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Trial Division, Dept. of Justice
Salem, Oregon

CAMERON F. WOGAN
Circuit Judge

Circuit Court of the State of Oregon

for KLAMATH COUNTY
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July 27, 2007

Mike Spencer
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Erica Hadlock
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Department of Justice
1162 Court Street, NE
Salem, Oregon 97301

Re: Engleson v. State of Oregon
Case No. 06-4404CV

Dear Counsel:

This letter contains an explanation of my decision on the parties' motions for summary judgment. There is no dispute as to any material facts.

Jurisdiction.

This court does have jurisdiction because it is granted on the face of the statute.

Tax Lot 200

Plaintiff filed and the state denied Measure 37 claims with the state for tax lots 200 and 300. Plaintiff then filed this petition with the circuit court. Subsequently, plaintiff filed a second claim for relief with the state under Measure 37 and the claim was granted as to tax lot 200 and denied as to tax lot 300. The issue is whether plaintiffs' petition to the court on tax lot 200 is moot. Plaintiff argues that he is entitled to "just compensation" under ORS 197.352(4) and (6) because the land use regulations continued to be enforced against the property 180 days after

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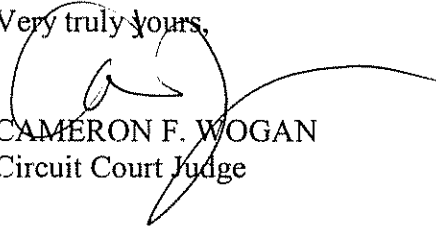
plaintiff first made his demand. However, ORS 197.352(8) provides that the governing body may not apply a regulation in lieu of “just compensation” and does not set any time restrictions for that action. Accordingly, I conclude that plaintiff’s claim in this case as to tax lot 200 is moot.

Tax Lot 300

Prior to the time plaintiff purchased tax lot 300, Klamath County had adopted revised Ordinance 14: “AN ORDINANCE PROVIDING REGULATIONS AND PROCEDURES FOR THE SUBDIVISION OR PARTIONING OF LAND IN KLAMATH COUNTY, OREGON”. This property could not have been subdivided or partitioned when plaintiff purchased it because he had no legal access to it. Klamath County Ordinance 14, Section 9.01(i); 6.10; 7.40(b); 10.01.

The state’s motion for summary judgment is granted and Ms. Hadlock should submit an appropriate order.

Very truly yours,


CAMERON F. WOGAN
Circuit Court Judge

CFW/bad