

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 06-082

Order Approving Claim Under ORS 197.352 (Ballot Measure 37 (2004))

The Multnomah County Board of Commissioners Finds:

- a. Albert and Deane Dilnik are the owners of real property located along NW Sheltered Nook Road, more particularly described as:

TL 2300 (Subdivision Lot 35), T2N, R2W, W.M., Section 24D and
TL 1700 (Subdivision Lots 37 & 38), T2N, R1W, W.M., Section 19C.

- b. The Dilniks acquired the property on April 5, 1966. The property consists of three undeveloped subdivision lots, each approximately 5 acres. These lots are referred to as Lot 35, 37 and 38. The lots are contiguous to a fourth 5-acre lot (Lot 36) that is developed with a single-family dwelling. Lot 36 was acquired along with and at the same time as lots 35, 37 and 38. Together the lots create a single tract of approximately 20-acres. MCC § 33.2210.
- c. On July 12, 2005, the Dilniks filed a claim under ORS 197.352 with the Multnomah County Land Use and Transportation Planning Program. The claim and accompanying materials constitute a complete “written demand for compensation” under ORS 197.352 (5) and Multnomah County Code 7.520.
- d. The claim seeks compensation for or waiver of Multnomah County land use regulations that restrict residential development of the lots in order to allow them to develop a single-family residence on each of lots 35, 37 and 38.
- e. The property is subject to the West Hills Rural Plan Area land use regulations and is zoned for commercial forest use (CFU-2). MCC §§ 33.2200 et seq.
- f. Each of the lots is a legal “lot of record” established in accordance with applicable law. MCC §§ 33.0005 (L)(13).
- g. All four lots are jointly considered a “tract.” (“One or more contiguous Lots of Record in the same ownership.”) MCC § 33.2210.
- h. Dwellings are authorized in the CFU-2 zone under the provisions of MCC § 33.2235 (Large Acreage Dwelling) or MCC § 33.2240 (Template and Heritage Tract Dwellings).
- i. A large acreage dwelling may be established on a single tract measuring at least 160 acres or two or more tracts of at least 200 combined acres. MCC § 33.2235 (B).
- j. The County may not approve a large acreage dwelling if the property already contains a dwelling. MCC § 33.2235.
- k. The County may not approve a template tract dwelling on a tract that already contains a dwelling. MCC § 33.2240.

- l. The County may not approve a heritage tract dwelling on a tract that already contains a dwelling. MCC § 33.2240.
- m. Because the claimants' tract is smaller than 160 acres and already contains a dwelling, MCC § 33.2235 and 33.2240 prohibit additional dwellings on lots 35, 37 and 38.
- n. The aggregation requirements of MCC § 33.2275 (A)(2) treat all four of the claimant's parcels as a single Lot of Record in the CFU-2 zone. The County may not approve more than one dwelling on a lot of record.
- o. MCC §§ 33.2235, 33.2240 and 33.2275 were adopted after the claimants acquired the property and restrict the claimants' use of the property in a manner that reduces its real market value.
- p. The claimants have established an entitlement to relief under ORS 197.352 (1).
- q. In lieu of compensation, the County may modify, remove or not apply the regulation to the claimants' use of the property.
- r. The facts set forth in the "Staff Analysis of Measure 37 Claim" for claimants Albert and Deane Dilnik dated March 23, 2006 are adopted and made a part of this order.

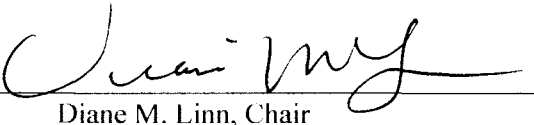
The Multnomah County Board of Commissioners Orders:

1. In lieu of compensation under ORS 197.352, the County shall not apply the following regulations to Albert and Deane Dilnik use of the property described in this Order:
 - MCC § 33.2235;
 - MCC § 33.2240; and
 - MCC § 33.2275.

ADOPTED this 18th day of May, 2006.

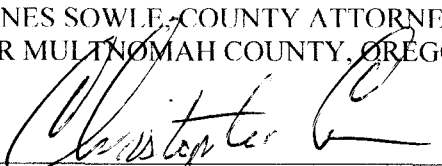


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
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Assistant County Attorney