT YEAR			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
50-50	6272	64296	Juvenile Counselor	TBD	0.29	16,033	5,145	3,860	25,038
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
			TOTAL CURRENT FY CHANGES		0.29	16,033	5,145	3,860	25,038

Budget Modification ID: **DCJ-16****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	50-50	23190	50			CJ007.GTS.GIF.INTERN	50180	0	(103,090)	(103,090)	(103,090)	IG Direct State: Operations
2	50-50	23190	50			CJ007.GTS.GIF.INTERN	60000	0	16,033	16,033		Salary (Limited Duration JCC)
3	50-50	23190	50			CJ007.GTS.GIF.INTERN	60100	0	22,584	22,584		Temporary (2 CWL's)
4	50-50	23190	50			CJ007.GTS.GIF.INTERN	60110	0	970	970		Overtime (for Temp CWL's)
5	50-50	23190	50			CJ007.GTS.GIF.INTERN	60130	0	5,145	5,145		Fringe
6	50-50	23190	50			CJ007.GTS.GIF.INTERN	60135	0	2,344	2,344		Non-base Fringe
7	50-50	23190	50			CJ007.GTS.GIF.INTERN	60140	0	3,860	3,860		Insurance
8	50-50	23190	50			CJ007.GTS.GIF.INTERN	60145	0	811	811		Non-base Insurance
9	50-50	23190	50			CJ007.GTS.GIF.INTERN	60160	0	26,000	26,000		Pass-Through & Prg Supprt
10	50-50	23190	50			CJ007.GTS.GIF.INTERN	60170	0	3,900	3,900		Professional Svcs
11	50-50	23190	50			CJ007.GTS.GIF.INTERN	60240	0	3,385	3,385		Supplies
12	50-50	23190	50			CJ007.GTS.GIF.INTERN	60250	0	10,920	10,920		Food
13	50-50	23190	50			CJ007.GTS.GIF.INTERN	60350	0	2,360	2,360		Central Indirect 2.46%
14	50-50	23190	50			CJ007.GTS.GIF.INTERN	60355	0	4,778	4,778		Department Indirect 4.98%
15								0			103,090	Multnomah Youth Work Internship Program
16								0				
17	50-50	23190	50			CJ007.GTS.GIF.EMDR	50180		(37,110)	(37,110)	(37,110)	IG Direct State: Operations
18	50-50	23190	50			CJ007.GTS.GIF.EMDR	60170		5,440	5,440		Professional Svcs
19	50-50	23190	50			CJ007.GTS.GIF.EMDR	60260		29,100	29,100		Education & Training
20	50-50	23190	50			CJ007.GTS.GIF.EMDR	60350		850	850		Central Indirect 2.46%
21	50-50	23190	50			CJ007.GTS.GIF.EMDR	60355		1,720	1,720		Department Indirect 4.98%
22								0			37,110	Eye Movement Desensitization & Reprocessing
23								0				
24	50-50	23190	50			CJ007.GTS.GIF.GAIN	50180		(17,517)	(17,517)	(17,517)	IG Direct State: Operations
25	50-50	23190	50			CJ007.GTS.GIF.GAIN	60260		16,304	16,304		Education & Training
26	50-50	23190	50			CJ007.GTS.GIF.GAIN	60350		401	401		Central Indirect 2.46%
27	50-50	23190	50			CJ007.GTS.GIF.GAIN	60355		812	812		Department Indirect 4.98%
28								0			17,517	Global Appraisal of Individual Needs (GAIN)
29								0				
										0	0	Total - Page 1
										0	0	GRAND TOTAL

Budget Modification ID: **DCJ-16****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Internal Order	Accounting Unit		Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
					Cost Center	WBS Element						
30	50-50	23190	50			CJ007.GTS.GIF.PLATO	50180		(17,284)	(17,284)	(17,284)	IG Direct State: Operations
31	50-50	23190	50			CJ007.GTS.GIF.PLATO	60290		16,087	16,087		Software Licenses/Maint
32	50-50	23190	50			CJ007.GTS.GIF.PLATO	60350		396	396		Central Indirect 2.46%
33	50-50	23190	50			CJ007.GTS.GIF.PLATO	60355		801	801		Department Indirect 4.98%
34									0		17,284	Plato Learning Environment - Computer Software
35									0			
36	19	1000	20		9500001000		50310		(4,007)	(4,007)		Internal Svcs Reimb
37	19	1000	20		9500001000		60470		4,007	4,007		CGF Contingency
38									0			
39	50-00	1000	50		509600		50370		(8,111)	(8,111)		Dept Indirect Revenue
40	50-00	1000	50		509600		60170		8,111	8,111		Professional Services
41									0			
42	72-10	3500	20		705210		50316		(4,671)	(4,671)		Service Reimb, Insurance
43	72-10	3500	20		705210		60330		4,671	4,671	0	Claims Paid, Insurance
44									0			
45									0			
46									0			
47									0			
48									0			
49									0			
50									0			
51									0			
52									0			
53									0			
54									0			
55									0			
56									0			
57									0			
58									0			
									0		0	Total - Page 2
									0		0	GRAND TOTAL



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-2 DATE 03-29-07
DEBORAH L. BOGSTAD, BOARD CLERK

03/29/07

Meeting Date: 03/29/07
Agenda Item #: R-2
Est. Start Time: 9:35 AM
Date Submitted: 03/08/07

BUDGET MODIFICATION: HD - 06

Budget Modification HD-06 Appropriating \$110,000 in Revenue from the Gates Foundation to the Health Department for Research and Evaluation
Agenda Title: Services

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested:	<u>March 29, 2007</u>	Time Requested:	<u>5 minutes</u>
Department:	<u>Health Dept.</u>	Division:	<u>ICS</u>
Contact(s):	<u>Jesse DeJesus, Budget Analyst</u>		
Phone:	<u>503 988-3663</u>	Ext.	<u>26457</u>
		I/O Address:	<u>167/210</u>
Presenter(s):	<u>Mike Stark, Director, Program Design and Evaluation Services</u>		

General Information

1. What action are you requesting from the Board?

Approval of appropriation of \$110,000 in funding from the Bill & Melinda Gates Foundation for the Health Department to provide research and evaluation services.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The Health Department's Program Design and Evaluation Services is well known for their evaluation expertise nationally. For example, PDES has contracts with the State of Washington and the State of Alaska.

The Health Department will provide to the Foundation a report on the topic of International Tobacco Control by interviewing experts, convening meetings among experts, providing literature summary and analysis, and using other methods as necessary. The report will clearly lay out an evidence-based strategic approach that the Foundation might take in tobacco control. The document will be solution-based. The background information will clearly support the final proposed potential

solutions. Implementation of potential solutions will provide results that can be clearly measured.

The report will address the following issues: Provide targeted solutions for tobacco control in the developing world; What will it take to have a measurable effect and what goals/targets should the Foundation set; also address epidemiology of tobacco in the developing world and tobacco control strategies in the developing world.)

3. Explain the fiscal impact (current year and ongoing).

The Bud Mod will increase the Health Departments CHP3 Planning, Development & Evaluation Services FY07 budget by \$110,000 and add 0.80 FTE Research and Evaluation Supervisor.

4. Explain any legal and/or policy issues involved.

N/A

5. Explain any citizen and/or other government participation that has or will take place.

N/A

ATTACHMENT A

Budget Modification

If the request is a Budget Modification, please answer all of the following in detail:

- What revenue is being changed and why?
The Health Departments FY07 Fed/State Revenue will increase by \$110,000 as a result of the work performed under this contract.
- What budgets are increased/decreased?
The Health Departments CHP3 PDES budget will increase by \$110,000.
- What do the changes accomplish?
Perform the work outlined in Contract #4926 between the Bill & Melinda Gates Foundation and Multnomah County Health Department.
- Do any personnel actions result from this budget modification? Explain.
Adds .80 FTE: Research and Evaluation Supervisor
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?
County and Departmental Indirect is covered by revenues.
- Is the revenue one-time-only in nature?
This is a one time only contract.
- If a grant, what period does the grant cover?
5/12/06 - 9/30/06.
- If a grant, when the grant expires, what are funding plans?
The work will be completed. PDES operations is not dependent on this award; nor are there any ongoing PDES operations that are dependent on future support from the Foundation.

<p><i>NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.</i></p>

ATTACHMENT B

BUDGET MODIFICATION: HD - 06

Required Signatures

Department/
Agency Director:




Date: 02/14/07

Budget Analyst:



Date: 02/26/07

Department HR:



Date: 02/14/07

Countywide HR:

Date:

Budget Modification ID: **HD-07-06****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit			Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center	WBS Element						
1	40-16	32229	30			4CA88-01-1	50210		(110,000)	(110,000)		Grant Revenue - Gates 12 mos (Jul 2006 - Jun 2007)
2												
3	40-16	32229	30			4CA88-01-1	60000		52,874	52,874		D. Dowler (Nov 2006 - Jun 2007)
4	40-16	32229	30			4CA88-01-1	60130		16,967	16,967		D. Dowler
5	40-16	32229	30			4CA88-01-1	60140		10,399	10,399		D. Dowler
6	40-16	32229	30			4CA88-01-1	60100		21,640	21,640		On-Call Research Assistants to help with data collection & research
7												
8	40-16	32229	30			4CA88-01-1	60350		2,506	2,506		2.46%
9	40-16	32229	30			4CA88-01-1	60355		5,614	5,614		5.51%
10												
11												
31	40-90	1000	30		409050		50370		(5,614)	(5,614)		Indirect Dept reimbursement revenue in GF
32	40-90	1000	30		409001		60000		5,614	5,614		Off setting Dept expenditure in GF
33												
34	19	1000	20		9500001000		50310		(2,506)	(2,506)		Indirect reimbursement revenue in General Fu
35	19	1000	20		9500001000		60470		2,506	2,506		CGF Contingency expenditure
36												
37	72-10	3500	20		705210		50316		(10,399)	(10,399)		Insurance Revenue
38	72-10	3500	20		705210		60330		10,399	10,399		Offsetting expenditure
20												
21												
22												
23												
24												
25												
26												
27												
28												
29												
										0	0	Total - Page 1
										0	0	GRAND TOTAL

ANNUALIZED PERSONNEL CHANGEChange on a full year basis even though this action affects only a part of the fiscal year (FY).Fringe: 32.09%
Insurance: 6.50%
10,443

						ANNUALIZED			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1505	9041	61166	Research/Evaluation Supervisor	712780	1.00	79,312	25,451	15,598	120,361
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
			TOTAL ANNUALIZED CHANGES		1.00	79,312	25,451	15,598	120,361

CURRENT YEAR PERSONNEL DOLLAR CHANGECalculate costs/savings that will take place in this FY; these should explain the actual dollar amounts being changed by this Bud Mod.

						CURRENT YEAR			
Fund	Job #	HR Org	Position Title	Position Number	FTE	BASE PAY	FRINGE	INSUR	TOTAL
1505	9041	61166	Research/Evaluation Supervisor	712780	0.67	52,874	16,967	10,399	80,241
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
									0
			TOTAL CURRENT FY CHANGES		0.67	52,874	16,967	10,399	80,241



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-3 DATE 03-29-07
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: R-3
Est. Start Time: 9:38 AM
Date Submitted: 03/15/07

BUDGET MODIFICATION: HD - 18

Agenda Title: Budget Modification HD-18 Appropriating \$27,400 in Additional Revenue for the Health Department's Regional Emergency Preparedness Program

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Date Requested:	<u>March 29, 2007</u>	Time Requested:	<u>5 minutes</u>
Department:	<u>Health Dept.</u>	Division:	<u>Business Services</u>
Contact(s):	<u>Wendy Lear, Business Services Manager</u>		
Phone:	<u>(503) 988-3663</u>	Ext.	<u>24977</u>
Presenter(s):	<u>Kathryn Richer, Program Manager and/or Gary Oxman, Health Officer</u>		

General Information

1. What action are you requesting from the Board?

Approval for appropriation of \$27,400 in grant funding from the Oregon Association of Hospitals and Health Systems. The additional funds will be applied towards ongoing regional health system emergency preparedness planning and operations.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action effects and how it impacts the results.

In December 2005, the Multnomah County Board of Commissioners approved a grant from the Oregon Association of Hospitals and Health Systems to fund a project to identify systems for communicating with culturally specific populations in an emergency. Under the proposed revenue, the Health Department will continue to support and coordinate this project, and also will plan for and facilitate a regional health system emergency response meeting to disseminate health response plan information and ensure plan alignment.

3. Explain the fiscal impact (current year and ongoing).

Approval of bud mod will increase the Health Departments Regional Emergency Preparedness budget by \$27,400.

4. Explain any legal and/or policy issues involved.

This activity represents a continuation of the County's ongoing work to develop a coordinated public/private health response to bioterrorism and other public health emergencies. No significant legal issues are anticipated.

5. Explain any citizen and/or other government participation that has or will take place.

The requested/recommended approach represents the consensus of key public and private parties in local health emergency preparedness. The approach has been specifically approved by the Directors of the Health departments of Clackamas and Washington Counties and the HPO Steering Committee.

ATTACHMENT A

Budget Modification

If the request is a **Budget Modification**, please answer all of the following in detail:

- **What revenue is being changed and why?**

The Health Department's Federal State revenue budget will increase by \$27,400 in FY07.

- **What budgets are increased/decreased?**

The Health Department's Regional Emergency Preparedness FY07 federal state budget will increase by \$27,400.

- **What do the changes accomplish?**

Enable the Regional Emergency Preparedness Program to continue its ongoing coordinating planning efforts throughout the region.

- **Do any personnel actions result from this budget modification? Explain.**

None

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

Covered by revenue

- **Is the revenue one-time-only in nature? Will the function be ongoing? What plans are in place to identify a sufficient ongoing funding stream?**

Funding from OAHHS is one-time only and the projects the funding covers are time-limited (August 31, 2007).

- **If a grant, what period does the grant cover?**

Grant funding from the Oregon Association of Hospitals and Health Systems: August 31, 2006 through August 31, 2007.

- **If a grant, when the grant expires, what are funding plans?**

Additional funding from the Oregon Association of Hospitals and Health Systems is possible but unknown at this time.

<p><i>NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.</i></p>

ATTACHMENT B

BUDGET MODIFICATION: HD - 18

Required Signatures

**Department/
Agency Director:**

Lillian Shirley

Date: 03/15/07

Budget Analyst:

Debra

Date: 03/22/07

Department HR:

Patricia Heller

Date: 03/15/07

Countywide HR:

Date:

Budget Modification ID: **HD-07-18****EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget/Fiscal Year: 2007

Line No.	Fund Center	Fund Code	Func. Area	Accounting Unit		Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
				Internal Order	Cost Center						
1	40-20	32180	30			4CA73-02-4		(27,400)	(27,400)		OAHS Contract for Region 1 Planning
2								0			
3	40-20	32180	30			4CA73-02-4		9,335	9,335		V. Katigiri
4	40-20	32180	30			4CA73-02-4		2,996	2,996		
5						4CA73-02-4		373	373		
6	40-20	32180	30			4CA73-02-4		5,400	5,400		To fully organize preparedness summit
7	40-20	32180	30			4CA73-02-4		200	200		
8	40-20	32180	30			4CA73-02-4		400	400		For preparedness summit
9	40-20	32180	30			4CA73-02-4		1,398	1,398		Includes \$600 AV costs for preparedness summit; \$400 parking for 100 people @ \$4/day
10	40-20	32180	30			4CA73-02-4		5,276	5,276		\$276 for 4 community meetings catering for 25 attendees; \$5000 for preparedness summit breakfast, lunch and break food costs for 100 people
11								0			
12	40-20	32180	30			4CA73-02-4		624	624		2.46%
13	40-20	32180	30			4CA73-02-4		1,398	1,398		5.51%
14								0			
15	19	1000	20		9500001000	50310		(624)	(624)		Indirect reimbursement revenue in GF
16	19	1000	20		9500001000	60470		624	624		CGF Contingency expenditure
17								0			
18	40-90	1000	30		409050	50370		(1,398)	(1,398)		Indirect Dept reimbursement revenue in GF
19	40-90	1000	30		409001	60000		1,398	1,398		Off setting Dept expenditure in GF
20								0			
21	72-10	3500	0020		705210	50316		(373)	(373)		Insurance Revenue
22	72-10	3500	0020		705210	60330		373	373		Offsetting expenditure
23								0			
24								0			
25								0			
26								0			
27								0			
28								0			
29								0			
								0	0		Total - Page 1
								0	0		GRAND TOTAL



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST (long form)

APPROVED: MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-4 DATE 03.29.07
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: R-4
Est. Start Time: 9:40 AM
Date Submitted: 03/19/07

Agenda Title: **NOTICE OF INTENT to Submit a Proposal to the Health Resources and Services Administration's Enhancing Linkages to HIV Primary Care and Services in Jail Settings Demonstration Models Grant Competition**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting: March 29, 2007 **Amount of Time Needed:** 10 minutes
Department: Health Department CHP3 **Division:** Program Design and Evaluation Services
Contact(s): Maureen Rumptz
Phone: 971-673-0606 **Ext.** NA **I/O Address:** NA
Presenter(s): Maureen Rumptz

General Information

1. What action are you requesting from the Board?

The Multnomah County Health Department (MCHD) requests approval to submit a proposal to the Health Resources and Services Administration's Enhancing Linkages to HIV Primary Care and Services in Jail Settings Demonstration Models grant competition to secure funding for a four-year demonstration project. The Health Department recommends that this request be approved.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The SPNS Enhancing Linkages to HIV Primary Care and Services in Jail Settings Initiative is a multi-site demonstration and evaluation of HIV service delivery interventions coordinated by a national evaluation and support center. This funding initiative will award 10 grants with project periods of up to 4 years to demonstration sites that will design, implement and evaluate innovative methods for linking persons living with HIV/AIDS (PLWH) who are in jail settings or have been recently released from local jail facilities to primary medical care and ancillary services.

The human immunodeficiency virus (HIV) epidemic continues to pose enormous challenges in the United States, both for the communities most affected and for health care professionals who serve these communities. As of 12/31/05, 3,952 persons were estimated as living with HIV in the six-county Portland Eligible Metropolitan Area (EMA). The EMA is a six-county area that includes

Multnomah, Washington, Clackamas, Columbia, Yamhill and Clark counties. Although over time HIV has increasingly affected women, 88.2% of PLWH are men. 77.9% of PLWH are men who have sex with men (MSM) including MSM/IDU. Persons with HIV are five times more likely than the general population to be below 100% of the poverty level; nine times more likely to be homeless; and twice as likely to be suffering from substance abuse and mental illness. HIV disproportionately affects people in poverty, racial/ethnic minority populations and others who are underserved by healthcare and prevention systems.

African Americans and Hispanics are disproportionately impacted by HIV. These two minority populations are also over represented in prison and jail populations. African-Americans were two times more likely than Hispanics and five times more likely than whites to be in jail.¹

There are common misconceptions about the nature of jails and prisons. Often the terms are used interchangeably even though they are distinct entities in the criminal justice system. Non-federal prisons are generally funded and operated by the State's Department of Corrections (DOC). On average, the length of stay for a prison inmate is between three and five years; therefore, the population is less transitional than in jails. Jails are operated and funded by local county governments. The average length of stay is approximately 23 - 46 days.² Additionally, an individual being held in jail may not have been convicted of a crime, but may be held while awaiting trial or sentencing. Jails also receive individuals who may be readmitted because of probation, parole, or bail bond violations.³ Most jails are provided with guidelines for health care but are not necessarily mandated to provide a specified level of care as in prisons.⁴ Finally, most jails are not required to test inmates for HIV or other STDs, unless they have been convicted of a sex-related crime.

Supreme Court case law mandates that correctional facilities cannot have a deliberate indifference to health care related issues. In *Estelle v. Gamble*, 429 U.S. 97, 102 (1976), the Supreme Court interpreted the 8th Amendment, which provides the freedom from cruel and unusual punishment, to include medical treatment; the Court reasoned that denying medical care would result in unnecessary suffering that could serve no penal purpose.⁵ Prisons not in the Federal system are generally funded and operated by State departments of corrections or their contractors. Jails, however, are operated and funded by local governments, and their distinctive population characteristics and procedures have significant implications for the continuity of HIV care.

Individuals who are disproportionately affected by high rates of infectious diseases and adverse social conditions often cycle through jail and prison systems for various offenses, including drug related and sex offenses. Both behaviors place individuals at risk for contracting HIV disease. It is estimated that over one-quarter of all HIV-infected individuals in the U.S. pass through the correctional system each year. The rates of HIV and AIDS in correctional facilities are estimated to be three to five times higher than in the general population.⁶ Most facilities lack comprehensive discharge planning to link released individuals with community-based providers for healthcare,

¹ Bureau of Justice Statistics. Downloaded Feb 2006 from <http://www.ojp.usdoj.gov/bjs/jails.htm>.

² Florida Corrections Programs Downloaded January 2005 from http://www.doh.state.fl.us/Disease_ctrl/tb/Corrections/GeneralOverview/FloridasCorrectionsProgramOverview5-05.doc

³ James, D. Profile of Jail Inmates, 2002. Downloaded February 7, 2006 from <http://www.ojp.usdoj.gov/bjs/jails.htm>

⁴ Ibid

⁵ Dees A, Thomas D. HIV treatment and the 8th amendment. *HEPP News*. 2002; November. Accessed September 19, 2006, at <http://www.idcronline.com/archives/nov02/>

⁶ Ibid.

substance abuse treatment, and other services.⁷ Co-infections in people at risk for HIV present complex prevention and treatment challenges as people cycle between jails and communities.

