

HARDY MYERS  
Attorney General



PETER D. SHEPHERD  
Deputy Attorney General

DEPARTMENT OF JUSTICE  
TRIAL DIVISION

September 16, 2005

Honorable Joseph C. Guimond  
Circuit Court Judge  
Marion County Courthouse  
P. O. Box 12869  
Salem, Oregon 97309-0869

Re: *Cobos, Victor et al v. Marion County et al*  
Marion County Circuit Court No. 05C16640

Your Honor:

Enclosed for filing please find the Reply to Plaintiff's Response to State's Motion for Summary Judgment in the above-referenced case.

A postcard is enclosed for the Clerk's use in notifying me of the action taken.

Respectfully,

A handwritten signature in cursive script that reads "Paul J. Sundermier".

Paul J. Sundermier  
Senior Assistant Attorney General

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cc: Daniel B Atchison  
Jane Ellen Stonecipher

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

VICTOR C. COBOS and PAMELA J. COBOS,

Plaintiffs,

v.

MARION COUNTY, by and through its BOARD OF COMMISSIONERS,,

and

STATE OF OREGON, by and through the DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

Defendants.

Case No. 05C16640

REPLY TO PLAINTIFF'S RESPONSE TO STATE'S MOTION FOR SUMMARY JUDGMENT

**Rules of Statutory Construction Control**

Plaintiffs wish that Measure 37 states something it does not. Plaintiffs thought that Measure 37 would yield a financial benefit to them by virtue of the descent of the subject property through familial generations down to their ownership. Plaintiffs ask this court to insert what has been omitted in Measure 37 so that the language of the measure itself no longer “flies in the face of the intent of the voters,”<sup>1</sup> as interpreted by the plaintiffs. That, of course, is not something that this court can do.<sup>2</sup>

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<sup>1</sup> Response Brief at page 2, line 20

<sup>2</sup> ORS 174.010






1 property "as permitted at the time the owner acquired the property." There is nothing ambiguous  
2 about either option. The State, through its Department of Land Conservation and Development  
3 properly construed the statute and properly issued its Final Order, which should now be affirmed.

4 DATED this 16<sup>th</sup> day of September, 2005.

5 Respectfully submitted,

6 HARDY MYERS  
7 Attorney General

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9 PAUL J. SUNDERMIER #82407  
10 Senior Assistant Attorney General  
11 Trial Attorney  
12 1162 Court Street NE  
13 Salem, OR 97301-4096  
14 (503) 378-6313

1 **CERTIFICATE OF SERVICE**


2 I certify that on September 16<sup>th</sup>, 2005, I served the foregoing Reply to Plaintiff's  
3 Response to State's Motion for Summary Judgment upon the parties hereto by the method  
4 indicated below, and addressed to the following:

5  
6 Daniel B Atchison  
Wallace W Lien PC  
7 1775 32nd PI NE Ste A  
Salem, OR 97303  
8 Attorney for Plaintiff

HAND DELIVERY  
 MAIL DELIVERY  
 OVERNIGHT MAIL  
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9 Jane Ellen Stonecipher  
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12 Attorney for Marion County

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