

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

GEORGE RAYMOND SMITH, et al.) No 0705-05464
)
Plaintiffs,) MOTION PRAECIPE
 v.)
)
MULTNOMAH COUNTY, OREGON, et al.)
)
Defendants.)

Notice is hereby given that Darsee Staley, attorney for State Defendants, has set a motion for hearing as follows:

Judge (or Pro Tem): **The Honorable Jerry B. Hodson**
Date: **August 31, 2007** Time: **11:00 a.m.** Room: **410**

This is a **first** setting for this motion.

____ Moving party waives appearance.
 Reporting is requested (fee is waived pursuant to ORS 20.140).
____ Hearing by telephone is requested (office more than 25 miles from courthouse).

Length of time requested for this motion hearing: **1 hour**

TYPE OF MOTION:

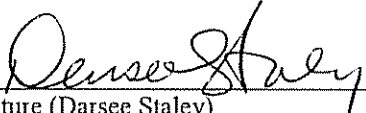
Motion to Dismiss

I certify that I served a copy of this praecipe as required by SLR 5.015 on the **25** day of **July, 2007**, as follows:

Kelly Clark
O'Donnell & Clark, LLP
Fremont Place II, Suite 302
1650 NW Naito Parkway
Portland, OR 97209

Stephen Madkour
Office of Multnomah County Attorney
501 SE Hawthorne
Suite 500
Portland, OR 97214

07/25/2007
Date Signed



Signature (Darsee Staley)
OSB No. 87351 Telephone: (503) 947-4700

IMPORTANT: If applicable, the certification required by UTCR 5.010, conferring on MOTIONS under ORCP 21, 23 AND 34-46 must be filed separately.

Distribution: *Original Praecipe (Blue)* - to Judge (if assigned) **OR** to Rm. 210, Calendar Clerk (if on call), with courtesy copy of motion; *Copy of Praecipe* - to opposing parties, with courtesy copy of motion. See, SLR 5.015

DO NOT FILE A COURTESY COPY OF PRAECIPE WITH ORIGINAL MOTION PAPERS

1
2
3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH

6 GEORGE RAYMOND SMITH, individually,
7 as controlling member of THE RAYMOND
8 SMITH, LLC, and as Trustee for the
9 RAYMOND SMITH SURVIVOR'S TRUST,
10 RAYMOND SMITH QUALIFIED
11 MARITAL TRUST, and RAYMOND SMITH
12 FAMILY TRUST; and SHIRLEE LENSKE,
13 as controlling member of LENSKE
14 PROPERTIES, LLC,

15 Plaintiffs,

16 v.

17 MULTNOMAH COUNTY, OREGON, a
18 political subdivision of the State of Oregon;
19 DEPARTMENT OF LAND
20 CONSERVATION AND DEVELOPMENT,
21 an agency of the State of Oregon; LAND
22 CONSERVATION AND DEVELOPMENT
23 COMMISSION, an agency of the State of
24 Oregon; DEPARTMENT OF FORESTRY, an
25 agency of the State of Oregon;
26 DEPARTMENT OF ENVIRONMENTAL
QUALITY, an agency of the State of Oregon;
and DEPARTMENT OF ADMINISTRATIVE
SERVICES, an agency of the State of Oregon,

27 Defendants.

Case No. 0705-05464

STATE DEFENDANTS' MOTIONS TO
DISMISS; MEMORANDUM OF POINTS AND
AUTHORITIES (ORCP 21 A (1), (8))

(Oral Argument Requested)

Judge Jerry Hodson
August 31, 2007
11:00 a.m.
Courtroom 410

28 **ORAL ARGUMENT REQUESTED**

29 The state agency defendants request oral argument on their Motions to Dismiss in
30 conjunction with the argument set on defendant Multnomah County's Motion to Dismiss.
31 Counsel for all parties agree to share one hour. Official court reporting services are requested.

1 **INTRODUCTION**

2 This case involves a demand for compensation under ORS 197.352, commonly known as
3 Ballot Measure 37. Measure 37 permits present owners of private real property to seek
4 compensation for reductions in fair market value caused by certain restrictions on use. If a
5 demand is valid, public entities have the choice of paying compensation or not applying certain
6 restrictions. As originally enacted, Measure 37 required public entities to decide claims within
7 180 days, or claimants would “have a cause of action for compensation” which could be filed in
8 circuit court. The Complaint in this case purports to assert such a “cause of action” against the
9 state agency defendants under ORS 197.352 (6).

10 The 74th Oregon Legislative Assembly amended Measure 37 to extend the time for public
11 entities to act on written demands—from 180 days to 540 days. The “extension bill,” as it is
12 commonly called, only applies to demands submitted on or after November 1, 2006. Plaintiffs
13 submitted the demand at issue here on November 13, 2006. Accordingly, plaintiffs may have a
14 cause of action for compensation under ORS 197.352 (6) “only if the land use regulation
15 continues to be enforced against the property 540 days after the Measure 37 claim is made,” that
16 is, on May 7, 2008 in the event the State fails to render a timely decision on plaintiffs’ demand.
17 But now, plaintiffs have no cause of action and this case must be dismissed.

18 **MOTIONS TO DISMISS**

19 The State¹ moves to dismiss plaintiffs’ Complaint on the following grounds:

20 **Motion No. 1 (Court lacks subject matter jurisdiction – ORCP 21 A (1))**

21 The court lacks subject matter jurisdiction because no cause of action exists, plaintiffs’
22 claims are not ripe, and there is no present controversy.