Jail or prison is often the first opportunity for screening high risk populations, including substance abusers and sex offenders for medical conditions, and HIV testing is a key link in gaining access to the continuum of HIV prevention and treatment services. However, there are "several unresolved issues about HIV testing policies in jail that revolve around the often-chaotic nature of the setting, the various states of intoxication and addiction withdrawal of the inmates, availability of staff, the provision of confidential settings for testing and the likelihood of being able to provide confirmatory testing for preliminary positive tests."⁸

Program Offers Affected: This funding initiative will support demonstration projects that identify HIV-infected individuals in jails and assist them in securing HIV primary care and social support services when transitioning back to the community. The following program offers will be impacted by the proposed demonstration project:

- Program # 40022 - Services for Persons Living with HIV (HIV Clinic and CHS Care Services)
- Program Offer # 40044 HIV/Hep C Community Prevention
- Program Offer # 40025-40028 Corrections Health

Grant funds would be used to strengthen and improve these program offers by increasing the resources available to 1) identify and reach out to persons living with HIV (PLWH) who are incarcerated in County correctional facilities; 2) conduct discharge planning that includes linkages to both medical and social services for PLWH; and 3) improve coordination among agencies serving PLWH in areas such as medical care, including dental, mental health and substance abuse services; case management; housing; employment and other support services. The overarching outcome is maintaining continuity of care for PLWH. Data shows that PLWH who are receiving medical care are less likely to transmit HIV to others.

The project will be lead by Program Design and Evaluation Services, and implemented in collaboration with the following partners: MCHD HIV/HepC Community Programs; Multnomah County Corrections Health; Cascade AIDS Project; OHSU and MCHD HIV Clinics; Partnership Project; and other social and employment services.

3. Explain the fiscal impact (current year and ongoing).

Multnomah County Health Department will request approximately \$1,600,000 from the Health Resources and Services Administration for the period of Federal fiscal years 2007–2011. The maximum award for each grant will be \$400,000 per year.

4. Explain any legal and/or policy issues involved.

No legal or significant policy issues are involved.

5. Explain any citizen and/or other government participation that has or will take place.

Citizen stakeholders are represented on the MCHD's Community Health Council, the HIV Planning Council and the HIV Health Services Center's Client Advisory Board.

⁷ Centers for Disease Control & Prevention (2004). CDC Programs in Brief. "Correctional Health," p. 90. U.S. Department of Health and Human Services. Downloaded from <http://www.cdc.gov/programs/2004/CDCPIB04.pdf>, 06/08/2005

⁸ Basu S, Smith-Rohrberg D, Hanck S and Altice FL. HIV testing in correctional institutions: evaluating existing strategies, setting new standards. *AIDS & Public Policy Journal* 20 no. 1/2 (2005): 1-22.

ATTACHMENT A

Grant Application/Notice of Intent

If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- **Who is the granting agency?**

HRSA's HIV/AIDS Bureau.

- **Specify grant (matching, reporting and other) requirements and goals.**

Demonstration sites are expected to design, implement, evaluate and disseminate findings on an innovative and potentially replicable intervention that provides linkages to primary HIV care, treatment and support services to PLWH who are in jail settings and who are returning to their communities from jail. An evaluation will assess the effectiveness of the selected model(s) in providing appropriate health services to the target population, in integrating those services within the community's HIV continuum of care, and in maximizing reimbursement for health care services.

Interventions may include HIV counseling and testing, but such services must be funded through existing sources, such as the local jail, public health departments, CDC or other local funding streams. Sites are encouraged to take advantage of new technology, such as rapid testing, available to diagnose HIV on site, within about 20 minutes. Rapid testing has been shown to be feasible in jail settings.⁹ Services should be comprehensive and should include linkage to ongoing care for HIV and opportunistic infections as well as routine monitoring of treatment outcome indicators, such as CD4 count and viral load. Interventions should include flexible and suitable case management strategies that promote durable linkages and follow up as the person moves between jail and the community. The study design will assess the effectiveness of the selected model(s) in the following areas: 1) providing linkages to HIV primary care services for jail releasees; and 2) integrating services for releasees within the community's HIV continuum of care.

There are no cost-sharing or matching requirements.

- **Explain grant funding detail – is this a one time only or long term commitment?**

This is a four-year project.

- **What are the estimated filing timelines?**

March 30, 2007.

- **If a grant, what period does the grant cover?**

October 2007 through September 2011.

- **When the grant expires, what are funding plans?**

During the project period, efforts will be made to integrate successful project components or best practices into ongoing operations. If need be, additional grant funds will be sought.

- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**

County indirect, central finance and human resources and departmental overhead costs will be built into the project budget.

⁹ CDC Jail Demonstration Projects,
http://www.cdc.gov/hiv/topics/prev_prog/AHP/resources/factsheets/print/Correctional_Facilities.htm.

ATTACHMENT B

Required Signatures

Elected Official or
Department/
Agency Director:

Lillian Shirley

Date: 3/20/07 – KJ/lp

Budget Analyst:

Debra

Date: 03/19/07



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST (long form)

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-5 DATE 03-29-07
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: R-5
Est. Start Time: 9:45 AM
Date Submitted: 03/22/07

Agenda Title: **NOTICE OF INTENT to Apply for Verizon Wireless, West Area HopeLine Grant**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date: March 29, 2007 Amount of Time Needed: 5 minutes
Department: Non-Departmental Division: CCFC
Contact(s): Lisa Hansell & Wendy Lebow
Phone: 503-988-4008 Ext. 84008 I/O Address: 167/1/200/CCFC
Presenter(s): Lisa Hansell & Wendy Lebow

General Information

1. What action are you requesting from the Board?

We request the Board to review and approve our intent to apply for funds through the Verizon Wireless, West Area Hopeline grant.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

This grant will provide partial support for child abuse prevention events and community education activities for the month of April 2008. In Multnomah County, child abuse rates continue to rise; according to the Oregon Department of Human Services, 2,212 children were the victims of abuse or neglect in Multnomah County in 2005. This figure reflects a 5% rise over 2004 and a staggering 39% increase since 2003. Child abuse can be prevented. One important strategy for child abuse prevention is community awareness and education.

For the past four years, the CCFC has worked with multiple community partners and sponsors to present a Child Abuse Prevention Month event and other activities. Each year, the event grows; beginning in 2004 at Pioneer Courthouse Square with an attendance of less than 100 people to this year's event at Lloyd Center Mall where we estimate reaching several thousand people. In addition to this year's event, we will be doing outreach at sporting venues (Beavers, Trail Blazers & Lumberjax games), the libraries will offer a series of parenting workshops in April and we are

working with Safeway to include parenting tip information on up to 500,000 grocery bags.

This effort is related to Program Offer 10012 – CCFC Planning, Convening, Community. It will impact the identified outputs and outcomes: Number of volunteer hours, amount of leveraged funding and number of citizens engaged in county government.

3. Explain the fiscal impact (current year and ongoing).

A \$7,500 grant is being requested. Funds would support April 2008 Child Abuse Prevention Month efforts. No matching funds are required.

4. Explain any legal and/or policy issues involved.

N/A

5. Explain any citizen and/or other government participation that has or will take place.

The Child, Youth and Family Network (parent leaders, community and government organizations) oversees and participates in the development of Child Abuse Prevention Month activities. An ad-hoc, "Blue Ribbon" committee works to plan and implement activities, including the Roots and Wings, Celebrating Family and Community event. Over 40 agencies (community and government) participate by having resource booths at the event. We anticipate reaching a few thousand citizens through our 2007 event and more each subsequent year.

ATTACHMENT A

Grant Application/Notice of Intent

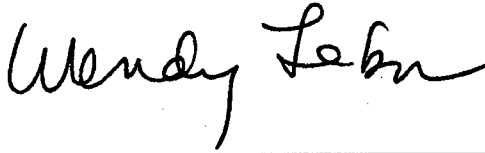
If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- **Who is the granting agency?**
Verizon Wireless
- **Specify grant (matching, reporting and other) requirements and goals.**
Funding Goals: 1) direct client services, 2) raising public awareness and 3) staff and volunteer training.
- **Explain grant funding detail – is this a one time only or long term commitment?**
One time only
- **What are the estimated filing timelines?**
Proposals due on or before May 1, 2006.
- **If a grant, what period does the grant cover?**
One year, August 2007 – August 2008.
- **When the grant expires, what are funding plans?**
This is a small, targeted grant. We will apply for the funds offered through Verizon Wireless and elsewhere in the future.
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**
The project budget as a whole includes the county indirect rate.

ATTACHMENT B

Required Signatures

Elected Official or
Department/
Agency Director:



Date: 03/09/07

Budget Analyst:



Date: 03/14/07

Department HR:

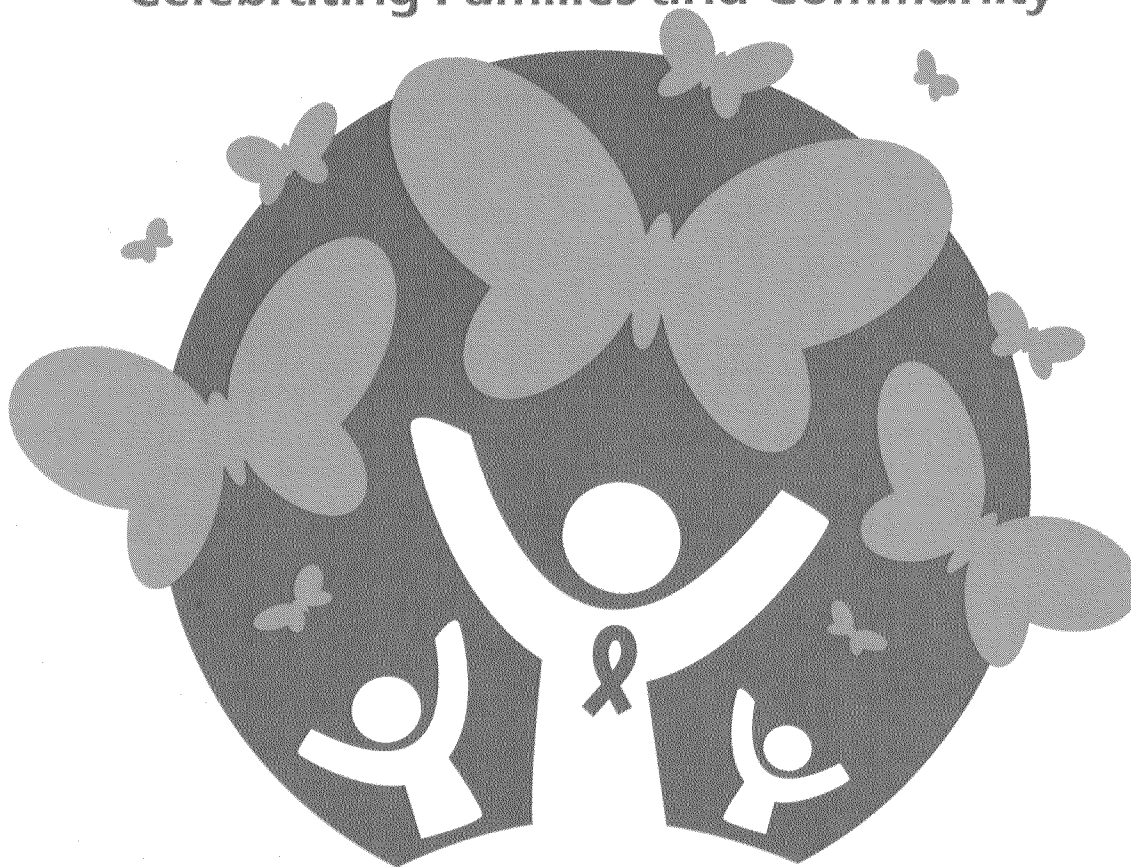
Date:

Countywide HR:

Date:

Roots and Wings

Celebrating Families and Community



Saturday, March 31, 2007 from 10:00 a.m. to 4:00 p.m.

FREE!

Inside the Lloyd Center Mall

2201 Lloyd Center

(between NE Halsey and NE Multnomah and NE 9th and NE 16th)

**A fun, interactive and educational event
for the whole family!**



*Live Music and Entertainment
Arts & Crafts for the Kids
Resources for Healthy Families*



**LLLOYD
CENTER**



**CHILDREN'S
TRUST FUND
OF OREGON**

OnPoint
COMMUNITY RELATION CENTER
Real. Smart. Value.

LIFEWORKS
COMMUNITY



Providence Health System

A caring difference you can feel



**MULTNOMAH COUNTY
LIBRARY**



Children's Support Services



Foresters
Insurance • Financial Planning • Real Estate

**Legacy Emanuel
Children's Hospital**

**portland
children's
investment
fund**



OCCC
Office of Oregon
Community College Center



**LISTEN
TO KIDS**
Morrisons

For more information go to www.ctfo.org or call 503-988-4284



April 2007
CHILD ABUSE PREVENTION MONTH
Calendar of Events

(Events are FREE unless noted otherwise)



Friday, March 30 7:00 p.m.	Lumberjax "Kids Day" Game Rose Garden, (503) 222-7346 Comic books will be handed out. Ticket prices vary.
Saturday, March 31 10:00 a.m. – 4:00 p.m.	Roots & Wings, Celebrating Families & Community Lloyd Center Mall, 2201 Lloyd Center, Portland. (503) 988.4284 An interactive and educational <i>FREE</i> event for children, families and the community. Includes hands-on, child-focused activities, resource information, children's parade, entertainment, prizes, and more!
Sundays 2:00 p.m. – 3:30 p.m.	Tree Farm Walks Magness Memorial Tree Farm. 31195 SW Ladd Hill Rd, Wilsonville. (503) 625.7471 A fun day in the woods: interpretive signs will help you learn about the forest and its constant changes.
April 2, 3, 11, 13, 16, 25 6:00 p.m. – 7:30 p.m.	Parent education workshop: "Books Babies and Brains, Oh My!" Various Multnomah County Library locations, Portland and Gresham. (503) 988.3831 Learn about your baby's amazing brain.
Tuesdays & Wednesdays 7:00 p.m. – 7:30 p.m.	Pajama Time Various Multnomah County Library locations. (503) 988.5402 Put on your pajamas, grab a bedtime buddy, and join us for stories, songs and fun. For children 6 years and younger with adult.
Thursdays 7:00 p.m. – 9:00 p.m.	Square Dance Lessons Oak Grove Community Center, 14495 SE Cedar, Portland. (503) 465.9398 The Oaky Doaks are a square and round dance club for singles, couples and families.
Saturday, April 7 10:00 a.m. – 2:00 p.m.	Healthy Kids Fair Legacy-Emanuel Hospital, 2801 N Gantenbein Ave, Portland. (503) 413.7262 A fun, free way to introduce children to the hospital and its caregivers by providing hands-on methods for families to learn health and safety tips.
Saturdays 10:30 a.m. – 11:30 a.m.	Chess Club for Children and Teens N Portland Library, 512 N Killingsworth, Portland. (503) 988.5402 Play for fun, learn tactics and prepare for tournaments. Pairings for beginning and advanced players. Chess sets provided. Ages 5 to teens.
Saturdays 1:00 p.m. – 5:30 p.m.	Chess at the library Holgate Library, 7905 SE Holgate, Portland. (503) 988.5402 Preschoolers to seniors welcome. Chess sets provided.
Sunday, April 15 2:05 p.m.	Portland Beavers "Building Healthy Families" Baseball Game PGE Park, 1844 SW Morrison, Portland. (503) 224.4400 <i>Call for ticket prices</i>
Monday, April 16 through Saturday, April 21	16th National Conference on Child Abuse and Neglect Oregon Convention Center, 777 NE Martin Luther King, Jr. Blvd, Portland. (703) 528.0435. 16conf@pal-tech.com; Registration fee; <i>Price varies</i>
Wednesday, April 18 Noon	Children's Trust Fund of Oregon Blue Ribbon Awards Luncheon Red Lion Convention Center Ballroom, 1021 NE Grand, Portland. (503) 222.7346
Wednesday, April 18 7:00 p.m.	Portland Trail Blazers "Child Abuse Prevention" Basketball Game Rose Quarter, One Center Court, Portland. (503) 797.9600 <i>\$10 - \$131</i>
Thursday, April 19	Children's Relief Nursery: Spring Open House 8425 N Lombard, Portland. (503) 283.4776 The Children's Relief Nursery provides early intervention, rehabilitation, and support services to families and children from birth through three who are at high risk of abuse or neglect.
Tuesday, April 24	Child Abuse Prevention Presentation Center for Family Success, 8010 N. Charleston Ave, Portland. (503) 286.0600 Information regarding shaken baby syndrome, domestic violence, bullying and the effects of drugs and alcohol on babies. For families with babies 0-3 years old, caregivers & service providers.
Monday, April 30	SpankOut Day USA For effective parenting tips, research, laws and worldwide progress, visit www.stophitting.com

For more information, contact the Multnomah Commission on Children, Families and Community at 503-988-4284.



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: R-6
Est. Start Time: 9:50 AM
Date Submitted: 03/14/07

Agenda Title: Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief from Regulations to Allow Development of a Single Family Residence on Each of Two Properties Located Adjacent to 4510 SE 302nd Avenue (Case File T1-06-079)

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date: March 29, 2007 Amount of Time Needed: 20 minutes
Department: Community Services Division: Land Use & Transportation
Contact(s): Derrick Tokos, Adam Barber, Sandra Duffy
Phone: 503-988-3043 Ext. 22599 I/O Address: 455/116
Presenter(s): Adam Barber, Sandra Duffy

General Information

1. What action are you requesting from the Board?

A public hearing and a decision regarding a Measure 37 claim by Elbridge and Dorothy Hardin to waive land use regulations which prohibit the development of a single family dwelling on each of two parcels located on SE 302nd Ave. Land use planning has outlined an approach to deciding this claim in a staff report March 13, 2007.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

For a claim to be valid, the land use regulations challenged must restrict the claimants use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants acquired the property. As outlined in the staff report and memorandum from the County Attorney's Office, this requirement has not been met.

The claimants have not established that they reacquired the properties in 1974 as they have asserted in their claim. The date of ownership established in the deed records is February 23, 1984, and the

property was subject to restrictive regulations of the EFU zone at that time. The claimants own three contiguous properties, one of which contains a dwelling. The regulations in effect in 1984 and today preclude additional dwellings on the two vacant parcels because there is already a dwelling on the Lot of Record.

Staff recommends the Board of Commissioners deny this claim.

3. Explain the fiscal impact (current year and ongoing).

There is no fiscal impact on this invalid claim.

4. Explain any legal and/or policy issues involved.

Policy and legal issues are outlined in a staff report from Land Use Planning March 13, 2007. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

5. Explain any citizen and/or other government participation that has or will take place.

Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, and the claimant. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

Required Signature

Elected Official or
Department/
Agency Director:



Date: 03/14/07



**LAND USE & TRANSPORTATION
PLANNING PROGRAM**

1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

Staff Analysis of a Measure 37 Claim

The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

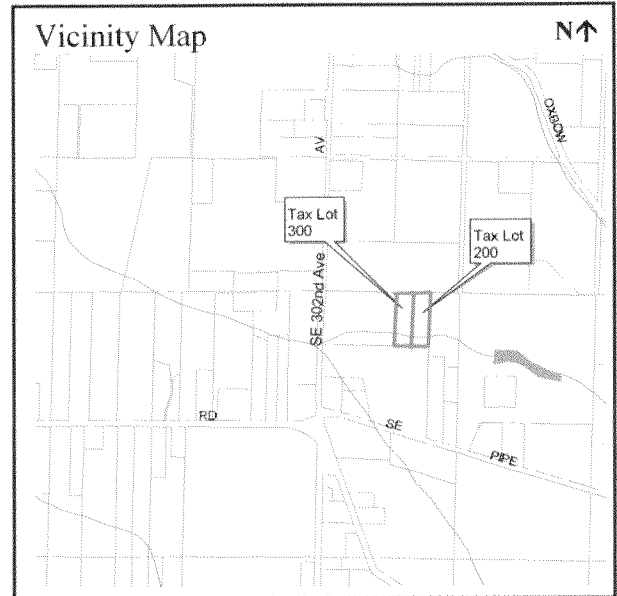
Hearing Date, Time, & Place:

Thursday, March 29, 2007 at 10:00 am or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

Case File: T1-06-079

Claimants: Elbridge & Dorothy Hardin
4510 SE 302nd Avenue
Troutdale, OR 97060

Location: (No address for either lot)
Tax Lot 200 & 300, Section 17BB,
Township 1 S, Range 4 E, W.M.
Acct. # R994170630 (TL 200)
Acct. # R994170660 (TL 300)



Claim: Relief from land use regulations to allow one single family dwelling on each of the two vacant 2.00 acre lots.

Zoning: Exclusive Farm Use (EFU), Significant Environmental Concern (SEC water resources) and Hillside Development (HD).

Site Size: Each lot is 2.00 acres.

Approach to Deciding the Claim:

For a claim to be valid, the land use regulations challenged must restrict the claimant's use of private real property in a manner that reduces its fair market value relative to how it could have been used at the time the claimant acquired the property. The claimants have failed to establish that they acquired the properties prior to the date Exclusive Farm Use regulations were enacted prohibiting non-farm dwellings on the tax lots. Consequently, the claimant's use of the property has not been restricted by subsequent regulations and there has been no reduction in the fair market value of either property. Planning staff recommends that the Board of Commissioners deny this claim.

(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by the claimants. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24th, 2005 memo authored by the State Attorney General's Office.)

1. *Has the owner made a complete written demand under Ballot Measure 37?*

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

This Measure 37 claim was submitted on November 8th, 2006. Staff reviewed the application and determined information required by Multnomah County Code 27.520 was missing. Staff prepared a letter listing the outstanding information required to complete the claim and mailed that letter to the claimant on November 17th, 2006. On January 2nd, 2007, the claimant submitted a revised title report, clarification that the desired relief is one dwelling on each of the two lots, estimates of value, and evidence of continuous ownership of the lots since July 31, 1973. These and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

2. *Did the claimant acquire the properties before the laws in question were adopted?*

No. The claimants have failed to establish that they acquired the two properties prior to the date the Exclusive Farm Use regulations challenged in this claim were enacted.

The deed documents submitted indicate the claimants sold both lots to Katherine Long in 1967 (Tax Lot 200 sold July 5th, 1967 in Book 570, Page 504 & Tax Lot 300 sold November 7, 1967 in Book 592, Page 38 – Exhibit 2). The claimants then purchased both lots back from Ms. Long on February 23rd, 1984 (Book 1728, Page 1535 – Exhibit 3). The claimants have indicated that they have held a continual ownership in both lots since July 31, 1974, although no deed documents have been submitted substantiating this claim. The title report for these two properties only references the 1984 deed. During a phone conversation held 2/9/07, Eldrige Hardin (claimant) believed that he may have acquired both properties in 1974 on a verbal agreement which was not put into writing until 1984. A verbal agreement does not create ownership interest in private real property. The title report in Exhibit 4 confirms the claimants have held a continual interest in both properties since 1984.

Both properties were subject to dwelling limitations in EFU zoning regulations adopted in 1980 when the claimants purchased the lots back from Ms. Long in 1984. The EFU zoning regulations in effect upon acquisition required lots to be at least 38-acres to qualify for a single family dwelling (Ordinance 300 - MCC 11.15.2008(C), Exhibit 5) and considered all three lots to be aggregated into one lot of record because all were under the same ownership and less than 38-acres (Ordinance 300 - MCC 11.15.2018(B)(1), Exhibit 5). Although the EFU zoning Regulations in effect in 1984 were drafted a bit differently than the current EFU regulations, the intent and effect was the same in that both sets of regulations prevent residential development on both vacant lots.

3. *Have the challenged regulations restricted the use of the properties for the claimant?*

No, the challenged regulations have not restricted the use of either property.

The first zoning for both properties was Suburban Residential (SR), which was changed to Multiple Use Agriculture-20 (MUA-20) in 1977, and then to Exclusive Farm Use (EFU) in 1980. The zoning has remained Exclusive Farm Use since the 1980 zone change.

The claimants currently own the two vacant lots involved in this Measure 37 request and the adjacent 8.22 acre Tax Lot 400 to the west (Exhibit 1). Although Tax Lot 400 is not involved in this claim, it is relevant because Tax Lot 400 already contains a dwelling constructed in 1982 and therefore disqualifies both Tax Lot 300 and 200 for a new dwelling under the current Exclusive Farm Use Zoning code. Multnomah County Code 36.2675(A)(2) considers all three lots currently owned by the claimant to be aggregated for development purposes into one large lot. This prevents each of the vacant 2.00 acre lots from being recognized as a separate buildable parcel of land. The reason all three lots are considered aggregated into one is because they were all under the same ownership on February 20th, 1990 and because neither is larger than 19-acres by itself. The intent of these requirements is to consolidate smaller farm parcels under the same ownership into larger more viable farm operations. As a result, these regulations can have the effect of reducing development potential of vacant parcels.

The zoning regulations in effect when the claimant acquired the properties in 1984 did not allow additional non-farm dwellings on the subject parcels due to aggregation. The current regulations continue to prevent this type of development. Staff finds the challenged regulations have not restricted the use of either lot because the claimants never had the ability to establish a dwelling on either lot since acquisition.

4. *Have the regulations reduced the fair market value of the properties?*

No. Land use regulations in effect when the claimant acquired the properties prohibited non-farm dwellings on the lots.

The claimants assert the value of each lot as buildable is \$200,000 which drops to \$50,000 per lot if considered non-buildable farm land. The claimants conclude that \$150,000 reduction in value has occurred per lot as a result of zoning regulations, making the total reduction estimated at \$300,000 for both lots.

In an attempt to validate this claim, the claimants submitted a comparative market analysis prepared by Helen Crutcher (no firm or title listed) to determine the current market value for the developed 8.22 acres owned by the claimants to the west (Exhibit 6). This report concludes that the recommended listing price between \$297,500 - \$559,900 would be appropriate for the developed property to the west at 4510 SE 302nd Avenue also known as Tax Lot 400. It is not clear how this report relates to the two undeveloped properties to the east involved in this measure 37 claim and by itself does not confirm the reduction in value asserted by the claimants for undeveloped Tax Lot 200 and 300.

Staff finds a reduction in value has not occurred because land use regulations in effect when the claimant acquired the properties prohibited non-farm dwellings. In 1984, a request to establish a dwelling on either lot would have been denied because both lots were less than 38-acres and were also considered aggregated into one large lot with developed Tax Lot 400 to the west.

PUBLIC NOTICE

Public notice of this hearing was mailed to all property owners within 750 feet of the subject property. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

CONCLUSION

In conclusion, the claimants have failed to establish that they acquired the properties prior to the date the challenged regulations were enacted. No reduction in the fair market value of the property has occurred since no restriction in use has occurred.

Consequently, the Planning staff recommends that the Board of Commissioners deny this claim.

Issued by:

By:

Adam Barber, Planner

For: Karen Schilling, Planning Director

Date: March 13, 2007

Referenced Exhibits

Copies of the exhibits, referenced herein, are in the case record that is on file at the Land Use and Transportation Planning Office.

Exhibit 1 – Assessment and Taxation Plat Map of Tax Lot 300 and 200

Exhibit 2 – July 5th, 1967 Deeds (Tax Lot 200 - Book 570, Page 504, Tax Lot 300 Book 592, Page 38)

Exhibit 3 – February 23rd, 1984 Deed (Book 1728, Page 1535)

Exhibit 4 – Title Report prepared by Steward Title of Oregon, Inc (November 29, 2006)

Exhibit 5 - Ordinance 300, Exclusive Farm Use regulations in effect in 1984

Exhibit 6 – Comparative market analysis for 4510 SE 302 prepared by Helen Crutcher

Exhibit 7 – County Counsel Memo

Multnomah County Attorney's Office
501 S.E. Hawthorne Blvd., Suite 500
Portland, Oregon 97214
PHONE: (503) 988-3138
FAX: (503) 988-3377



MEMORANDUM

To: Adam Barber
Multnomah County Planner

Cc: Derrick Tokos, Principal Planner
Chuck Beasley, Planner

From: Sandy Duffy
Assistant County Attorney
Multnomah County Attorney's Office

Date: March 12, 2007

Re: Elbridge & Dorothy Hardin, Measure 37 claim
T1-06-079

I have reviewed your staff report for legal sufficiency under MCC 27.500 *et. seq.* Your staff report, which recommends denial of the claim, has adequately addressed each required criteria and correctly applied Measure 37 and the county's implementing regulations.

EXHIBIT
7

DRAFT

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Order Denying Ballot Measure 37 Request of Elbridge and Dorothy Hardin Relating to Two
Parcels of Real Property Located on SE 302nd Avenue, Troutdale

The Multnomah County Board of Commissioners Finds:

- a. **Parties:** Elbridge and Dorothy Hardin are the Ballot Measure 37 Claimants who filed a demand for compensation to Multnomah County on November 8, 2006.
- b. **Subject Real Property:** This claim relates to real property located on SE 302nd Avenue, Troutdale, Multnomah County, Oregon more specifically described as:

Tax Lot 200 and 300, Section 17BB
Township 1 South, Range 4 East, W.M.
Acct. # R994170630 (TL 200)
Acct. # R994170660 (TL 300)

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

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

On November 8, 2006, the Claimants submitted a Measure 37 Claim Form and a \$1500 deposit to the County in order to process the claim. Upon review of the application, County planning staff (staff) determined that the application lacked certain information required by Multnomah County Code 27.520. Staff prepared a letter listing the outstanding information required to complete the claim and mailed that letter to the Claimant on November 17th, 2006. On January 2nd, 2007, the Claimant submitted a revised title report, clarification that the desired relief is one dwelling on each of the two lots, estimates of value, and evidence of continuous ownership of the lots since July 31, 1973. 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 Claimants 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 Claimants have failed to establish that they obtained an interest in the property prior to the County's adoption of the Exclusive Farm Use regulations challenged in this claim.

DRAFT

The deed documents submitted by the Claimants indicate that the Claimants sold both lots to Katherine Long in 1967. The deed documents also reflect that the Claimants repurchased both lots from Ms. Long on February 23, 1984. The title report indicates that the Claimants have held a continual interest in both properties since 1984.

The Claimants assert that, by virtue of a verbal agreement, they have held continual ownership of both lots since July 31, 1974. The Claimants further assert that the verbal agreement was reduced to writing in 1984. None of the deed documents submitted by the Claimants substantiate this claim. The title report for these two properties only references the 1984 deed. A verbal agreement does not create an ownership interest in private real property.

Exclusive Farm Use (EFU) regulations adopted in 1980 subjected both properties to dwelling limitations. A minimum lot size of 38 acres was required for the establishment of a single family dwelling. MCC 11.15.2008 (C) (1982). In addition, lots under the same ownership and less than 38-acres were aggregated into one lot of record. MCC 11.15.2018 (B)(1) (1982). Minimum lot size and aggregation regulations restricting the establishment of a dwelling have applied to the subject properties ever since 1980.

The Board finds that the Claimants' acquisition of their interest in the subject properties on February 23, 1984, occurred after the County's 1980 adoption of the Exclusive Farm Use regulations challenged in this claim.

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

The Claimants have failed to establish that the challenged regulations have restricted their use of the property.

The Claimants acquired the subject parcels on February 23, 1984 (hereinafter the "acquisition date"). These two parcels abut a third parcel bearing a dwelling, identified as Tax Lot 400, which the Claimants had acquired previously. On the acquisition date, the Exclusive Farm Use (EFU) zoning applied to the three parcels. MCC 11.15.2008 (C) (1982). The EFU zoning continues to apply today. MCC 36.2600 *et seq.* (2003).

The EFU zoning code in effect on the acquisition date imposed a 38-acre minimum lot size requirement for the establishment of a single-family dwelling. MCC 11.15.2008 (C). In addition, at that time, the rules of aggregation treated all three of the Claimants' parcels as one lot of record. MCC 11.15.2018(B) (1982). Together, the lot size requirement and aggregation rules operated to prohibit the construction of new non-farm dwellings on either of the subject parcels because the total acreage of all three parcels was less than 38 acres and a dwelling already existed on Tax Lot 400.

The current EFU zoning continues to prevent the construction of new non-farm dwellings on either of the subject parcels. The current restriction is primarily based on current

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aggregation rules. MCC 36.2675(A)(2). Thus, at no point since the acquisition date have the Claimants had the ability to erect a non-farm dwelling on either of the subject parcels.

Tax lot 200 was created on June 10, 1967. Tax lot 300 was created on November 15, 1967. At those times, the Suburban Residential zoning code required new lots to abut a street or have other access approved by the Planning Commission. MCC 3.1536 (1964). When created, neither parcel abutted a street and there is no record of approval by the Planning Commission. These parcels were created in violation of MCC 3.1536 (1964) and are not lawful. An 1978 amendment to the land division regulations prohibited the improvement or use of land divided in violation of the zoning code. MCC 1.200 (B) (1978).

The Board finds that the Claimants have failed to establish that the challenged regulations have restricted their use of the subject parcels because County regulations prohibited the proposed uses prior to the Claimants' acquisition of the properties and continuously thereafter.

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

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

Land use regulations in effect on February 23, 1984, the date on which the Claimants acquired the subject parcels, prohibited the Claimants from erecting a non-farm dwelling on either of those parcels. Current regulations continue to prohibit such land use.

The Board finds that the Claimants have failed to establish that the challenged regulations have reduced the fair market value of the subject parcels because County regulations prohibited the proposed uses prior to the Claimants' acquisition of the properties 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 Claimants constitute a complete written demand for compensation as required by Measure 37 and Multnomah County Code 27.530.

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(2) The Claimants' acquisition of their interest in the subject properties on February 23, 1984, occurred after the County's 1980 adoption of the Exclusive Farm Use regulations challenged in this claim.

(3) The Claimants have failed to establish that the challenged regulations have restricted their use of the subject parcels because County regulations prohibited the proposed uses prior to the Claimants' acquisition of the properties and continuously thereafter.

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

The Multnomah County Board of Commissioners Orders:

Based on the above findings, the Claimants' 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

Script for March 29, 2007 Elbridge and Dorothy Hardin Measure 37 Hearing

INTRODUCTION:

Chair: This is the time set for public hearing on the claim of **Elbridge and Dorothy Hardin** under Ballot Measure 37. I am Ted Wheeler, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners Maria Rojo, Lisa Naito and Lonnie Roberts. Commissioner Jeff Cogen is excused.

All information relevant to the claim may be submitted and will be considered in this hearing. The evidence may be in any form including oral and written testimony, letters, petitions or other written material, slides, photographs, maps drawings or other items.

The Commission will base its decision on the evidence presented, along with the information on the claim in the Planning file. The Board decision will be by Order adopted by the Board.

DISCLOSURES:

Chair: Board members are required to disclose the content of any *ex parte* contacts. Any Board member who has received any factual information obtained outside the information provided by the county planning staff or this hearing is an *ex parte* contact. A visit to the property is considered an *ex parte* contact. Any *ex parte* contacts should be disclosed at this time. Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit.

Chair: I have *no ex parte* contacts to disclose.

or if the Chair has disclosures to make

I have the following disclosures to make: _____

Chair: [Invite the other Commissioners to make any necessary disclosures.)
Commissioner Rojo? Commissioner Naito? Commissioner Roberts? [If there are none, each Commissioner should say "none" on the record.]

[If there are disclosures of *ex parte* contacts, the claimant and the public should be given an opportunity to rebut the substance of any disclosure. "Does anyone have any rebuttal testimony relating to any disclosure?"]

Chair: Board members are also required to disclose any conflicts of interest and to recuse themselves from deliberation and voting if a conflict exists. It is deemed a conflict of interest if any Board member, or a member of his/her immediate family or household, has a financial interest in the outcome of a matter before the Board. It is a conflict of interest if a Board member lives within the geographical area entitled to notice of a claim.

Script for March 29, 2007 Elbridge and Dorothy Hardin Measure 37 Hearing

Chair: Does any Board member, or a member of his/her immediate family or household, have a financial interest in the outcome of matter now before us?

I do [do not] have a financial interest in the outcome of this matter. [Invite other commissioners to make any necessary disclosures.] Commissioner Rojo? Commissioner Naito? Commissioner Roberts? [If yes, that person must recuse himself/herself on the record.]

Does any Board member live within the geographical area entitled to notice of claim?

I do [do not] live within the geographical area. Commissioner Rojo? Commissioner Naito? Commissioner Roberts?

[Any commissioner who lives within the relevant geographical area must recuse himself/herself. MCC 7.540]

CONDUCT OF THE HEARING:

Chair: I will ask for testimony and other evidence in the following order:

1. Staff report
2. Claimant or claimant's representative
3. Others who wish to be heard on the claim
4. Commission discussion, questions, deliberation
5. Future scheduling if necessary

HOW TO PRESENT TESTIMONY:

Chair: There are testimony cards at the back of the room and should be filled out by anyone wishing to testify. The claimant need not fill out a card. The cards should be given to the Board Clerk.

1. State your name and address before you begin your presentation
2. Avoid repetitive testimony
3. During the hearing, I ask those in the audience to refrain from any demonstration in support or opposition to the claim.

Chair: [Ask for testimony in the order listed above]

AT THE CONCLUSION OF THE TESTIMONY:

Chair: [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

**MARCH 29, 2007 PROPOSED MEASURE 37 ORDER SCRIPT
IMMEDIATELY FOLLOWING HEARINGS**

- R-6 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief from Regulations to Allow Development of a Single Family Residence on Each of Two Properties Located Adjacent to 4510 SE 302nd Avenue (Case File T1-06-079)

Hearing
Continued
to April 12, 2007
1:30 pm

COMMISSIONER _____ MOVES
COMMISSIONER _____ SECONDS
**APPROVAL OF Order Denying Ballot Measure 37
Request of Elbridge and Dorothy Hardin
Relating to Two Parcels of Real Property
Located on SE 302nd Avenue, Troutdale**

OPPORTUNITY FOR BOARD COMMENTS

ALL IN FAVOR, VOTE AYE, OPPOSED ____?

**THE MOTION FAILS
OR
THE ORDER IS ADOPTED**

- R-7 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim Filed by Mark Knieriem for \$96,167.00 in Compensation or Relief from Regulations to Allow the Legalization of a 2.00 Acre Parcel in the Multiple Use Agriculture – 20 Zone on Property East of 29805 East Woodard Road [T1N, R4E, Sec 31DA, TL 500] (Case File T1-06-099)

COMMISSIONER _____ MOVES
COMMISSIONER _____ SECONDS
**APPROVAL OF Order Denying Ballot Measure 37
Request of Mark Knieriem Relating to the Parcel
of Real Property Located East of 29805 E.
Woodard Rd., Troutdale**

OPPORTUNITY FOR BOARD COMMENTS

ALL IN FAVOR, VOTE AYE, OPPOSED ____?

**THE MOTION FAILS
OR
THE ORDER IS ADOPTED**

R-8 ~~Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Gary and Faye M. Jones for \$210,000 in Compensation or Relief from Regulations that Prohibit Division of 1.79 Acres into Three Parcels and Building a Residence on Two of the Parcels for Property Located at 6141 SE 302nd Avenue [T1S, R4E, Sec 18DD, TL 200] (Case File T1-06-103)~~

COMMISSIONER _____ MOVES
COMMISSIONER _____ SECONDS
TO POSTPONE INDEFINITELY

ALL IN FAVOR, VOTE AYE, OPPOSED ____?

THIS MATTER IS POSTPONED INDEFINITELY

R-9 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by David Eddy for \$380,000 in Compensation or Relief from Regulations to Allow for the Development of a Single Family Residence on Property Located at 20303 NW Sauvie Island Road [T2N, R1W, Sec 07D, TL 1600] (Case File T1-06-110)

COMMISSIONER _____ MOVES
COMMISSIONER _____ SECONDS
**APPROVAL OF Order Granting, with Conditions,
Ballot Measure 37 Request of David Eddy to Not
Apply Land Use Regulations to Real Property
Located at 20303 NW Sauvie Island Rd.,
Portland**

OPPORTUNITY FOR BOARD COMMENTS

ALL IN FAVOR, VOTE AYE, OPPOSED ____?

**THE MOTION FAILS
OR
THE ORDER IS ADOPTED**



MULTNOMAH COUNTY

AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: R-7
Est. Start Time: 10:10 AM
Date Submitted: 03/14/07

Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Mark Knieriem for \$96,167.00 in Compensation or Relief from Regulations to Allow for the Legalization of a 2.00 Acre Parcel in the Multiple Use Agriculture – 20 Zone on Property East of 29805 East Woodard Road [T1N, R4E, Sec 31DA, TL 500] (Case File T1-06-099)

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date: March 29, 2007 Amount of Time Needed: 20 minutes
Department: Community Services Division: Land Use & Transportation
Contact(s): Derrick Tokos, Lisa Estrin, Sandra Duffy
Phone: 503-988-3043 Ext. 22597 I/O Address: 455/116
Presenter(s): Lisa Estrin, Sandra Duffy

General Information

1. What action are you requesting from the Board?

Action requested is to provide a public hearing and render a decision regarding a Measure 37 claim by Mark Knieriem to waive land use regulations which prohibit the legalization of a 2.00 acre parcel on the property known as Tax Lot 500, Sec. 31DA, T1N, R4E. Land use planning has outlined an approach to deciding this claim in a staff report dated March 13, 2007.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

For a claim to be valid, the land use regulations challenged must restrict the claimants use of private real property in a manner that reduces its fair market value relative to how it could have been used at the time the claimants acquired the property. As outlined in the staff report dated March 13, 2007, and memorandum from the County Attorney's Office, this requirement has not been met.

The claimant, Mark Knieriem, is seeking \$96,167.00 in compensation or relief from land use regulations to allow the legalization of a 2.00 acre property. He acquired an interest in the property

on September 29, 1993. County zoning for the property in 1993 was Multiple Use Agriculture 20 (MUA-20). The minimum lot size in this residential and agricultural district is 20 acres. The 2.00 acre property does not meet the minimum lot size and cannot be legalized through any of the County's correction methods. The claimant is not entitled to relief he acquired the property after the county had adopted the 20 acre lot size.

Staff recommends the Board of Commissioners deny this claim.

3. Explain the fiscal impact (current year and ongoing).

The claimants assert a reduction in value of \$96,167.00; however, this dollar figure is not supported by the alternative data submitted in accordance with the county ordinance. Staff does not believe any compensation is due because the claim is invalid.

4. Explain any legal and/or policy issues involved.

Policy and legal issues are outlined in a staff report from Land Use Planning dated March 13, 2007. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

5. Explain any citizen and/or other government participation that has or will take place.

Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, and the claimant. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

Required Signature

**Elected Official or
Department/
Agency Director:**



Date: 03/14/07



**LAND USE & TRANSPORTATION
PLANNING PROGRAM**

1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

Staff Analysis of Measure 37 Claim

The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

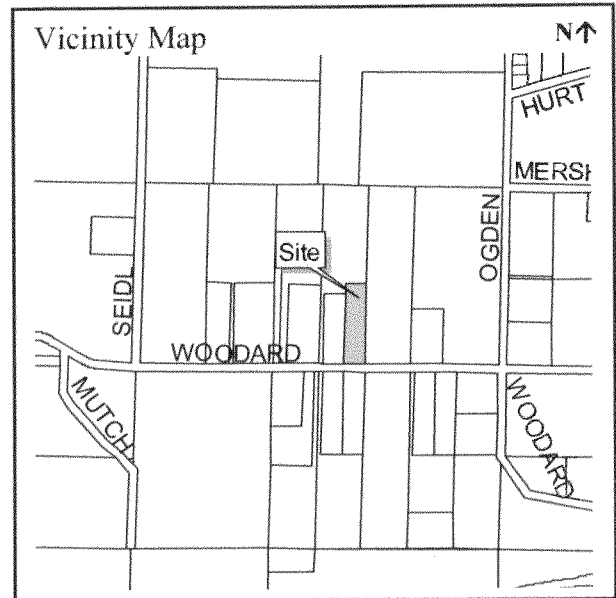
Hearing Date, Time, & Place:

Thursday, March 29, 2007 at 10:00 am or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

Case File: T1-06-099

Claimants: Mark Knieriem
136 SE 5th St.
Troutdale, OR 97060

Location: The Parcel East of 29805 E. Woodard Rd
TL 500, Sec 31DA, T1N, R4E, W.M.
Tax Account # R64973-4150



Claim: Compensation in the amount of \$96,167.00 or relief from regulations to allow the legalization of a 2.00 acre parcel in the Multiple Use Agriculture – 20 (MUA-20) zone district.

Zoning: Multiple Use Agriculture – 20

Site Size: 2.00 acres

Approach to Deciding the Claim:

For a claim to be valid, the land use regulations challenged must restrict the claimant's use of private real property in a manner that reduces its fair market value relative to how it could have been used at the time the claimant acquired the property. As outlined in this report, this requirement has not been met because the 2.00 acre property did not comply with minimum lot size regulation in effect when the property was created nor could it have satisfied regulations in effect when the claimant acquired the property, which require new parcels be at least 20 acres in size.

Staff Analysis

(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by the claimants. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24, 2005 memo authored by the State Attorney General's Office.)

1. Has the owner made a complete written demand under Ballot Measure 37?

Yes. The materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure.

On November 29, 2006 the claimants submitted a completed Measure 37 Claim Form (Exhibit A.1); alternative valuation information which includes Assessment and Taxation information of three "buildable" properties of comparable land size in the immediate area (Exhibit A.10), a copy of the deed which transferred ownership of the property to the claimant (Exhibit A.3.e), a title report and chain of title (Exhibit A.6 & A.7), familial documentation (Exhibit A.11), narrative and materials prepared for land use application in 1995 that was never submitted (Exhibit A.12.a - h), copies of the regulations which the claimant asserts reduces the property value (Exhibit A.12.a), 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).

2. Did the claimant acquire the property before the laws in question were adopted?

No. The Claimant obtained an interest in the property on September 29, 1993 (Exhibit A.3.e) after the county adopted the challenged regulations set out in the claim.

The claimant is challenging the 20 acre minimum lot size provisions in the current MUA-20 zoning regulations (MCC 35.2855(C), Ord. #953). MUA-20 zoning was first applied to the subject property on October 6, 1977 (Exhibit B.1). At that time the minimum lot size in this district to create a new parcel was 20 acres (MCC 3.134 a., Ord. #148). This minimum lot size requirement has been in effect since 1977.

While the claimant's family acquired the property in February 1928, a deed submitted by the claimant (Exhibit A.3.e), shows that he acquired the 2 acres on September 29, 1993. County assessment records identify the claimant as the current owner of the property (Exhibit B.3). 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.

3. Have the challenged regulations restricted the use of the property?

No. The claimant has failed to establish that the challenged regulations have restricted his use of the property.

Zoning regulations prohibited the creation of a 2 acre property in 1993, which is when the property was divided from the parent piece and acquired by the claimant. Exceptions to the 20 acre minimum lot size are allowed in the MUA-20 zone in specific circumstances (MCC 11.15.2140, Ord. #148). One of those circumstances was where more than one home exists on a property and the owner wants to divide the property such that each dwelling is on a separate parcel (MCC 11.15.2140(D)). In July 1993, this exception provision was utilized by the claimant's parents to divide off a 1.77 acre parcel from the 9.72 acre parent parcel. In September 1993, the claimant's parents unlawfully transferred an additional 2 acre piece of land to the claimant out of the 8 acres that remained. The 2 acre property is the subject of this claim. The conveyance of this property was unlawful. If a land use application to divide the 8 acre parent

parcel had been submitted, it would have been denied because the 8.0 acre parent parcel was already under the 20 acre minimum lot size and could not be reduced further through the exception provisions.

The 2 acre property also violated County partition rules that require a plat be prepared to create new properties. These rules have been in effect since 1978, and prohibit issuance of development permits on non-compliant properties (MCC 1.500, Ord. #174)

4. Have the regulations reduced the fair market value of the properties?

No. The claimant has failed to establish that the challenged regulations have reduced the fair market value of the property.

A reduction in value has not occurred because at the time of claimant's acquisition the MUA-20 zone did not allow the creation of a 2 acre parcel for development. Since the zoning regulations did not allow the use at the time of the claimant's acquisition, there can not be a reduction in the fair market value

Bob Alcantara, Senior Appraisal Supervisor with the Multnomah County Division of Assessment and Taxation also provided his department's interpretation on the reduction of value issue for this claim (Exhibit D.2): He indicated that if the site was legally created and buildable, it would have lost value. Since the property was not lawfully created as documented above, no loss in value has occurred.

Public Comment

After a claim for compensation is declared complete pursuant to MCC 27.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate (MCC 27.530(A)).

Pursuant to the provisions of MCC 27.530, a 14-day Opportunity to Comment packet was mailed on February 5, 2007. No comments were submitted. Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, including the claimant. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

Conclusion

In conclusion, the claimant has failed to establish that current regulations adopted after he acquired the property have restricted the use of the land and reduced its value.

Consequently, staff recommends that the Board of Commissioners deny this claim.

Issued by:

By: Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: March 9, 2007

Exhibits

Copies of the exhibits, referenced herein, and all other materials submitted to the County related to this claim are included in the case record that is on file at the Land Use and Transportation Planning Office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Signed Measure 37 Application Form	11/29/06
A.2	1	Written Demand	11/29/06
A.3	11	Deed Information: <ul style="list-style-type: none">a. Bill of Sale, Recorded in Book 83, Page 48, February 2, 1928 (Soule to Knieriem) – 1 pageb. Warranty Deed, Recorded in Book 232, Pages 185 -186, November 28, 1933 (Soule to Knieriem) – 5 pagec. Bargain & Sale Deed, Recorded in Book 766, Page 923, December 31, 1970 (George T. Knieriem, Jr. to George S. Knieriem) – 1 paged. Deed Creating Estate by the Entirety, Recorded in Book 1719, Page 946, January 10, 1984 (George Knieriem to Donna Knieriem) – 1 pagee. Quitclaim Deed, Recorded in Book 2760, Page 895, September 30, 1993 (George & Donna Knieriem to Mark & Julie Knieriem) – 1 pagef. Quitclaim Deed, Recorded in Book 97062181, April 28, 1997 (Julie Knieriem/Arnold to Mark Knieriem) – 1 pageg. Quitclaim Deed, Recorded in Book 97140350, September 15, 1997 (Julie Knieriem/Arnold to Mark Knieriem) – 1 page	11/29/06
A.4	1	List of Owners	11/29/06
A.5	2	Quit Claim Deed Statement with 1997 Quit Claim Deed Attached	11/29/06
A.6	4	Preliminary Title Report	11/29/06
A.7	7	Chain of Title	11/29/06
A.8	1	Tax Statement	11/29/06
A.9	2	A&T Maps	11/29/06
A.10	24	Alternative Information for Appraisal	11/29/06
A.11	1	Statement of Ownership - Familial	11/29/06
A.12	2	Narrative of Previous Application for Use of Property <ul style="list-style-type: none">a. MUA-20 pages 6-1 through 6-4 – 4 pages	11/29/06

		b. School District Review – 1 page c. Certificate of Private On-Site Sewage Disposal 1 page d. Site Evaluation Report – 3 pages e. Site Plan – 1 page f. Fire District Review – 1 page g. Police Service Review – 1 page h. Certification of Water Service – 1 page	
'B'		Staff Exhibits	Date
B.1	1	Zoning Map in Effect on 10/6/1977	N/A
B.2	1	Current Zoning Map	N/A
B.3	1	Assessment and Taxation Property Information	N/A
'C'		Administration & Procedures	Date
C.1	1	Completeness Letter	12/13/06
C.2	4	Opportunity to Comment	02/05/07
'D'		Comments Received	Date
D.1	1	Comment from Bob Alcantara, Senior Appraisal Supervisor, Assessment & Taxation	2/13/07

Multnomah County Attorney's Office
501 S.E. Hawthorne Blvd., Suite 500
Portland, Oregon 97214
PHONE: (503) 988-3138
FAX: (503) 988-3377



MEMORANDUM

To: Lisa Estrin
Multnomah County Planner

From: Sandy Duffy
Assistant County Attorney
Multnomah County Attorney's Office

Date: March 9, 2007

Re: Mark Knieriem, Ballot Measure 37 Claim T1-06-099

I have reviewed your staff report for legal sufficiency under MCC 27.500 *et. seq.* Your staff report, which recommends denial of the claim, has adequately addressed each required criteria and correctly applied Measure 37 and the county's implementing regulations.

March 23, 2007

Case File: T1-06-009

Claimant: Mark Knieriem

Dear Lisa,

Attached is comment to staff report received by you via email 3/17/2007.

Thank you,

A handwritten signature in cursive script, appearing to read "Alison Knieriem".

Alison Knieriem
Spouse of Claimant

Comments to Staff Analysis Report

March 23, 2007

Case File: T1-06-009

Claimant: Mark Knieriem
136 SE 5th Street
Troutdale, OR 97060

Location: TL 500, Sec 31DA, T1N, R4E, W M
Tax account # R64973-4150

The following comments are in response to the Staff Analysis Report of Measure 37 claim – Case File T1-06-099. **The purpose** of M37 is for modification, removal, or to not apply land use restrictions restricting use of property when owner acquired property. Under OARs 125-145-0020, Multnomah County is a regulating entity with the authority to remove, modify or not apply the Land Use Regulations identified in the claim. Also of note, ORS 197 (11) A, is used in support of the following comments. Claiming a M37 claim is required at both the state and county levels

Approach to Claim: It is noted in this portion of the report that the 2-acre property did not comply with minimum lot size regulation in effect when the property was created and acquired by the current owner. The regulation requires new parcels to be at least 20 acres in size.

Comment: The purpose of filing the M37 claim is to **legalize** the 2-acre property due to MUA-20 restrictions (rules, and regulations) as noted: *Compensation in the amount of \$96,167.00 or relief from regulations to allow the legalization of a 2.00 acre parcel in the MUA-20 zone district.*

Comments to Evaluation Questions

Question 1: Has the owner made a complete written demand under Ballot Measure 37?
Staff report states YES.

Comment to Question 1: No comment.

Question 2: Did the claimant acquire the property before the laws in question were adopted? According to staff report, the answer is NO

Note: Under OAR 125-145-0020 Definitions (12) Regulating Entity - Multnomah County is the regulating entity who has the authority to remove, modify or not apply the Land Use Regulation(s) identified in the Claim. I would also like to note that ORS 197 (11) A was made part of Measure 37. (See Text of Measure Exhibit A)

Comment to Question 2: According to provisions added and made part of ORS chapter 197 (11) A, *the definition of a "Family Member" shall include the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.*

There is a question on the State of Oregon claim form that asks the following in consideration of the claim:

If the claimant(s) acquired the property from a "**family member**" (as defined in ORS 197.352), what was the zoning of each tax lot when the "**family member**" of the claimant acquired the tax lot?

The answer to this question is ... there was no zoning in unincorporated Multnomah County. Therefore according to the definition of a "family member" under ORS chapter 197 (11) A, which includes a grandparent or and estate of any of the foregoing family members etc, the property under claim is legal due to the grandparent acquiring the property in 1928 where there was no zoning in unincorporated Multnomah County and where there were no limitations as to number of single-family dwellings on a parcel of land. Again, the purpose of the claim is to legalize the 2-acre property.

Therefore according to ORS 197 (11) A – definition for "family member", the answer to the above-note question should be YES

Question 3: Have the challenged regulations restricted the use of the property? According to the staff report, the answer is NO.

Comment to Question 3: As noted in the staff report, "While the **claimant's family** acquired the property in February 1928, a deed submitted by the claimant shows that he acquired the 2 acres on September 29, 1993." Again, according to ORS 197 (11) A, it holds true that property under claim is covered by this definition and should be **legal** due to no zoning in unincorporated Multnomah County in 1928 when the **claimant's family** (grandfather) acquired the property. The purpose of this claim is to legalize the 2-acre property to allow a single family dwelling. MUA-20 regulations have restricted the use of the property.

Therefore according to ORS 197 (11) A (definition for "family member"), the answer to this question is YES.

Question 4: Have the regulations reduced the fair market value of the properties?
According to the staff report, the answer is NO.

Comment to Question 4: The regulations **HAVE reduced** the fair market value of the property under claim due to restrictions. When the owner acquired the 2-acre property in September, 1993, the fair market value according to Multnomah County records (See Exhibit B) was \$6,100, however, after only 5 months the value raised to \$33,000 on 2/28/94 then an additional \$4,000 on 9/16/94 (a second adjustment within the same year) to increase RVM to \$37,000. Due to MUA-20 restrictions not allowing a single family dwelling on the property, a real property value adjustment was made and adjusted on 3/1/1996 which **lowered the value** from \$37,000 to \$12,000 – a LOSS of \$25,000. The adjustment was applied for and filed due to the MUA-20 restricting the use of the land by not allowing a single-family dwelling. Therefore this shows that the property under claim lost value due to the MUA-20 restriction.

Also, it was noted by Bob Alcantara, Senior Appraisal Supervisor with the Multnomah County Division of Assessment and Taxation, that if the site under claim was legally created and buildable it would have lost value. I do not agree with the assessment by Bob Alcantara due to the fact that if the property was legal to build, the value of the property would **increase** by at least the \$25,000 making the total property RMV \$37,000 (1993 dollars) and would increase even more if a single family dwelling was established. Evidence of 3 Multnomah County tax assessed buildable properties of identical size and located next to and across the street from 2-acre property under claim were included in filing the claim (A.10 of staff report) and show the following values for the land that is deemed buildable as well as the RMV of the land and house:

2006 Land Value of submitted comparable locations:

- a. \$110,000.00
- b. \$128,500.00
- c. \$110,000.00

2006 RMV land and house of submitted comparable locations:

- a. \$318,550.00
- b. \$334,690.00
- c. \$256,090.00

2006 Property Tax Multnomah County received from comparable locations:

- a. \$3,304.00
- b. \$3,554.00
- c. \$2,515.00

At this time, Multnomah County receives only \$213.19 from the owner of the tax lot under M37 claim. If the property was legalized and a single family home was placed on it, it is my assessment that with support of the above-mentioned data, **the property would increase substantially** in value, not decrease as Bob Alcantara indicated and noted on the staff report.

In addition, applying ORS 197 (11) A – definitions for “family member”, the 2-acre property could be legal under M37 claim. If property is deemed legal, then presently with MUA-20 restrictions there is a reduction of fair market value.

Therefore, I conclude that the answer to question 4 above is YES.

Conclusion

In conclusion, I believe with the above-noted comments and recognition of (ORS 197 (11) A) definition of a “**family member**”, I have established that MUA-20 regulations on property under claim have restricted the use of the land and reduced its value.

Under Ballot Measure 37, this claim is to seek **legalization** of T1-06-099 which is asking not to apply MUA-20 restrictions to the property and to apply 1928 zoning when grandfather acquired property where there was no zoning in unincorporated Multnomah County, hence making property under claim legal.

Therefore, I ask that the Board of Commissioners approve this claim.

Thank you,

Mark Knieriem

Measure 37**Text of Measure**

The following provisions are added to and made a part of ORS chapter 197:

- (1) If a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of this amendment that restricts the use of private real property or any interest therein and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation.
- (2) Just compensation shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this act.
- (3) Subsection (1) of this act shall not apply to land use regulations:
- (A) Restricting or prohibiting activities commonly and historically recognized as public nuisances under common law. This subsection shall be construed narrowly in favor of a finding of compensation under this act;
- (B) Restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
- (C) To the extent the land use regulation is required to comply with federal law;
- (D) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights provided by the Oregon or United States Constitutions; or
- (E) Enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.
- (4) Just compensation under subsection (1) of this act shall be due the owner of the property if the land use regulation continues to be enforced against the property 180 days after the owner of the property makes written demand for compensation under this section to the public entity enacting or enforcing the land use regulation.
- (5) For claims arising from land use regulations enacted prior to the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the effective date of this act, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner of the property, whichever is later. For claims arising from land use regulations enacted after the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.
- (6) If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under this act, the present owner of the property, or any interest therein, shall have a cause of action for compensation under this act in the circuit court in which the real property is located, and the present owner of the real property shall be entitled to reasonable attorney fees, expenses, costs, and other disbursements reasonably incurred to collect the compensation.
- (7) A metropolitan service district, city, or county, or state agency may adopt or apply procedures for the processing of claims under this act, but in no event shall these procedures act as a prerequisite to the filing

of a compensation claim under subsection (6) of this act, nor shall the failure of an owner of property to file an application for a land use permit with the local government serve as grounds for dismissal, abatement, or delay of a compensation claim under subsection (6) of this act.

(8) Notwithstanding any other state statute or the availability of funds under subsection (10) of this act, in lieu of payment of just compensation under this act, the governing body responsible for enacting the land use regulation may modify, remove, or not to apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property.

(9) A decision by a governing body under this act shall not be considered a land use decision as defined in ORS 197.015(10).

(10) Claims made under this section shall be paid from funds, if any, specifically allocated by the legislature, city, county, or metropolitan service district for payment of claims under this act. Notwithstanding the availability of funds under this subsection, a metropolitan service district, city, county, or state agency shall have discretion to use available funds to pay claims or to modify, remove, or not apply a land use regulation or land use regulations pursuant to subsection (6) of this act. If a claim has not been paid within two years from the date on which it accrues, the owner shall be allowed to use the property as permitted at the time the owner acquired the property.

(11) Definitions - for purposes of this section:

(A) "Family member" shall include the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

(B) "Land use regulation" shall include:

(i) Any statute regulating the use of land or any interest therein;

(ii) Administrative rules and goals of the Land Conservation and Development Commission;

(iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;

(iv) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and

(v) Statutes and administrative rules regulating farming and forest practices.

(C) "Owner" is the present owner of the property, or any interest therein.

(D) "Public entity" shall include the state, a metropolitan service district, a city, or a county.

(12) The remedy created by this act is in addition to any other remedy under the Oregon or United States Constitutions, and is not intended to modify or replace any other remedy.

(13) If any portion or portions of this act are declared invalid by a court of competent jurisdiction, the remaining portions of this act shall remain in full force and effect.

STATE I.D.:

ANNEXATION NUMBER:

 ACCT NUMBER R-64973-4150 10/15/95
 NAME KNIERIEM MARK A & JULIE A
 YR-AQ-93 BK/P6-2760/0895
 MAIL 29735 WOODARD RD
 TROUTDALE, OREGON 97060-
 PROP MAP-311N4E CENSUS TRACT-
 LEVY/CODE-358
 LAND CHARACTERISTICS
 RATIO CODE-470 2 -APPR DISTRICT
 AREA- 2.00 A ZONING-MUA20
 TAT DIV DIVISIONCD40894
 YEAR APPRAISED -
 VCHR # ACT-532361 VCHR # DIV-532361
 IMPS CHARACTERISTICS
 CLASS-
 USE-VAC LND UNITS-
 CONS- ARCH-
 STORIES- LIVING AREA-
 NEIGHBORHOOD 020 YR BUILT-
 STATE RATIO-
 ADD-PARTITION PLAT 1993-105 LOT BLOCK
 TL 2 OF 1
 TRUE CASH VALUE OR REAL MARKET VALUE OR SPECIALLY ASSESSED
 YEAR CHG-DATE, CD LAND IMPROVEMENT TOTAL
 93/94 02/28/94 D \$6,100 \$6,100
 94/95 09/16/94 P \$33,000 \$33,000
 95/96 09/20/95 O \$37,000 \$37,000
 ASSESSED VALUE BEFORE EXEMPTION
 YEAR SRX LAND IMPROVEMENT TOTAL
 93/94 100.0 \$6,100 \$6,100
 94/95 100.0 \$33,000 \$33,000
 95/96 \$37,000 \$37,000
 EXEMPTIONS
 YEAR TYPE LAND IMPROVEMENT TOTAL
 NO EXM VALUES
 EXEMPTIONS ASSESSED VALUE
 YEAR SRX LAND IMPROVEMENT TOTAL
 NO ASSESSED EXM VALUES
 TAXABLE VALUE
 YEAR SRX LAND IMPROVEMENT TOTAL
 93/94 100.0 \$6,100 \$6,100
 94/95 100.0 \$33,000 \$33,000
 95/96 \$37,000 \$37,000
 INTEREST TO 12/15/95*****

ACCT. NUMBER R-64973-4150 12/02/95 ***** TAX INFORMATION *****
 RECEIVABLE LEVIED
 YEAR TAXES DUE TAXES LEVIED TAXABLE VALUE RATE YEAR CODE DATE RECEIPT BATCH TRAN AMOUNT I/D I/D AMOUNT
 93-94 .00 BAL 111.12 358 6,100 18.2153 93-94 T67 3/ 2/94 932361 5950 \$111.12
 .00 INT 111.12 TOTAL 6,100 93-94 T42 4/ 8/94 900206 6254 \$37.04
 .00 TOTAL 93-94 T42 4/ 8/94 900109 6254 \$37.04
 94-95 .00 BAL 553.79 358 33,000 16.7818 93-94 T88 5/ 9/94 400092 2297 \$3.00
 .00 INT 553.79 TOTAL 33,000 93-94 T22 5/ 9/94 400092 2297 \$37.04 I
 .00 TOTAL 94-95 T01 10/ 1/94 TAXEXT 640B \$553.79 D
 95-96 525.42 BAL 525.42 358 37,000 14.2003 94-95 T22 11/ 8/94 300066 0665 \$537.18 D \$16.61
 2.34 INT 525.42 TOTAL 37,000 95-96 T01 10/ 1/95 TAXEXT 640B \$525.42 D
 527.76 TOTAL
 177.48 3RD1**
 175.14 3RD2
 175.14 3RD3
 177.48 YTD
 527.76 TOTAL AMOUNT NEEDED TO PAY IN FULL ON 12/02/95

Script for March 29, 2007 Mark Knieriem Measure 37 Hearing

INTRODUCTION:

Chair: This is the time set for public hearing on the claim of **Mark Knieriem** under Ballot Measure 37. I am Ted Wheeler, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners Maria Rojo, Lisa Naito and Lonnie Roberts. Commissioner Jeff Cogen is excused.

All information relevant to the claim may be submitted and will be considered in this hearing. The evidence may be in any form including oral and written testimony, letters, petitions or other written material, slides, photographs, maps drawings or other items.

The Commission will base its decision on the evidence presented, along with the information on the claim in the Planning file. The Board decision will be by Order adopted by the Board.

DISCLOSURES:

Chair: Board members are required to disclose the content of any *ex parte* contacts. Any Board member who has received any factual information obtained outside the information provided by the county planning staff or this hearing is an *ex parte* contact. A visit to the property is considered an *ex parte* contact. Any *ex parte* contacts should be disclosed at this time. Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit.

Chair: I have *no ex parte* contacts to disclose.

or if the Chair has disclosures to make

I have the following disclosures to make: _____

Chair: [Invite the other Commissioners to make any necessary disclosures.)
Commissioner Rojo? Commissioner Naito? Commissioner Roberts? [If there are none, each Commissioner should say "none" on the record.]

[If there are disclosures of *ex parte* contacts, the claimant and the public should be given an opportunity to rebut the substance of any disclosure. "Does anyone have any rebuttal testimony relating to any disclosure?"]

Chair: Board members are also required to disclose any conflicts of interest and to recuse themselves from deliberation and voting if a conflict exists. It is deemed a conflict of interest if any Board member, or a member of his/her immediate family or household, has a financial interest in the outcome of a matter before the Board. It is a conflict of interest if a Board member lives within the geographical area entitled to notice of a claim.

Script for March 29, 2007 Mark Knieriem Measure 37 Hearing

Chair: Does any Board member, or a member of his/her immediate family or household, have a financial interest in the outcome of matter now before us?

I do [do not] have a financial interest in the outcome of this matter. [Invite other commissioners to make any necessary disclosures.] Commissioner Rojo? Commissioner Naito? Commissioner Roberts? [If yes, that person must recuse himself/herself on the record.]

Does any Board member live within the geographical area entitled to notice of claim?

I do [do not] live within the geographical area. Commissioner Rojo? Commissioner Naito? Commissioner Roberts?

[Any commissioner who lives within the relevant geographical area must recuse himself/herself. MCC 7.540]

CONDUCT OF THE HEARING:

Chair: I will ask for testimony and other evidence in the following order:

1. Staff report
2. Claimant or claimant's representative
3. Others who wish to be heard on the claim
4. Commission discussion, questions, deliberation
5. Future scheduling if necessary

HOW TO PRESENT TESTIMONY:

Chair: There are testimony cards at the back of the room and should be filled out by anyone wishing to testify. The claimant need not fill out a card. The cards should be given to the Board Clerk.

1. State your name and address before you begin your presentation
2. Avoid repetitive testimony
3. During the hearing, I ask those in the audience to refrain from any demonstration in support or opposition to the claim.

Chair: [Ask for testimony in the order listed above]

AT THE CONCLUSION OF THE TESTIMONY:

Chair: [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

DRAFT

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

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.

DRAFT

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

DRAFT

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

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.

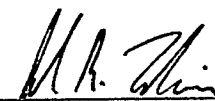


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


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



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: R-8
Est. Start Time: 10:30 AM
Date Submitted: 03/14/07

Agenda Title: **Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Gary and Faye M. Jones for \$210,000 in Compensation or Relief from Regulations that Prohibit Division of 1.79 Acres into Three Parcels and Building a Residence on Two of the Parcels for Property Located at 6141 SE 302nd Avenue [T1S, R4E, Sec 18DD, TL 200] (Case File T1-06-103)**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date: March 29, 2007 Amount of Time Needed: 20 minutes
Department: Community Services Division: Land Use & Transportation
Contact(s): George Plummer, Derrick Tokos, Sandra Duffy
Phone: 503-988-3043 Ext. 29152 I/O Address: 455/116
Presenter(s): George Plummer, Sandra Duffy

General Information

1. What action are you requesting from the Board?

Action requested is to provide a public hearing and render a decision regarding a Measure 37 claim by Gary and Faye M. Jones to waive land use regulations which prohibit division of 1.79 acres into three parcels and building a residence on two of the parcels for property located at 6141 SE 302nd Avenue. Land Use Planning staff has outlined an approach to deciding this claim in a staff report dated March 14, 2007.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

For a claim to be valid, the land use regulations challenged must restrict the claimants use of private real property in a manner that reduces its fair market value relative to how it could have been used at the time the claimants acquired the property. As outlined in the staff report dated March 14, 2007 and memorandum from the County Attorney's Office, this requirement has not been met.

Current Multiple Use Agriculture – 20 (MUA-20) zoning requires newly created properties from a land division to be at least 20-acres in size. MUA-20 allows a single family dwelling on a Lot of Record. The Claimants are challenging the current MUA-20 regulations.

The Claimants are seeking \$210,000 in compensation or relief from land use regulations to divide 1.79 acre parcel into three parcels. When they acquired the property on February 9, 1968 it was zoned Suburban Residential (SR). The SR district's minimum parcel size depended upon services available.

Dividing 1.79 acres evenly results in parcels that are 25,990 square feet in size. The SR zone allowed 20,000 square foot minimum lots if the property met the following requirements:

1. Approved public water supply.
2. Approved individual sewage disposal system.
3. Approved public access.
4. Approved plan for future re-subdivision of total tract when urban conditions developed.

The Claimants have not presented any evidence that a public water supply, individual sewage disposal system, and public access could have been approved for each of the proposed 25,990 square foot parcels. The Claimants have not provided an approvable plan for future re-subdivision of the total tract when urban conditions developed.

The use the Claimants assert has been restricted is their ability to partition the properties. The appraisal submitted by the applicant assumes the landowner will be able to convey the property for development purposes. Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the Claimants and will result in no restriction in use if transferred to a third party. No restriction in use would occur for the third party because they would not be able to divide the property or develop a newly purchased parcel (were the Claimants to divide) because they would be subject to the current MUA-20 regulations which prohibit the partition and additional dwellings.

Staff recommends the Board of Commissioners deny this claim.

3. Explain the fiscal impact (current year and ongoing).

The claimants assert a reduction in value of \$210,000; however, this dollar figure is not supported by an appraisal prepared in accordance with the county ordinance. No compensation is due because the claim is invalid.

4. Explain any legal and/or policy issues involved.

Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and the County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

5. Explain any citizen and/or other government participation that has or will take place.

Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, and the claimant. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

Required Signature

Elected Official or
Department/
Agency Director:



Date: 03/14/07



**LAND USE & TRANSPORTATION
PLANNING PROGRAM**

1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

Staff Analysis of Measure 37 Claim

The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

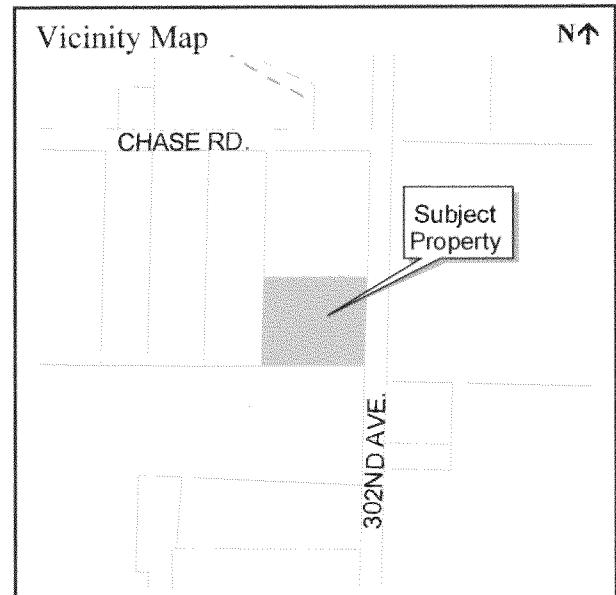
Hearing Date, Time, & Place:

Thursday, March 29, 2007 at 10:00 am or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

Case File: T1-06-103

Claimants: Gary and Faye Jones
6141 SE 302nd Ave.
Gresham, OR 97080

Location: 6141 SE 302nd Ave
Tax Lot 200, Section 18DD,
Township 1 South, Range 4 East, W.M



Claim: Compensation in the amount of \$210,000 or relief from land use regulations to allow the division of 1.79 acres into three parcels and building residences on two of the parcels, leaving an existing home on one of the parcels.

Zoning: Multiple Use Agriculture – 20 (MUA-20)

Site Size: 1.79 acres

Approach to Deciding the Claim:

For a claim to be valid, the land use regulations challenged must restrict the Claimant's use of private real property in a manner that reduces its fair market value relative to how it could have been used at the time the Claimants acquired the property. As outlined in this report and memorandum from the County Attorney's Office dated June 8, 2006 (Exhibit D.1), this requirement has not been met because (a) the Claimants have not shown that a three parcel land division and two additional homes could have been approved under the zoning in effect when they acquired the property; (b) dividing property in itself is not a "use" subject to the provisions of Measure 37, and (c) in any event, development rights gained through a waiver are personal to the Claimants and cannot be transferred to a purchaser of a subdivided parcel. Since the rights are not transferable there has been no reduction in the fair market value of the property.

Staff Analysis

(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by the Claimants. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24, 2005 memo authored by the State Attorney General's Office.)

1. Has the owner made a complete written demand under Ballot Measure 37?

Yes. The materials submitted by the Claimants constitute a complete "written demand for compensation" within the meaning of the measure.

On November 29, 2006, the Claimants submitted a Measure 37 Claim Form (Exhibit A.1) and a \$1500 deposit to the County in order to process the claim. Submitted along with the Measure 37 Claim form was an Appraisal of Real Property (Exhibit A.5), prepared by Kevin B. Churilla, Cascade Appraisal Group of Oregon, including a narrative, site description, and estimated property valuation. Also submitted was a list of regulations which the Claimants assert reduces the property value on the Claim Form, and additional narrative titled "Request for measure 37 claim" (Exhibit A.2); a Chicago Title Insurance Company "Status of Record Title" (Exhibit A.4); a map of the proposed land division (Exhibit A.6); a copy of the deed which transferred ownership of the property to the Claimants (Exhibit A.3); and miscellaneous other documents. On December 22, 2006 the Claimants submitted an amendment to the Status of Record Title from Chicago Title Insurance Company (Exhibit A.4). These and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

2. Did the Claimants acquire the property before the laws in question were adopted?

Yes. The Claimants obtained an interest in the property prior to the county adopting the challenged regulations set out in the claim.

The Claimants are challenging the Multiple Use Agriculture – 20 Zone District regulation regarding minimum parcel size (Exhibit B.8). The Claimants specifically list MCC 36.2855(A) and MCC 36.2870(1 and 4) as the regulations that restrict the use of the property (Exhibit A.1). The current MUA-20 regulations were adopted December 12, 2002 under Ordinance 1001. The MUA-20 minimum parcel size was originally adopted and applied to this property on October 6, 1977 under Ordinance 149 (Exhibit B.7) as shown on the zoning map of the date (Exhibit B.4).

A deed submitted by the Claimants (Exhibit A.3), show that they acquired the property on February 9, 1968. County assessment records identify the Claimants as the current owners of the property (Exhibit B.1). These documents and the title report (Exhibit A.4) show continual ownership since 1968 and are sufficient to establish that they acquired an interest in the property prior to the county adopting the MUA-20 regulations for the subject property.

3. Have the challenged regulations restricted the use of the property?

No. The Claimants have failed to establish that the challenged regulations have restricted their use of the property.

The Claimants list MCC 36.2855(A) and MCC 36.2870(1 and 4) as the regulations that restrict the use of the property (Exhibit B.8). Current Multiple Use Agriculture – 20 (MUA-20) zoning

requires newly created properties from a land division to be at least 20-acres in size (MCC 36.2855(A)). The Claimants are challenging the current MUA-20 regulations. The Claimants describe the manner and extent to which the regulations restrict the use of the property as follows (Exhibit A.1):

“When the lot was zoned SR it was dividable into 20,000 square foot lots or parcels. Rezoning to MUA-20 restricts the division of land and construction of residence less than 20 acres.”

The use the Claimants assert has been restricted is their ability to partition the properties. The appraisal submitted by the applicant assumes the landowner will be able to convey the property for development purposes. Multnomah County’s interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a ‘use’ of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the Claimants and will result in no restriction in use if transferred to a third party. No restriction in use would occur for the third party because they would not be able to divide the property or develop a newly purchased parcel (were the Claimants to divide) because they would be subject to the current MUA-20 regulations which prohibit the partition and additional dwellings.

This legal issue is analyzed in detail within a memo prepared by the Assistant County Attorney (Exhibit D.1.), Sandra Duffy, dated June 8, 2006. For the reasons outlined in this legal memorandum, staff finds this claim seeking the right to partition the property to be invalid.

The property was given a zoning designation of Suburban Residential (SR) on July 10, 1958 under Ordinance 100. The 1962 zoning and maps are consistent with what was adopted in 1958. A copy of the 1962 zoning map is included as Exhibit B.2. An October 05, 1977 Zoning Map of zoning in effect prior to Ordinance 149 shows the property continued to be zoned “SR” through that date (Exhibit B.3). A copy of the corresponding SR regulations adopted November 15, 1962 is included as Exhibit B.6.

The SR district was a residential zone, with a variable lot size depending upon services available to each lot and an approved future re-subdivision plan. The Claimants are requesting to divide the 1.79 acre property into three parcels to build a residence on two of the parcels (the existing dwelling will be on the third parcel). The SR zone allowed a residence on each parcel (Code Section 3.1521).

Dividing 1.79 acres evenly would result in parcels that are 25,990 square feet. The SR zone allowed 20,000 square foot minimum lot sizes if the properties met the following requirements (Code Section 3.1531):

1. Approved public water supply.
2. Approved individual sewage disposal system.
3. Approved public access.
4. Approved plan for future re-subdivision of total tract when urban conditions developed.

Between 1958 and 1977 to legally divide a property within the SR zone into parcels less than 40,000 square feet in size, the property owner would have had to demonstrate that the listed requirements were met. The Claimants have not presented any evidence that a public water supply, individual sewage disposal system, and public access could have been approved for each

of the proposed 25,990 square foot parcels. Additionally the Claimants have not provided an approvable plan for future re-subdivision of the total tract when urban conditions developed.

4. *Have the regulations reduced the fair market value of the properties?*

No. The Claimants have failed to establish that the challenged regulations have reduced the fair market value of the property.

Multnomah County's interpretation of the law as reflected in its Measure 37 ordinance is that dividing property in itself is not a 'use' of land subject to the provisions of Measure 37 and that development rights gained through a waiver are personal to the Claimants and will result in no restriction in use if transferred to a third party. A reduction in value has not occurred because development rights cannot be transferred.

Additionally, even if a partition could be approved under Measure 37, the Claimants have not demonstrated that the proposed lots could have met the requirements of the SR zoning in effect prior to the MUA-20 zoning to divide the property.

Public Comment

After a claim for compensation is declared complete pursuant to MCC 27.520(B), the Director shall mail notice of the claim to the Claimants, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate (MCC 27.530(A)).

Pursuant to the provisions of MCC 27.530, a 14-day Opportunity to Comment packet was mailed on March 2, 2007 (Exhibit C.1). No comments were submitted. Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, including the Claimants. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

Conclusion

In conclusion, the Claimants have failed to establish that regulations preventing them from dividing the property and developing homes on the new parcels have resulted in a restriction of their use of the land and reduction in its value. The Claimants have not demonstrated that the proposed parcels could have met the public water supply, sewage disposal, public access, and requirements for future resubdivision of properties in effect in the SR zone when they acquired the property. Additionally, dividing property is not a "use" subject to the provisions of Measure 37 and, in any event, development rights gained through a waiver are personal to the Claimants and cannot be transferred to a purchaser.

Consequently, staff recommends that the Board of Commissioners deny this claim.

Issued by:

By: George A. Plummer

For: Karen Schilling- Planning Director

Date: March 14, 2007

Exhibits

Copies of the exhibits, referenced herein, and all other materials submitted to the County related to this claim are included in the case record that is on file at the Land Use and Transportation Planning Office. Exhibits labeled "A" were submitted by the Claimants and exhibits labeled "B" were included by staff.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Signed Measure 37 Application Form	11/29/06
A.2	1	Narrative titled "Request for Measure 37 claim"	11/29/06
A.3	1	Deed Information: 1. Warranty Deed, Recorded in Book 604, Page 1320, February 13, 1968 (Jacquetta L. Weiser to Gary and Faye M. Jones)	11/29/06
A.4	6	Chicago Title Insurance Company "Status of Record" Title report dated December 22, 2006 and November 7, 2006 for the subject property	12/2/06 and 11/29/06
A.5	26	Cascade Appraisal Group of Oregon appraisal for the subject property by Kevin B. Churilla	11/29/06
A.6	1	Map showing proposed land division	
'B'		Staff Exhibits	Date
B.1		Assessment and Taxation Property Information t	11/29/06
B.2	1	Zoning Map in Effect on 2/13/68	N/A
B.3	1	Zoning map of zoning in effect on 10/5/77	N/A
B.4	1	Zoning map of zoning adopted on 10/6/77	NA
B.5	1	Current Zoning Map	N/A
B.6	5	Ordinance 100 Suburban Residential District	N/A
B.7	6	Ordinance 149 Multiple Use Agriculture District	N/A
B.8	6	Ordinance 1001 Multnomah County Code Chapter 36 Multiple Use Agriculture District	N/A
'C'		Administration & Procedures	Date

C.1	7	Opportunity to Comment	2/16/07
C.2	1	Abatement Offer Letter	12/18/06
'D'		Comments Received	Date
D.1	1	Memorandum: Multnomah County Attorney's Office, Sandy Duffy	3/14/07

Multnomah County Attorney's Office
501 S.E. Hawthorne Blvd., Suite 500
Portland, Oregon 97214
PHONE: (503) 988-3138
FAX: (503) 988-3377



MEMORANDUM

To: George Plummer
Multnomah County Planner

Cc: Derrick Tokos, Principal Planner
Chuck Beasley, Planner

From: Sandy Duffy
Assistant County Attorney
Multnomah County Attorney's Office

Date: March 14, 2007

Re: Gary and Faye Jones
T1-06-103

I have reviewed your staff report for legal sufficiency under MCC 27.500 *et. seq.* Your staff report, which recommends denial of the claim, has adequately addressed each required criteria and correctly applied Measure 37 and the county's implementing regulations.

Multnomah County Attorney's Office
501 S.E. Hawthorne Blvd., Suite 500
Portland, Oregon 97214

PHONE: 503.988.3138
FAX 503.988.3377



MEMORANDUM

To: Derrick Tokos, Principal Planner
From: Sandy Duffy, Assistant County Attorney
Re: All Measure 37 Land Divisions Are Facially Invalid
Date: June 8, 2006

INTRODUCTION:

A substantial portion of the Measure 37 claims being submitted to Multnomah County are for partitions or subdivisions. MCC 27.530(O) authorizes the Planning Director to determine whether a claim is invalid on its face and to recommend to the Board of County Commissioners that the claim be denied. The question this memorandum addresses is whether claims for land divisions are invalid on their face. This memorandum is intended as guidance for the Planning Director and the land use planners who are reviewing Measure 37 claims.

Set out below is the County's legal analysis addressing whether partitioning and/or subdividing land is a "use" of land which is subject to the provisions of Measure 37 and whether development rights gained through a waiver are personal to the claimant are transferable to a purchaser of a subdivided parcel. If the development rights are not transferable, there has been no "... reduc[tion in] the fair market value of the property," which is required for a valid Measure 37 claim.

DISCUSSION:

A. County land division regulations do not restrict the owner's "use" of the property.

The meaning of the term "use" in the Measure is a critical factor in determining the validity of claims, as well as the governing bodies' authority to pay compensation or to waive¹ regulations. Section (1) of the Measure requires compensation from the County if it enforces an ordinance that "restricts the *use* of private real property."

As an alternative to paying compensation, the Measure, in Section(8) authorizes the governing body to: "...modify, remove or not to [sic] apply the land use regulation or land use regulations to allow the owner to *use* the property for a *use* permitted at the time the owner acquired the property."

If the county land division regulations (MCC 33.7700 – 33.8035) are a *use* restriction, the Board may pay compensation or waive the regulations which would allow Measure 37 claimants to partition or subdivide their parcels.

(1) Land division ordinances as land use regulations in Measure 37.

The proponents of the Measure give import to the fact that the Measure defines "land use regulation" in subsection (11)(B) as including "land division ordinances." First, land division ordinances do not specify how a property is to be *used*. Land division ordinances set out the requirements for and procedures to partition or subdivide parcels of land.

Second, on February 24, 2005, the Attorney General's Office issued a Measure 37 letter-opinion to Lane Shetterly, Director of DLCD. That letter-opinion makes it very clear that a

¹ Waiver is a term used in this memorandum in lieu of the Measure 37 language which authorizes the governing body to "modify, remove or not to [sic] apply the land use regulation..."

waiver is valid only if a *series* of conditions are met², including: “The law [county code] restricts the use of private real property or any interest therein,” and “The law [county code] has the effect of reducing the fair market value of the claimant’s property or any interest therein.” Inclusion of a type of regulation within the definition of “land use regulation” does not necessarily mean that it is a “use” regulation which restricts the use and diminishes the value of property, giving rise to a Measure 37 claim.

Finally, the two sections of the Measure (the definitions and the requirement that a restriction in use diminish the value), must be read in context and effect must be given to both, if possible. The general definition provision will not take precedence over the substantive provision requiring a restriction in *use* and a diminution in value to prove a valid claim under the Measure.³

(2) Interpreting the word “use.”

When construing a statute, the court’s task is to determine the intent of the legislature. The best indication of legislative intent is the text of the statute. Only if the court finds the text is ambiguous will the court analyze the legislative history of the statute. *PGE v. Bureau of Labor and Industries*, 317 Or 606, 859 P2d 1143 (1993); ORS 174.010. The same analysis applies whether the statute was enacted by the legislature or through the initiative process. *Stranahan v. Fred Meyer, Inc.*, 331 Or 61; 11 P3d 228 (2000).

The term “use” is undefined in the Measure which means it is to be interpreted in its common, everyday meaning. The common meaning of “use,” in the context of land use

² The same holds true for a determination to pay compensation. There must be a valid Measure 37 claim which meets the same series of conditions.

³ ORS 174.020(2) “When a general and particular provision are inconsistent the latter is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent.”

regulations, includes such uses as: rural residential use, commercial use, farmland use, forestland use, industrial use, community service use.⁴ Those broad categories of uses are subdivided into more specific uses in the zoning code. For example, rural residential allowed uses include: raising and harvesting of crops, raising livestock and honeybees, and family day care.⁵ All of these uses can take place on a parcel of land without subdividing the parcel.

The common dictionary definition of the word "use" is:

"The act of using or the state of being used." Webster's New Universal Unabridged Dictionary, Second Edition, (Dorset and Baber 1989).

The legal definition of the word "use" is:

"The application or employment of something; esp., a long-continued possession and employment of a thing for the purpose for which it is adapted, as distinguished from a possession and employment that is merely temporary or occasional <the neighbors complained to the city about the owner's use of the building as a dance club>." Black's Law Dictionary, Seventh Edition, West Group, St. Paul Minn., (1999).

Both of these definitions contemplate active employment of the land for a specific purpose. The acts to subdivide land (applying for a land use permit, obtaining a title report, obtaining a survey, recording a plat) do not involve the employment of land. Subdividing is preparation for a use of the land, but is not, itself, a use.

Other than *MacPherson*⁶, there are no cases to date interpreting the language of Measure 37, however, the Court of Appeals, in *Parks v. Tillamook County*, 11 Or App 177 (1972),

⁴ This is a representative sample of some of the uses contained in MCC Chapter 33; there are many others but none of them include partitions or subdivisions.

⁵ These are examples from MCC Chapter 33.

⁶ *MacPherson v. Department of Administrative Services*, 340 Or 117, 130 P3d 308 (2006) found Measure 37 to be constitutional.

recognized that platted but undeveloped land is not regarded as a "use" in zoning law.⁷ It follows that the process of subdividing land would not be a "use" of land either.

(3) The Attorney General concludes Measure 37 rights are not transferable.

The Attorney General's letter-opinion to the Director of DLCD also reviews the voter's pamphlet statements for voter intent on transferability of Measure 37 relief. Some of that discussion may be relevant as legislative history of voter's intent on whether the Measure was intended to allow subdivision of qualified parcels. It states:

The arguments in favor include 40 submissions ...slightly more than half of the arguments discuss the perceived adverse effects of land use laws in the abstract... slightly fewer than half are statements about how land use laws are preventing a specific owner from putting his or her property to some particular current use. All of those specific concerns could be remedied either by a decision that is personal to that owner or one that ran with the land, with the possible exception of several owners who expressed dissatisfaction with not being able to subdivide their property and give parcels to descendants, sell them to third parties, or both. Allowing an owner to subdivide property by not applying a prohibition would do him no good, of course, unless the subdivision remained lawful after its transfer to one or more new owners. Existing laws generally allow new owners to perpetuate non-conforming uses that were lawful when instituted, but it is not certain whether all would apply to a decision under Measure 37. See, e.g., ORS 215.130. [non-conforming use statute – footnote omitted] None of the arguments in favor addresses whether subsequent purchasers would acquire the rights, or step into the shoes, of owners covered by the measure. Likewise, no argument directly mentions the effect of laws on property's resale value, although one argument states that they restrict the use of home equity to fund owners' retirements. The latter implies an adverse effect on resale value, which might be recognized by discerning voters as a problem that would only be remedied if the exemptions ran with the land. On the other hand, an argument in favor of the measure by the chief petitioners expressly states that if an owner entitled to Measure 37 compensation conveys her property, that will establish a new "date of acquisition" for purposes of determining what laws may give rise to a claim. This is a clear statement that the chief petitioners expected that the relief available under the measure depends on when the current owner acquired the property – that the relief is personal to the current owner. If the current owner is eligible for relief, but sells the

⁷ At 196.

property, then only laws adopted after the new owner acquired the property create a right to relief. (Emphasis added.)

The opinion, in a footnote to this quoted section, which related to the non-conforming use statute (ORS 215.130), questions whether Measure 37 implementing ordinances, adopted by local governments, can confer non-conforming use status upon transferred properties. The footnote states:

"This statute [ORS 215.130] allows the continuation of uses that have been made unlawful by a subsequent change in the law. But if a decision to grant non-monetary relief under Measure 37 is personal to the owner, uses covered by an [sic] decision would be made unlawful not by a change in the law but by a change in ownership, which does not come under ORS 215.130. Therefore, voters whose decision to support the measure was motivated by the arguments about subdivision restrictions presumably expected either that a decision to grant non-monetary relief would run with the land or that existing law would not require that a subdivision be undone upon the property's sale. Additional legislation may be needed to implement that intent." (Page 6.) (Emphasis added.)

This footnote implies that the voter's pamphlet "legislative history" probably includes an intent to perpetuate a legal use of the property upon transfer, but it does not fit into the nonconforming use statute because the trigger is sale, not change in land use laws. This footnote seems to suggest that the nonconforming use statute (ORS 215.130) could be amended by the legislature to add the sale of Measure 37 properties as creating a nonconforming use.

In light of the Attorney General's letter-opinion, the *Parks* case, common land use parlance, the dictionary definitions of "use," and the failure of the Measure to specifically authorize partitions or subdivisions in zones where those actions are prohibited, this Court should interpret Measure 37 to exclude a subdivision or partition of land as a "use" of land.

B. A “diminished value” relies on an erroneous assumption of transferability.

Even assuming an owner’s evidence of value is legally sufficient to support a finding in his/her favor, it is erroneously predicated on an assumption that the owner can sell his/her properties with Measure 37 historical rights to use the property intact.

If Measure 37 rights do not transfer with the sale of a property, the property has only the value it will have in the hands of the purchaser with *current* applicable regulations.

(1) Regulatory Relief is Personal to the Present Owner

Regulatory relief under ORS 197.352 is personal to the present owner of the property. When the County finds that a claimant meets the standards for relief under ORS 197.352, the County may, in lieu of compensation, waive land use regulations “to allow *the owner* to use the property for a use permitted at the time *the owner* acquired the property.” ORS 197.352 (8) (emphasis added). The statute then defines “owner” as the “present owner of the property.” ORS 197.352 (11)(C). Therefore, the regulatory relief authorized by the statute as an alternative to compensation is personal to the present owner.

This conclusion is consistent with the advice the Oregon Attorney General (“AG”) has given to State agencies. In a letter dated February 24, 2005, to the Director of the Department of Land Conservation and Development, the AG writes that a decision “to ‘not apply’ a law would necessarily be personal to the owner submitting the claim.” The letter cites to and relies on arguments made by the proponents of the statute that were presented in the Voters Pamphlet:

“[A]n argument in favor of the measure by the chief petitioners expressly states that if an owner entitled to Measure 37 compensation conveys her property, that will establish a new ‘date of acquisition’ for purposes of determining what laws may give rise to a claim. This is a clear statement

that the chief petitioners expected that the relief available under the measure depends on when the current owner acquired the property – that the relief is personal to the current owner. If the current owner is eligible for relief, but sells the property, then only laws adopted after the new owner acquired the property create a right for relief.”

Any rights obtained by and owner pursuant to a state waiver or a county waiver are personal to the owner with Measure 37 rights and may not be transferred to subsequent owners. Because a subsequent owner would acquire the property subject to all laws in effect on the date the subsequent owner acquired it, the subsequent owner would not acquire a “buildable lot.”

Property owners who are making Measure 37 claims to Multnomah County are claiming that they are entitled to compensation in some identified amount based on an assertion that they can divide the property into some specific number of “buildable lots.” The core of this claim is the assertion that, absent zoning regulations enacted after date of owner acquisition, the claimant could divide the property into some specified number of “buildable lots.” However, as noted above, any rights obtained pursuant to a claim filed under ORS 197.352 are personal to the claimant and do not transfer with the property. Accordingly, a purchaser of a lot from a Measure 37 owner will acquire the property subject to all laws currently in effect and current laws do not allow new dwellings on the lots in contravention of the current regulations.⁸

Because the lots cannot be sold as residential building sites, they have no real market value for residential use and regulations that prohibit their creation do not reduce the property’s value.

(2) Plaintiff cannot divide land because land division is not a “use”.

⁸ State and local laws allow new dwellings in commercial forest zones only under very limited circumstances – none of which would apply to the subdivision lots created pursuant to this claim. See e.g. ORS 215.705, 215.720, 215.730, 215.740 and 215.750; Multnomah County Code (“MCC”) 33.2220, 33.2225, 33.2230, 33.2235 and 33.2240.

See Section A(3) above. (The Attorney General concludes Measure 37 rights are not transferable.)

If Measure 37 rights do not run with the land, then Plaintiff's property has no enhanced value in the eyes of a potential purchaser and no diminution in value attributable to current regulations.

CONCLUSION:

Partitioning and subdividing land is not a "use" of land which is subject to the provisions of Measure 37. Development rights gained through a waiver are personal to the claimant and are not transferable to a purchaser of a subdivided parcel. Because the development rights are not transferable, there has been no reduction in the fair market value of the property, which is required for a valid Measure 37 claim. A potential purchaser will only pay the fair market value of the property with land use restrictions in place because those restrictions will apply to the purchaser.

**MARCH 29, 2007 PROPOSED MEASURE 37 ORDER SCRIPT
IMMEDIATELY FOLLOWING HEARINGS**

- R-6 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Elbridge and Dorothy Hardin for \$300,000 in Compensation or Relief from Regulations to Allow Development of a Single Family Residence on Each of Two Properties Located Adjacent to 4510 SE 302nd Avenue (Case File T1-06-079)

**COMMISSIONER _____ MOVES
COMMISSIONER _____ SECONDS
APPROVAL OF Order Denying Ballot Measure 37
Request of Elbridge and Dorothy Hardin
Relating to Two Parcels of Real Property
Located on SE 302nd Avenue, Troutdale**

OPPORTUNITY FOR BOARD COMMENTS

ALL IN FAVOR, VOTE AYE, OPPOSED ____?

**THE MOTION FAILS
OR
THE ORDER IS ADOPTED**

- R-7 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim Filed by Mark Knieriem for \$96,167.00 in Compensation or Relief from Regulations to Allow the Legalization of a 2.00 Acre Parcel in the Multiple Use Agriculture – 20 Zone on Property East of 29805 East Woodard Road [T1N, R4E, Sec 31DA, TL 500] (Case File T1-06-099)

**COMMISSIONER _____ MOVES
COMMISSIONER _____ SECONDS
APPROVAL OF Order Denying Ballot Measure 37
Request of Mark Knieriem Relating to the Parcel
of Real Property Located East of 29805 E.
Woodard Rd., Troutdale**

OPPORTUNITY FOR BOARD COMMENTS

ALL IN FAVOR, VOTE AYE, OPPOSED ____?

**THE MOTION FAILS
OR
THE ORDER IS ADOPTED**

R-8 ~~Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by Gary and Faye M. Jones for \$210,000 in Compensation or Relief from Regulations that Prohibit Division of 1.79 Acres into Three Parcels and Building a Residence on Two of the Parcels for Property Located at 6141 SE 302nd Avenue [T1S, R4E, Sec 18DD, TL 200] (Case File T1-06-103)~~

COMMISSIONER _____ MOVES
COMMISSIONER _____ SECONDS
TO POSTPONE INDEFINITELY

ALL IN FAVOR, VOTE AYE, OPPOSED ____?

THIS MATTER IS POSTPONED INDEFINITELY

R-9 Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by David Eddy for \$380,000 in Compensation or Relief from Regulations to Allow for the Development of a Single Family Residence on Property Located at 20303 NW Sauvie Island Road [T2N, R1W, Sec 07D, TL 1600] (Case File T1-06-110)

COMMISSIONER _____ MOVES
COMMISSIONER _____ SECONDS
**APPROVAL OF Order Granting, with Conditions,
Ballot Measure 37 Request of David Eddy to Not
Apply Land Use Regulations to Real Property
Located at 20303 NW Sauvie Island Rd.,
Portland**

OPPORTUNITY FOR BOARD COMMENTS

ALL IN FAVOR, VOTE AYE, OPPOSED ____?

**THE MOTION FAILS
OR
THE ORDER IS ADOPTED**



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST (short form)

Board Clerk Use Only

Meeting Date: 03/29/07
Agenda Item #: R-9
Est. Start Time: 10:50 AM
Date Submitted: 03/14/07

Agenda Title: Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim by David Eddy for \$380,000 in Compensation or Relief from Regulations to Allow for the Development of a Single Family Residence on Property Located at 20303 NW Sauvie Island Road [T2N, R1W, Sec 07D, TL 1600] (Case File T1-06-110)

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.

Requested Meeting Date: March 29, 2007 Amount of Time Needed: 20 minutes
Department: Community Services Division: Land Use & Transportation
Contact(s): Derrick Tokos, Ken Born, Sandra Duffy
Phone: 503-988-3043 Ext. 29397 I/O Address: 455/116
Presenter(s): Ken Born, Sandra Duffy

General Information

1. What action are you requesting from the Board?

Action requested is to provide a public hearing and render a decision regarding a Measure 37 claim by David Eddy to waive land use regulations which prohibit the development of a single family dwelling on property located at 20303 NW Sauvie Island Rd. Land use planning has outlined an approach to deciding this claim in a staff report dated March 13, 2007.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

For a claim to be valid, the land use regulations challenged must restrict the claimants use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants acquired the property. As outlined in the staff report dated March 13, 2007, and memorandum from the County Attorney's Office, this requirement has been met.

The claimant, David Eddy, is seeking \$380,000 in compensation or relief from land use regulations to allow the 3.78 acre property to be developed with a single family dwelling. He acquired an

interest in the property on September 4, 1975. County zoning for the property in 1975 was both SR and F-2.

The SR zone in effect at the time the claimants purchased the property had a minimum lot size which varied dependant upon services that were available at the time. The minimum lot size in the F-2 district was 2 acres. Current Exclusive Farm Use (EFU) zoning regulations require proof of a certain level of farm income related to the property in order to establish a new primary farm dwelling on vacant land. The threshold for properties consisting of high value soils is \$80,000 gross annual income from the sale of farm products grown on a subject tract in the last two years, or for three of the last five years.

The use the claimants assert has been restricted is their ability to develop a single family dwelling. The SR zone in effect at the time the claimants purchased the property allowed one house per lot as of right. Minimum lot sizes were variable depending on the level of services provided. The claimants have established that land use regulations enacted after they acquired the subject property have prevented them from building a home.

Staff recommends the Board of Commissioners find this claim valid.

3. Explain the fiscal impact (current year and ongoing).

The claimants assert a reduction in value of \$380,000. Comparable sales data provided by the claimants does establish that the above listed regulations have reduced the fair market value of the identified property.

4. Explain any legal and/or policy issues involved.

Policy and legal issues are outlined in a staff report from Land Use Planning dated March 13, 2007. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

5. Explain any citizen and/or other government participation that has or will take place.

Public notice of this hearing has been mailed to all property owners within 750 feet of the subject property, and the claimant. Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing.

Required Signature

**Elected Official or
Department/
Agency Director:**



Date: 03/14/07



**LAND USE & TRANSPORTATION
PLANNING PROGRAM**

1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

Staff Analysis of Measure 37 Claim

The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

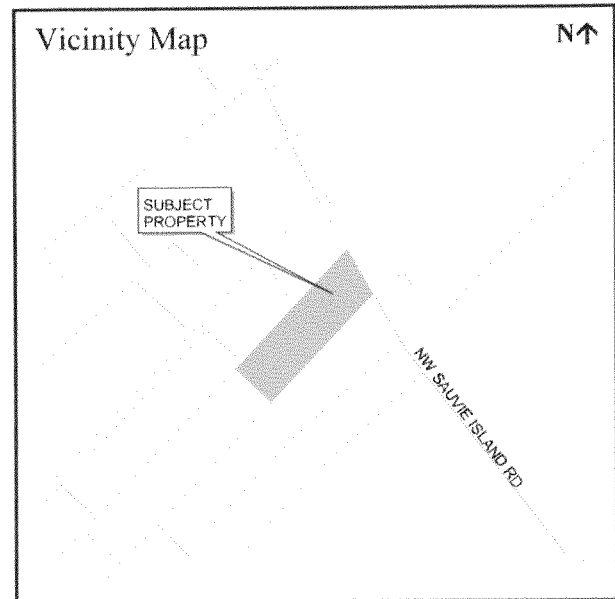
Hearing Date, Time, & Place:

Thursday, March 29, 2007 at 10:00 am or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

Case File: T1-06-110

Claimant: David Eddy
8225 SW 3rd Ave.
Portland, OR 97219

Location: 20303 NW Sauvie Island Rd.
R971070300
Tax Lot 1600, Section 07D,
Township 2N, Range 1W, W.M.



Claim: Up to \$380,000 in compensation or relief from Multnomah County Code land use regulations to allow the claimant to construct a single family dwelling on the property.

Zoning: Exclusive Farm Use (EFU)

Site Size: 3.78 acres

Approach to Deciding the Claim:

David Eddy (claimant) acquired an interest in the subject property on September 4, 1975. The claimant has indicated that the challenged regulations enacted after he acquired the property have prevented him from building a single family dwelling. Our analysis confirms that current land use regulations prohibit the construction of a dwelling on their property. The claimant's data on comparable sales is adequate to show that some of the challenged regulations have reduced the property's value. Consequently, the Board must either:

- a. Pay compensation equal to the reduction in fair market value of the property attributed to the challenged regulations which restrict claimant's use of their property; or.
- b. Not apply challenged regulations to allow the claimant to construct a dwelling on the property.

The claimant's data is inadequate as evidence to establish value, so additional appraisal work would be needed if compensation is the desired course of action.

Staff Analysis

(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by the claimant. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24, 2005 memo authored by the State Attorney General's Office.)

1. Has the owner made a complete written demand under Ballot Measure 37?

Yes. The materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure.

On December 1, 2006, the claimant submitted a Measure 37 Claim Form (Exhibit A.1), title information from First American Title Insurance Company of Oregon (Exhibit A.20), a comparative market analysis (Exhibit A.6), copies of applicable land use and subdivision regulations in effect in from 1955 through 1993 (Exhibits A.7 through A.14), and the required \$1500 retainer. These and other materials in the claim record constitute a complete written demand for compensation complying with the county's requirements (MCC 27.520).

2. Did the claimant acquire the property before the laws in question were adopted?

Yes. The Claimant obtained an interest in the property on September 4, 1975 (Exhibit A.18) prior to the county adopting the challenged regulations set out in the claim.

The zoning district which encumbered the greater part of the subject property was Suburban Residential (SR) on September 4, 1975, the date when the claimant acquired an interest in the property. A copy of the zoning map in effect on September 4, 1975 is included as Exhibit A.8. A copy of the SR regulations in effect on September 4, 1975 is presented as Exhibit A.10. The purpose of the SR zone was to "assure the orderly and beneficial development of the district as the area becomes more densely populated and assumes urban characteristics" (§3.151, Ord. #100). The SR zone was a suburban residential district with a variable lot size depending on services which were available to each lot (§3.1531, Ord. #100). The zoning changed from SR to Exclusive Farm Use-38 on October 6, 1977 (76 acre min. lot size), and to Exclusive Farm Use on August 14, 1980. EFU rules also generally limit the establishment of new dwellings to those that are necessary for farm purposes (§34.2600 et. seq.). The claimant is challenging the current EFU regulations.

The subject property was split-zoned until 1977. The southwest portion, an area approximately one half acre in size, was subject to F-2 zoning regulations until December 5, 1975. The area was then subject to the RL-C zone until October 6, 1977, when the entirety of the property was rezoned to Exclusive Farm Use-38.

3. Have the challenged regulations restricted the use of the property?

Yes. Some of the challenged regulations have restricted the use of the property by prohibiting the construction of a dwelling.

The SR zoning in effect when the claimant acquired the property allowed a dwelling as of right (§3.1521, Ord. #100). This district had a variable minimum lot size depending upon services that were available at the time. In this case, since the property is over 40,000 square feet, the claimants had to have approved septic and a private water source. The claimant has submitted evidence that demonstrates he was able to obtain septic approval (Exhibit A.25) in 1977, and additionally, developing a private well was an option at that time (Exhibit A.22). The property also possesses

street frontage, which was another requirement of developing a dwelling or creating a new lot in the SR zoning district. These materials provide evidence that the portion of the property zoned SR could have been developed with a new home when the claimant acquired the property.

The property is presently zoned Exclusive Farm Use (EFU). A copy of the current regulations and zoning map are included as Exhibit B.2 and Exhibit B.3. The EFU regulations contain specific standards for qualifying a dwelling that are more restrictive than the SR requirements, and have the effect of preventing a dwelling from being constructed on the property.

For the purposes of evaluating this claim, staff has organized the challenged regulations into categories and presents these categories separately below. In order for regulations to be eligible for waiver under Measure 37, they have to both restrict the use of a property and reduce the value of that property. The challenged regulations have been grouped into the following categories:

- Category 1 – Regulations that should not be applied as they restrict the use of the property
- Category 2 – Regulations that would be premature to not apply
- Category 3 – Regulations exempt from Measure 37
- Category 4 – Regulations unrelated to the claim

Category 1 - Regulations that should not be applied as they restrict the use of the property.

The following are the specific EFU regulations which would prevent the establishment of a dwelling on the property. These regulations and the Comprehensive Plan policies they implement, would need to be set aside should the Board choose to not apply regulations in lieu of compensation.

- ***MCC 34.2625(D)(1) – Farm Income Test for Establishing a Farm Dwelling on High Value Farmland Soils***

These regulations require proof of a certain level of farm income related to the property in order to establish a new primary farm dwelling on vacant land. The threshold for properties consisting of high value soils is \$80,000 gross annual income from the sale of farm products grown on a subject tract in the last two years, or for three of the last five years.

Although the subject property consists of high value Burlington fine sandy loam soils (Unit 6B)¹, it is only 3.78 acres in size and is unlikely to be able to produce enough agricultural yield to meet the \$80,000 farm income test.

According to statistics published jointly by the Oregon Agricultural Statistics Service and Oregon State University Extension Service in 2001, the 1999 gross sales in Multnomah County averaged only \$11,079 per acre for nursery and greenhouse operations. Of Oregon's top 40 commodities for 2000, greenhouse and nursery products ranked number one in dollar value and were estimated to have constituted over half of the total sales of from products in the county. This provides a reasonable high end farm related income projection for an acre of farm land². This \$11,079 estimate provides further support that the 3.78 acre subject property is most likely too small to meet the \$80,000 farm income regulation required to establish a primary farm dwelling. In fact, the average

¹ (1983) Soil Survey of Multnomah County, United States Department of Agriculture & Soil Conservation Service.

² (2001) Oregon Agricultural Statistics and Oregon State University Extension Service, Oregon Agriculture: Facts and Figures.

farm size in Multnomah County is 48-acres³ making the 3.78 acre subject property quite small in comparison.

In conclusion, Staff finds this farm income regulation prohibits establishment of a single family dwelling on the subject property.

- ***MCC 34.2625(F) – Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland.***

This regulation requires the subject tract to not be identified as high-value farmland in order to qualify for a new single family home. As referenced above, soils on the property consist of high value Burlington fine sandy loam soils (Unit 6B).

- ***MCC 34.2630(N) - Heritage Tract Dwelling Allowed on Land Identified as High-Value Farmland Due to Extraordinary Circumstances Inherent in Physical Setting.***

This criterion allows for a new single family dwelling on farmland that cannot practicably be managed for farm use due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. These circumstances include “very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use.” The generally flat property does not contain features which consist of these physical elements, and thus could not qualify for a right to develop a new home under this standard.

- ***MCC 34.2630(O) - Heritage Tract Dwelling Allowed on Land Identified as High-Value Farmland With Small Surrounding Tracts.***

This regulation requires that the subject tract be not composed of predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II. Burlington fine sandy loam is classified as a prime soil, as indicated in the High-Value Farmland Soils table included as Exhibit B.4.

Statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them (Exhibit B.5). We anticipate the state will take a similar position with this claim. This may impact the claimant’s ability to construct a dwelling on the property should the Board grant regulatory relief.

Category 2 – Regulations that would be premature not to apply.

- ***MCC 34.2660(C) – Minimum Yard Dimensions and Maximum Structure Height***

This section of the code establishes minimum required setback distances between new buildings and property lines and provides maximum structural heights allowed in the zoning district. Staff has no way to determine if these regulations restrict the desired use at this time because a development plan

³ (2002) USDA census data.

illustrating the specific location and design of the proposed residential development was not provided with the claim. Staff finds that it would be premature to waive these regulations at this time.

Category 3 – Regulations exempt from Measure 37 because they relate to health and safety or federal law

- *MCC 34.2690 – Access*

This standard requires any lot in the district to either abut a street or have access deemed safe and convenient for pedestrians and for passenger and emergency vehicles. These standards relate to public safety which is exempt from the Measure 37 claims process. Given that the property has frontage along NW Sauvie Island Road, this standard is not an obstacle to developing the property.

Category 4 – Unrelated regulations

All other regulations not specifically called out in the Category 1-3 lists above appear to be unrelated to either this claim or to the Measure 37 process. The claimant has not explained how these regulations have restricted the use of the properties for the claimant or how these specific provisions have reduced the real market value of the properties. The reasoning for the Category 4 designation is addressed below, using the groups of identified regulation types.

- *Multnomah County Code (MCC): 34.0000 et seq. (General Provisions)*

The general provisions primarily provide definitions of terms referenced throughout the zoning ordinance and designate which maps are to be used as the official zoning maps. This section of the county's ordinance appears unrelated to a Measure 37 claim.

- *MCC 34.0055 et seq. (Planning Authority)*

These provisions indicate the Board of County Commissioners recognizes the benefits of land use planning and indicates a standard found unconstitutional should not invalidate the entire subsection of regulations. These standards do not appear to directly relate to this claim.

- *MCC 34.0510 et seq. (Administration and Enforcement)*

These standards provide direction on which uses qualify for temporary permits and when a certificate of occupancy should be required. These standards appear unrelated to the claim.

- *MCC 34.0600 et seq. (Planning Director)*

This section of the code outlines the duties of the Planning Director which is irrelevant to the claim made.

- *MCC 34.0910 et seq. (Interpretations, Violations and Enforcement)*

This section of the code provides the enforcement procedures and fines for zoning violations. It does not determine which types of uses are allowed in a particular zoning district and therefore is unrelated to this claim.

- *MCC 34.2600 et seq. (Exclusive Farm Use)*

Other than the Exclusive Farm Use standards discussed in the other Categories above, these standards do not apply to this claim because they do not prohibit the claimant from accomplishing the development goals outlined in the claim.

- *MCC 34.4500 et seq. (Significant Environmental Concern)*

No part of either property involved in this claim is mapped within a Significant Environmental Concern overlay zone. These standards do not apply to the property involved in this claim.

- *MCC 37.0510 et seq. (Administration and Procedures)*
- *MCC 37.0900 et seq. (Violations, Enforcement and Fines)*

These procedures do not effect whether or not a use is allowed but provides the procedures by which Multnomah County reviews and decides upon applications for land use permits within unincorporated areas of Multnomah County outside of the National Scenic Area (**MCC 37.0510 & 37.0520**).

4. *Have the restrictions reduced the fair market value of the property?*

Yes. The alternative data provided by the claimant is sufficient to establish that the Category 1 regulations have reduced the value of the property.

The SR zoning in effect when the claimant acquired the property authorized single family dwellings on existing, undeveloped parcels or lots provided they met sanitation, water and access requirements and were at least 40,000 square feet in size (for properties without the ability to connect to a public water system). The claimant has established that they either met, or could have satisfied those rules when they acquired the property.

The claimant has not submitted an appraisal which assesses the current value of the property without the right to build a home. Instead, the claimant has submitted a market analysis (Exhibit A.6) prepared by LandBrokers Northwest. The analysis contains data on recent sales of five properties in the West Hill Rural Plan Area. Three of the five properties were stated to be "buildable". The dataset contains location, physical information, sale information, and assessment information.

The comparative analysis approximates that: "With a building permit for one single-family residence, and given that homes and buildable properties on Sauvie Island traditionally sell above the market average for the same size and type properties that are 'inland,' I believe the parcel should be valued between \$360-380,000." While this information is not sufficient to establish a dollar amount for compensation, it is adequate to establish that property which is eligible for the construction of a dwelling is valued more highly than property which is not eligible for the construction of a dwelling.⁴

⁴ The alternative data submitted assumes the ability to develop the lots is transferable by sale which contradicts the Attorney General's opinion on transferability. Also, the alternative data looks only at the current market value of the property and comparable properties. It does not look at the impact of the regulations at the time they were imposed. The land use regulations challenged in this claim have constrained the supply of developable properties in this area, the result of which may impact land values of the remaining developable properties in a positive manner [(2006) Jaeger, W., The effects of

Bob Alcantara, Senior Appraisal Supervisor with the Multnomah County Division of Assessment and Taxation provided his department's interpretation on the reduction of value issue for this claim (Exhibit D.2):

The claim asks for compensation of up to \$380,000 or relief from current land use regulations to allow claimant to construct a single family dwelling. In my opinion if the site was buildable it would have a real market value of \$255,000. As an unbuildable parcel with its highest and best use as farmland its real market value would be \$47,000.

A copy of the current assessment data is included as Exhibit B.1.

5. *Have those regulations that reduce the fair market value of the property been enforced?*

Yes. The plain language of the Exclusive Farm Use (EFU) zoning district prohibits the construction of a primary dwelling on the property.

Land use regulations enacted after the date the owner acquires the property must be enforced for the measure to be operative. The Exclusive Farm Use (EFU) zoning rules effectively prohibit the construction of a primary dwelling on the subject lot, reducing the value of the property. On their face these regulations have been enforced.

Public Comment

After a claim for compensation is declared complete pursuant to MCC 27.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate (MCC 27.530(A)).

Pursuant to the provisions of MCC 27.530, a 14-day Opportunity to Comment packet was mailed on January 16, 2007. No comments were received.

Conclusion

Considering the above findings, David Eddy has established that land use regulations enacted after they acquired the subject property have prevented them from building a home. To allow the claimant to construct a home on the property, the Board would need to grant the request to not apply the following regulations:

- ***MCC 34.2625(D)(1) – Farm Income Test for Establishing a Farm Dwelling on High Value Farmland Soils***
- ***MCC 34.2625(F) – Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland.***
- ***MCC 34.2630(N) - Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland Due to Extraordinary Circumstances.***

Land-Use Regulations on Property Values, Environmental Law (VOL 36) Pages 105-130]. That impact on the value is not considered in the analysis.

- ***MCC 34.2630(O) - Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland With Small Surrounding Tracts.***

The comparable sales data provided by the claimant establishes that the above listed regulations have reduced the fair market value of the identified property.

If the Board of Commissioners chooses to not apply the regulations listed, Land Use Planning would recommend that the Board of Commissioners address the following in the Board Order:

1. Include a statement that any waiver or modification of the county land use regulations does not constitute a waiver or modification of corresponding state laws, or administrative rules. Before any building permits may be issued, an authorization from the state must be secured.
2. Note that waiver of the listed regulations also constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the rules implement.
3. Note that the waiver relates only to the property that was zoned SR at the time of acquisition and not to the portion of the parcel which was zoned F-2.
4. Action by the Board of Commissioners to not apply regulations does not authorize immediate construction of the dwellings. Rules that still apply require that land use and building permits be approved by the County before development can proceed.
5. Include a statement that the statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them (Exhibit B.5). The County anticipates the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property.
6. Include a statement that any right obtained by a claimant through the Board's grant of a waiver of County land use regulations is transferable only to the extent allowed by law.

Issued by:

By:

Kenneth Born, AICP, Planner

For: Karen Schilling- Planning Director

Date: March 13, 2007

Exhibits

Copies of the exhibits, referenced herein, and all other materials submitted to the County related to this claim are included in the case record that is on file at the Land Use and Transportation Planning Office.

'A' Applicant's Exhibits

'B' Staff Exhibits
 'C' Procedural Exhibits
 'D' Comments Received

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Signed Measure 37 Application Form	12/01/06
A.2	1	Measure 37 Owner Consent for Representative to File Claim	12/01/06
A.3	6	Aerial photographs	12/01/06
A.4	18	Photographs of subject property	12/01/06
A.5	1	Site Plan	12/01/06
A.6	3	Comparative Market Analysis, LandBrokers Northwest	12/01/06
A.7	44	Multnomah County Subdivision Regulations (April 19, 1955) and Interim Zoning Ordinance (August 4, 1955)	12/01/06
A.8	2	Multnomah County Zoning Map (November 11, 1962)	12/01/06
A.9	49	Multnomah County Zoning Ordinance (December 22, 1960)	12/01/06
A.10	49	Multnomah County Zoning Ordinance (May 17, 1974)	12/01/06
A.11	2	Multnomah County Zoning Map (December 9, 1975)	12/01/06
A.12	19	Multnomah County Zoning Ordinance (December 9, 1975)	12/01/06
A.13	2	Multnomah County Zoning Map (October 6, 1977)	12/01/06
A.14	37	Multnomah County Subdivision Regulations (October 19, 1978)	12/01/06
A.15	1	Multnomah County A&T Property Map (January 1978)	12/01/06
A.16	9	Multnomah County Zoning Map (January 7, 1993) and Zoning Code (February 20, 1990)	12/01/06
A.17	24	Multnomah County Subdivision Regulations (November 23, 1975)	12/01/06
A.18	3	Agreement to purchase (August 14, 1975) and Real Estate Contract, Culver to Eddy (recorded September 4, 1975, Book 1060, Page 31)	12/01/06
A.19	2	Special Warranty Deed, Culver to Eddy (recorded February 19, 1986)	12/01/06
A.20	9	Measure 37 Lot Book Service, First American Title Insurance Company of Oregon	12/01/06
A.21	26	Misc. information – 20441 NW Sauvie Island Rd (i.e. Portland Maps Detail Report, A&T Property Information, building permit records, land use permit (MC 6-98)	12/01/06
A.22	45	Misc. information – 20327 NW Sauvie Island Rd. (i.e. Portland Maps Detail Report, A&T Property Information, building permit records, pre-application notes, land use permit (CU 1-83), quit	12/01/06

		claim deed)	
A.23	7	Misc. information – 20421 NW Sauvie Island Rd. (i.e. Portland Maps Detail Report, A&T Property Information, building permit records)	12/01/06
A.24	34	Portland Maps Detail Report – 2N1W07D-00700, 2N1W07A-00170, 20531 NW Sauvie Island Rd., 20609 NW Sauvie Island Rd., 20439 NW Sauvie Island Rd., 2N1W07D-1300, 2N1W07D-1000, 2N1W07D-1400, 20233 NW Sauvie Island Rd., 20541 NW Sauvie Island Rd., 20230 NW Sauvie Island Rd., 20426 NW Sauvie Island Rd., 19818 NW Sauvie Island Rd., 20705 NW Sauvie Island Rd., 20815 NW Sauvie Island Rd., 20905 NW Sauvie Island Rd., 21005 NW Sauvie Island Rd.	12/01/06
A.25	3	Multnomah County Land and Soils Evaluation documentation (September 3, 1975)	12/01/06
A.26	2	Letter regarding to re-zone to EFU, Multnomah County Division of Assessment and Taxation (July 10, 1978)	12/01/06
A.27	2	Soil type information	12/01/06
A.28	6	Pre-Application Meeting Notes, PA-04-016 (October 28, 2004)	12/01/06
A.29	19	Lease Agreements (between Eddy and Satir) and information re. Sauvie Island Organics, LLC.	12/01/06
A.30	1	Text of Statewide Planning Goal 3	12/01/06
A.31	13	Text of ORS 215 (1975)	12/01/06
A.32	18	Claimant's narrative	12/01/06
A.33	11	State Measure 37 Claim Form	12/01/06
'B'		Staff Exhibits	Date
B.1	1	Assessment and Taxation Property Information	N/A
B.2	1	Multnomah County Zoning Map (1999)	N/A
B.3	24	Copy of adopted EFU Code	N/A
B.4	4	High-Value Farmland Soils Table	N/A
B.5	2	Letter re. Stafford, County Order No. 06-123 (State Department of Land Conservation and Development)	11/08/06
'C'		Administration & Procedures	Date
C.1	1	Incomplete Letter	12/08/06
C.2	1	Complete Letter – Day 1	01/09/07
C.3	4	Opportunity to Comment	01/09/07
'D'		Comments Received	Date
D.1	1	Multnomah County Transportation Program	01/12/07

D.2	1	Multnomah County Division of Assessment and Taxation	02/22/07
D.3	1	Multnomah County Attorney's Office	03/13/07

Multnomah County Attorney's Office
501 S.E. Hawthorne Blvd., Suite 500
Portland, Oregon 97214
PHONE: (503) 988-3138
FAX: (503) 988-3377



MEMORANDUM

To: Ken Born
Multnomah County Planner

Cc: Derrick Tokos, Principal Planner
Chuck Beasley, Planner

From: Sandy Duffy
Assistant County Attorney
Multnomah County Attorney's Office

Date: March 13, 2007

Re: David Eddy
T1-06-110

I have reviewed your staff report for legal sufficiency under MCC 27.500 *et. seq.* Your staff report has adequately addressed each required criteria and correctly applied Measure 37 and the county's implementing regulations.

Script for March 29, 2007 David Eddy Measure 37 Hearing

INTRODUCTION:

Chair: This is the time set for public hearing on the claim of **David Eddy** under Ballot Measure 37. I am Ted Wheeler, Chair of the Multnomah County Board of Commissioners. Also in attendance are Commissioners Maria Rojo, Lisa Naito and Lonnie Roberts. Commissioner Jeff Cogen is excused.

All information relevant to the claim may be submitted and will be considered in this hearing. The evidence may be in any form including oral and written testimony, letters, petitions or other written material, slides, photographs, maps drawings or other items.

The Commission will base its decision on the evidence presented, along with the information on the claim in the Planning file. The Board decision will be by Order adopted by the Board.

DISCLOSURES:

Chair: Board members are required to disclose the content of any *ex parte* contacts. Any Board member who has received any factual information obtained outside the information provided by the county planning staff or this hearing is an *ex parte* contact. A visit to the property is considered an *ex parte* contact. Any *ex parte* contacts should be disclosed at this time. Such disclosures should include the time and date of the visit, what he/she observed, who (if anyone) the Commissioner talked to at the site and any other relevant facts or observations obtained as a result of the site visit.

Chair: I have *no ex parte* contacts to disclose.

or if the Chair has disclosures to make

I have the following disclosures to make: _____

Chair: [Invite the other Commissioners to make any necessary disclosures.)
Commissioner Rojo? Commissioner Naito? Commissioner Roberts? [If there are none, each Commissioner should say "none" on the record.]

[If there are disclosures of *ex parte* contacts, the claimant and the public should be given an opportunity to rebut the substance of any disclosure. "Does anyone have any rebuttal testimony relating to any disclosure?"]

Chair: Board members are also required to disclose any conflicts of interest and to recuse themselves from deliberation and voting if a conflict exists. It is deemed a conflict of interest if any Board member, or a member of his/her immediate family or household, has a financial interest in the outcome of a matter before the Board. It is a conflict of interest if a Board member lives within the geographical area entitled to notice of a claim.

Script for March 29, 2007 David Eddy Measure 37 Hearing

Chair: Does any Board member, or a member of his/her immediate family or household, have a financial interest in the outcome of matter now before us?

I do [do not] have a financial interest in the outcome of this matter. [Invite other commissioners to make any necessary disclosures.] Commissioner Rojo? Commissioner Naito? Commissioner Roberts? [If yes, that person must recuse himself/herself on the record.]

Does any Board member live within the geographical area entitled to notice of claim?

I do [do not] live within the geographical area. Commissioner Rojo? Commissioner Naito? Commissioner Roberts?

[Any commissioner who lives within the relevant geographical area must recuse himself/herself. MCC 7.540]

CONDUCT OF THE HEARING:

Chair: I will ask for testimony and other evidence in the following order:

1. Staff report
2. Claimant or claimant's representative
3. Others who wish to be heard on the claim
4. Commission discussion, questions, deliberation
5. Future scheduling if necessary

HOW TO PRESENT TESTIMONY:

Chair: There are testimony cards at the back of the room and should be filled out by anyone wishing to testify. The claimant need not fill out a card. The cards should be given to the Board Clerk.

1. State your name and address before you begin your presentation
2. Avoid repetitive testimony
3. During the hearing, I ask those in the audience to refrain from any demonstration in support or opposition to the claim.

Chair: [Ask for testimony in the order listed above]

AT THE CONCLUSION OF THE TESTIMONY:

Chair: [Ask for Board discussion, questions, deliberation, motion and/or future scheduling if necessary]

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BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

ORDER NO. _____

Order Granting, with Conditions, Ballot Measure 37 Request of David Eddy to Not Apply Land Use Regulations to Real Property Located at 20303 NW Sauvie Island Rd., Portland

The Multnomah County Board of Commissioners Finds:

- a. **Party:** David Eddy is a Ballot Measure 37 claimant who filed a demand for compensation to Multnomah County on December 1, 2006.
- b. **Subject Real Property:** This claim relates to property located at 20303 NW Sauvie Island Rd., Multnomah County, Portland, Oregon more specifically described as:

R971070300 Tax Lot 1600, Section 07D, Township 2N, Range 1W, W.M.

- c. **Adequacy of Demand for Compensation (Complete Application):**

On December 1, 2006, the claimant submitted a Measure 37 Claim Form, title information from First American Title Insurance Company of Oregon, a comparative market analysis, copies of applicable land use and subdivision regulations in effect from 1955 through 1993, and the required \$1500 retainer. 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 materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure.

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

The zoning district which encumbered the greater part of the subject property was Suburban Residential (SR) on September 4, 1975, the date when the claimant acquired an interest in the property. The purpose of the SR zone was to "assure the orderly and beneficial development of the district as the area becomes more densely populated and assumes urban characteristics" (§3.151, Ord. #100). The SR zone was a suburban residential district with a variable lot size depending on services which were available to each lot (§3.1531, Ord. #100). The zoning changed from SR to Exclusive Farm Use-38 on October 6, 1977 (76 acre min. lot size), and to Exclusive Farm Use (EFU) on August 14, 1980. EFU rules also generally limit the establishment of new dwellings to those that are necessary for farm purposes (§34.2600 et. seq.). The claimant is challenging the current EFU regulations.

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The subject property was split-zoned until 1977. The southwest portion, an area approximately one half acre in size, was subject to F-2 zoning regulations until December 5, 1975. The area was then subject to the RL-C zone until October 6, 1977, when the entirety of the property was rezoned to Exclusive Farm Use-38.

The Board finds that the Claimant obtained an interest in the property on September 4, 1975 prior to the county adopting the challenged regulations set out in the claim.

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

In order for regulations to be eligible for waiver under Measure 37, they have to both restrict the use of a property and reduce the value of that property. The Board finds that some of the challenged regulations have restricted the use of the property by prohibiting the construction of a dwelling.

For purposes of this section, the challenged regulations were been analyzed by the planning staff for use restrictions and were grouped into the following categories:

Category 1 – Regulations that have restricted the use of the properties for the claimant

Category 2 – Regulations that would be premature to find that they restrict the use

Category 3 – Regulations exempt from Measure 37

Category 4 – Regulations unrelated to the claim

This Order only addresses the Category 1 Regulations. The Board agrees with the staff's analysis in its staff report dated March 13, 2007, relative to the Category 2, 3 and 4 regulations, which is incorporated herein by reference.

Category 1 - Regulations that should not be applied as they restrict the use of the property.

The following are the specific EFU regulations which would prevent the establishment of a dwelling on the property. These regulations and the Comprehensive Plan policies they implement shall be set aside because the Board chooses to not apply these regulations in lieu of compensation.

- *MCC 34.2625(D)(1) – Farm Income Test for Establishing a Farm Dwelling on High Value Farmland Soils*

These regulations require proof of a certain level of farm income related to the property in order to establish a new primary farm dwelling on vacant land. The threshold for properties consisting of high value soils is \$80,000 gross annual income from the sale of farm products grown on a subject tract in the last two years, or for three of the last five years.

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Although the subject property consists of high value Burlington fine sandy loam soils (Unit 6B)¹, it is only 3.78 acres in size and is unlikely to be able to produce enough agricultural yield to meet the \$80,000 farm income test.

According to statistics published jointly by the Oregon Agricultural Statistics Service and Oregon State University Extension Service in 2001, the 1999 gross sales in Multnomah County averaged only \$11,079 per acre for nursery and greenhouse operations. Of Oregon's top 40 commodities for 2000, greenhouse and nursery products ranked number one in dollar value and were estimated to have constituted over half of the total sales of from products in the county. This provides a reasonable high end farm related income projection for an acre of farm land². This \$11,079 estimate provides further support that the 3.78 acre subject property is most likely too small to meet the \$80,000 farm income regulation required to establish a primary farm dwelling. In fact, the average farm size in Multnomah County is 48-acres³ making the 3.78 acre subject property quite small in comparison.

The Board finds this farm income regulation prohibits establishment of a single family dwelling on the subject property.

- *MCC 34.2625(F) – Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland.*

This regulation requires the subject tract to not be identified as high-value farmland in order to qualify for a new single family home. As referenced above, soils on the property consist of high value Burlington fine sandy loam soils (Unit 6B).

- *MCC 34.2630(N) - Heritage Tract Dwelling Allowed on Land Identified as High-Value Farmland Due to Extraordinary Circumstances Inherent in Physical Setting.*

This criterion allows for a new single family dwelling on farmland that cannot practicably be managed for farm use due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. These circumstances include "very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use." The generally flat property does not contain features which consist of these physical elements, and thus could not qualify for a right to develop a new home under this standard.

- *MCC 34.2630(O) - Heritage Tract Dwelling Allowed on Land Identified as High-Value Farmland With Small Surrounding Tracts.*

¹ (1983) Soil Survey of Multnomah County, United States Department of Agriculture & Soil Conservation Service.

² (2001) Oregon Agricultural Statistics and Oregon State University Extension Service, Oregon Agriculture: Facts and Figures.

³ (2002) USDA census data.

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This regulation requires that the subject tract be not composed of predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II. Burlington fine sandy loam is classified as a prime soil, as indicated in the High-Value Farmland Soils table (Staff Analysis Report, Exhibit B.4).

Statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them (Staff Rpt., Exhibit B.5). The County anticipates the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property should the Board grant regulatory relief.

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

The Board finds that the alternative data provided by the claimant is sufficient to establish that the Category 1 regulations have reduced the value of the property.

The SR zoning in effect when the claimant acquired the property authorized single family dwellings on existing, undeveloped parcels or lots provided they met sanitation, water and access requirements and were at least 40,000 square feet in size (for properties without the ability to connect to a public water system). The claimant has established that they either met, or could have satisfied those rules when they acquired the property.

The claimant has not submitted an appraisal which assesses the current value of the property without the right to build a home. Instead, the claimant has submitted a market analysis prepared by LandBrokers Northwest. The analysis contains data on recent sales of five properties in the West Hills Rural Plan Area. Three of the five properties were stated to be "buildable". The dataset contains location, physical information, sale information, and assessment information.

The comparative analysis estimates that: "With a building permit for one single-family residence, and given that homes and buildable properties on Sauvie Island traditionally sell above the market average for the same size and type properties that are 'inland,' I believe the parcel should be valued between \$360-380,000." While this information is not sufficient to establish a dollar amount for compensation, it is adequate to establish that property which is eligible for the construction of a dwelling is valued more highly than property which is not eligible for the construction of a dwelling.⁴

⁴ The alternative data submitted assumes the ability to develop the lots is transferable by sale which contradicts the Attorney General's opinion on transferability. Also, the alternative data looks only at the current market value of the property and comparable properties. It does not look at the impact of the regulations at the time they were imposed. The land use regulations challenged in this claim have constrained the supply of developable properties in this area, the result of which may impact land values of the remaining developable properties in a positive manner [(2006) Jaeger, W., The effects of Land-Use Regulations on Property Values, Environmental Law (VOL 36) Pages 105-130]. That impact on the value is not considered in the analysis.

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Bob Alcantara, Senior Appraisal Supervisor with the Multnomah County Division of Assessment and Taxation provided his department's interpretation on the reduction of value issue for this claim:

The claim asks for compensation of up to \$380,000 or relief from current land use regulations to allow claimant to construct a single family dwelling. In my opinion if the site was buildable it would have a real market value of \$255,000. As an unbuildable parcel with its highest and best use as farmland its real market value would be \$47,000.

g. Enforcement of County Code Restrictions:

The Board finds that the plain language of the Exclusive Farm Use (EFU) zoning district prohibits the construction of a primary dwelling on the property.

Land use regulations enacted after the date the owner acquires the property must be enforced for the measure to be operative. The Exclusive Farm Use (EFU) zoning rules effectively prohibit the construction of a primary dwelling on the subject lot, reducing the value of the property. On their face these regulations have been enforced.

h. Validity of Claim for Compensation: The Board finds that claimant has submitted a valid Measure 37 claim:

- (1) Claimant made a complete written demand for compensation under the requirements set forth in Ballot Measure 37 paying the required application fee, by describing the use being sought, by identifying the regulations that prohibit the use by providing title information, and by submitting a comparable market analysis showing that land use regulations have reduced the value of the property;
- (2) Claimant provided evidence to prove that he acquired the property on September 4, 1975, before the adoption of regulations challenged in the claim;
- (3) Claimant provided evidence in the record to show that land use regulations now in place on the property restrict the use of real property, specifically the ability to construct a dwelling on undeveloped land which is zoned as Exclusive Farm Use land under the land use regulations of Multnomah County;
- (4) The comparable sales data submitted by Claimant, as organized and analyzed by the Planning staff, is evidence that the land use restrictions now in place on the property have the effect of reducing the fair market value of the property; and,
- (5) The land use regulations that reduce the fair market value of the property have been enforced in that the plain language of the EFU restricts the use.

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i. Public Comment

MCC 27.530(A) requires that, after a claim for compensation is declared complete pursuant to MCC 27.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate.

Pursuant to the provisions of MCC 27.530, a 14-day Opportunity to Comment packet was mailed on January 16, 2007. No comments were received

The Multnomah County Board of Commissioners Orders:

1. **Claimant, David Eddy's, Measure 37 claim is granted and the following land use regulations, which have restricted the use and reduced the fair market value of the property will not be applied:**
 - *MCC 34.2625(D)(1) – Farm Income Test for Establishing a Farm Dwelling on High Value Farmland Soils*
 - *MCC 34.2625(F) – Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland.*
 - *MCC 34.2630(N) - Heritage Tract Dwelling Allowed on Land Identified as High-Value Farmland Due to Extraordinary Circumstances Inherent in Physical Setting.*
 - *MCC 34.2630(O) - Heritage Tract Dwelling Allowed on Land Identified as High-Value Farmland With Small Surrounding Tracts.*
2. **The waiver of the regulations set out in section 1 above constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the regulations implement.**
3. **The Board elects not to pay the compensation demanded by Claimant.**
4. **Conditions of Approval:**
 - (a) The Board Order allows certain County code provisions not to be applied by the County to Claimant David Eddy's property as set out in section 1 above. This does not constitute a waiver or modification of corresponding state laws, or administrative rules. Before any building permits may be issued, an authorization from the state must be secured.
 - (b) Action by the Board, to not apply certain land use regulations, does not authorize immediate construction of the primary dwelling. Rules that still apply require that land use and building permits be approved by the County before development can proceed.

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- (c) The statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them (Staff Rpt., Exhibit B.5). The County anticipates the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property.
- (d) Any right obtained by a claimant through the Board's grant of a waiver of County land use regulations is transferable only to the extent allowed by law.

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

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 07-049

Order Granting, with Conditions, Ballot Measure 37 Request of David Eddy to Not Apply Land Use Regulations to Real Property Located at 20303 NW Sauvie Island Rd., Portland

The Multnomah County Board of Commissioners Finds:

- a. **Party:** David Eddy is a Ballot Measure 37 claimant who filed a demand for compensation to Multnomah County on December 1, 2006.
- b. **Subject Real Property:** This claim relates to property located at 20303 NW Sauvie Island Rd., Multnomah County, Portland, Oregon more specifically described as:

R971070300 Tax Lot 1600, Section 07D, Township 2N, Range 1W, W.M.

- c. **Adequacy of Demand for Compensation (Complete Application):**

On December 1, 2006, the claimant submitted a Measure 37 Claim Form, title information from First American Title Insurance Company of Oregon, a comparative market analysis, copies of applicable land use and subdivision regulations in effect from 1955 through 1993, and the required \$1500 retainer. 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 materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure.

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

The zoning district which encumbered the greater part of the subject property was Suburban Residential (SR) on September 4, 1975, the date when the claimant acquired an interest in the property. The purpose of the SR zone was to "assure the orderly and beneficial development of the district as the area becomes more densely populated and assumes urban characteristics" (§3.151, Ord. #100). The SR zone was a suburban residential district with a variable lot size depending on services which were available to each lot (§3.1531, Ord. #100). The zoning changed from SR to Exclusive Farm Use-38 on October 6, 1977 (76 acre min. lot size), and to Exclusive Farm Use (EFU) on August 14, 1980. EFU rules also generally limit the establishment of new dwellings to those that are necessary for farm purposes (§34.2600 et. seq.). The claimant is challenging the current EFU regulations.

The subject property was split-zoned until 1977. The southwest portion, an area approximately one half acre in size, was subject to F-2 zoning regulations until December 5, 1975. The area was then subject to the RL-C zone until October 6, 1977, when the entirety of the property was rezoned to Exclusive Farm Use-38.

The Board finds that the Claimant obtained an interest in the property on September 4, 1975 prior to the county adopting the challenged regulations set out in the claim.

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

In order for regulations to be eligible for waiver under Measure 37, they have to both restrict the use of a property and reduce the value of that property. The Board finds that some of the challenged regulations have restricted the use of the property by prohibiting the construction of a dwelling.

For purposes of this section, the challenged regulations were been analyzed by the planning staff for use restrictions and were grouped into the following categories:

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The following are the specific EFU regulations which would prevent the establishment of a dwelling on the property. These regulations and the Comprehensive Plan policies they implement shall be set aside because the Board chooses to not apply these regulations in lieu of compensation.

- *MCC 34.2625(D)(1) – Farm Income Test for Establishing a Farm Dwelling on High Value Farmland Soils*

These regulations require proof of a certain level of farm income related to the property in order to establish a new primary farm dwelling on vacant land. The threshold for properties consisting of high value soils is \$80,000 gross annual income from the sale of farm products grown on a subject tract in the last two years, or for three of the last five years.

Although the subject property consists of high value Burlington fine sandy loam soils (Unit 6B)¹, it is only 3.78 acres in size and is unlikely to be able to produce enough agricultural yield to meet the \$80,000 farm income test.

According to statistics published jointly by the Oregon Agricultural Statistics Service and Oregon State University Extension Service in 2001, the 1999 gross sales in Multnomah County averaged only \$11,079 per acre for nursery and greenhouse operations. Of Oregon's top 40 commodities for 2000, greenhouse and nursery products ranked number one in dollar value and were estimated to have constituted over half of the total sales of from products in the county. This provides a reasonable high end farm related income projection for an acre of farm land². This \$11,079 estimate provides further support that the 3.78 acre subject property is most likely too small to meet the \$80,000 farm income regulation required to establish a primary farm dwelling. In fact, the average farm size in Multnomah County is 48-acres³ making the 3.78 acre subject property quite small in comparison.

The Board finds this farm income regulation prohibits establishment of a single family dwelling on the subject property.

- ***MCC 34.2625(F) – Heritage Tract Dwelling Allowed on Land Not Identified as High-Value Farmland.***

This regulation requires the subject tract to not be identified as high-value farmland in order to qualify for a new single family home. As referenced above, soils on the property consist of high value Burlington fine sandy loam soils (Unit 6B).

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f. County Code Restrictions Reduce Fair Market Value:

The Board finds that the alternative data provided by the claimant is sufficient to establish that the Category 1 regulations have reduced the value of the property.

The SR zoning in effect when the claimant acquired the property authorized single family dwellings on existing, undeveloped parcels or lots provided they met sanitation, water and access requirements and were at least 40,000 square feet in size (for properties without the ability to connect to a public water system). The claimant has established that they either met, or could have satisfied those rules when they acquired the property.

The claimant has not submitted an appraisal which assesses the current value of the property without the right to build a home. Instead, the claimant has submitted a market analysis prepared by LandBrokers Northwest. The analysis contains data on recent sales of five properties in the West Hills Rural Plan Area. Three of the five properties were stated to be "buildable". The dataset contains location, physical information, sale information, and assessment information.

The comparative analysis estimates that: "With a building permit for one single-family residence, and given that homes and buildable properties on Sauvie Island traditionally sell above the market average for the same size and type properties that are 'inland,' I believe the parcel should be valued between \$360-380,000." While this information is not sufficient to establish a dollar amount for compensation, it is adequate to establish that property which is eligible for the construction of a dwelling is valued more highly than property which is not eligible for the construction of a dwelling.⁴

⁴ The alternative data submitted assumes the ability to develop the lots is transferable by sale which contradicts the Attorney General's opinion on transferability. Also, the alternative data looks only at the current market value of the property and comparable properties. It does not look at the impact of the regulations at the time they were imposed. The land use regulations challenged in this claim have constrained the supply of developable properties in this area, the result of which may impact land values of the remaining developable properties in a positive manner [(2006) Jaeger, W., The effects of Land-Use Regulations on Property Values, Environmental Law (VOL 36) Pages 105-130]. That impact on the value is not considered in the analysis.

Bob Alcantara, Senior Appraisal Supervisor with the Multnomah County Division of Assessment and Taxation provided his department's interpretation on the reduction of value issue for this claim:

The claim asks for compensation of up to \$380,000 or relief from current land use regulations to allow claimant to construct a single family dwelling. In my opinion if the site was buildable it would have a real market value of \$255,000. As an unbuildable parcel with its highest and best use as farmland its real market value would be \$47,000.

g. Enforcement of County Code Restrictions:

The Board finds that the plain language of the Exclusive Farm Use (EFU) zoning district prohibits the construction of a primary dwelling on the property.

Land use regulations enacted after the date the owner acquires the property must be enforced for the measure to be operative. The Exclusive Farm Use (EFU) zoning rules effectively prohibit the construction of a primary dwelling on the subject lot, reducing the value of the property. On their face these regulations have been enforced.

h. Validity of Claim for Compensation: The Board finds that claimant has submitted a valid Measure 37 claim:

(1) Claimant made a complete written demand for compensation under the requirements set forth in Ballot Measure 37 paying the required application fee, by describing the use being sought, by identifying the regulations that prohibit the use by providing title information, and by submitting a comparable market analysis showing that land use regulations have reduced the value of the property;

(2) Claimant provided evidence to prove that he acquired the property on September 4, 1975, before the adoption of regulations challenged in the claim;

(3) Claimant provided evidence in the record to show that land use regulations now in place on the property restrict the use of real property, specifically the ability to construct a dwelling on undeveloped land which is zoned as Exclusive Farm Use land under the land use regulations of Multnomah County;

(4) The comparable sales data submitted by Claimant, as organized and analyzed by the Planning staff, is evidence that the land use restrictions now in place on the property have the effect of reducing the fair market value of the property; and,

(5) The land use regulations that reduce the fair market value of the property have been enforced in that the plain language of the EFU restricts the use.

i. **Public Comment**

MCC 27.530(A) requires that, after a claim for compensation is declared complete pursuant to MCC 27.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate.

Pursuant to the provisions of MCC 27.530, a 14-day Opportunity to Comment packet was mailed on January 16, 2007. No comments were received

The Multnomah County Board of Commissioners Orders:

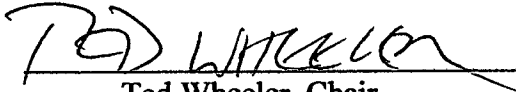
1. **Claimant, David Eddy's, Measure 37 claim is granted and the following land use regulations, which have restricted the use and reduced the fair market value of the property will not be applied:**
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2. **The waiver of the regulations set out in section 1 above constitutes a waiver of Comprehensive Plan and Rural Area Plan policies that the regulations implement.**
3. **The Board elects not to pay the compensation demanded by Claimant.**
4. **Conditions of Approval:**
 - (a) The Board Order allows certain County code provisions not to be applied by the County to Claimant David Eddy's property as set out in section 1 above. This does not constitute a waiver or modification of corresponding state laws, or administrative rules. Before any building permits may be issued, an authorization from the state must be secured.
 - (b) Action by the Board, to not apply certain land use regulations, does not authorize immediate construction of the primary dwelling. Rules that still apply require that land use and building permits be approved by the County before development can proceed.

- (c) The statewide Planning Goals were effective January 25, 1975, prior to the date the claimant acquired the property. Standards for farm and non-farm dwellings in Exclusive Farm zones were also codified in state law prior to 1975. While the County had not yet implemented these rules, the state has taken the position they are nonetheless applicable and that local jurisdictions must require claimants meet them (Staff Rpt., Exhibit B.5). The County anticipates the state will take a similar position with this claim. This may impact the claimant's ability to construct a dwelling on the property.
- (d) Any right obtained by a claimant through the Board's grant of a waiver of County land use regulations is transferable only to the extent allowed by law.

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