23
24
25 ¹ These motions are brought on behalf of all the named state agency defendants, collectively
26 referred to herein as the “State.”

1 **Motion No. 2 (Failure to state a claim – ORCP 21 A (8))**

2 Plaintiffs have not stated a claim for compensation under Measure 37 because they do not
3 allege that their use of the property wrongly continues to be subject to restrictive state land use
4 regulations 540 days after plaintiffs submitted a Measure 37 demand to the State (Complaint, ¶
5 4). Similarly, plaintiffs fail to state a claim for declaratory relief based on allegations that the
6 State’s decision is insufficient because it lacks “transferability” (Compl, ¶ 20-21).

7 In support of these motions, the State relies upon ORCP 21 A (1) and A (8), ORS
8 197.352, 2007 Or Laws Chap 133,² the files and record of this case, the following Points and
9 Authorities, and the Declaration of Janice K. Dean filed concurrently. In addition, the State
10 concurs in the arguments presented in Multnomah County’s ORCP 21 Motion to Dismiss and
11 Memorandum of Law (OJIN #4, #5).

12 **POINTS AND AUTHORITIES**

13 **A. Summary of Plaintiffs’ Complaint**

14 Plaintiffs submitted a written demand for compensation to the State on November 13,
15 2006 (Compl, ¶¶ 4, 5; Decl of Dean). Plaintiffs filed the Complaint in this case on May 15,
16 2007, or 183 days after the demand (OJIN #1). Plaintiffs allege that the State failed to pay
17 compensation failed “not to apply” relevant land use restrictions within 180 days of submission
18 of the demand (Compl, ¶ 8, First Claim for Relief).

19 Plaintiffs also allege present ownership of the property at issue—individually, and as
20 controlling members of LLCs, and as trustees of various trusts (Compl, ¶ 1). The Complaint
21 alleges that various plaintiffs acquired various interests in 17 separate parcels of property at
22 various times between 1945 and 2000 (Compl, ¶ 3 and Ex 1). Plaintiffs claim that the State
23 enacted and enforced unspecified land use regulations since plaintiffs’ alleged acquisition dates
24 which restrict plaintiffs use of the property and have the effect of reducing the fair market value

25 _____
26 ² Attached hereto as Exhibit 1 is a copy of the Act from the Legislature’s website.

1 of the property (Compl, ¶ 7). Plaintiffs assert they are entitled to compensation because the State
2 did not pay compensation or waive regulations within 180 days of November 13, 2006 (Compl,
3 ¶¶ 8-10)

4 Plaintiffs also seek a declaration that “any decision not to apply land use restrictions to a
5 property in lieu of compensation under ORS 197.352 (8) must be transferrable [sic] to at least
6 one subsequent owner of that property” (Compl, ¶¶ 21, 18-20). Like the compensation claim,
7 plaintiffs’ declaratory claim alleges that the State has made a decision on plaintiffs’ demand
8 (Compl, ¶¶ 20, 9).

9 **B. Extension Bill**

10 Through May 25, 2007, claimants have submitted 6,749 demands to the State. The State
11 has issued nearly 3000 final orders. Approximately 3500 demands, plaintiffs’ demand among
12 them, are pending.³ The Oregon Legislature determined that the volume of claims on which
13 public entities would be unable to act within 180 days constituted an emergency and took action.
14 On May 10, 2007, House Bill 3546 became effective upon the Governor’s signature (Ex 1
15 attached).

16 HB 3546 gives the State an additional 360 days—for a total of 540 days—to issue a final
17 order on demands filed under ORS 197.352 on or after November 1, 2006. The law expressly
18 amends ORS 197 352 (6) to extend the time in which a “cause of action” accrues until the time
19 period granted to the State to issue a final order has expired (Ex 1 attached).

20 **C. Justiciability: Lack of Jurisdiction**

21 Oregon courts are empowered to consider disputes that involve present facts and adverse
22 parties, but “judicial power does not include the authority to adjudicate cases in which there is no
23 existing controversy.” *Yancy v. Shatzer*, 337 Or 345, 347 (2004); *Brown v. Oregon State Bar*,

24

25 ³www.oregon.gov/LCD/MEASURE37/summaries_of_claims.shtml#Summaries_of_Claims_File
26 [d in the State](#) (site last visited on July 20, 2007).

1 293 Or 446 (1982). Justiciability is a threshold requirement for jurisdiction, encompassing
2 related issues of standing, ripeness and mootness. *Yancy*, 337 Or at 349.

3 Justiciability is a vague standard but entails several definite
4 considerations. A controversy is justiciable, as opposed to abstract, where there is
5 an actual and substantial controversy between parties having adverse legal
6 interests. The controversy must involve present facts as opposed to a dispute
7 which is based on future events of a hypothetical issue. A justiciable controversy
8 results in specific relief through a binding decree as opposed to an advisory
9 opinion which is binding on no one. The court cannot exercise jurisdiction over a
10 nonjusticiable controversy because in the absence of constitutional authority, the
11 court cannot render advisory opinions.

12 *Brown, supra*, 293 Or at 449 (citations omitted).

13 No present controversy exists in this case. The State is not required to “pay or waive”
14 until May 7, 2008. Consequently, the State has not violated Measure 37 by failing to pay
15 compensation. No land use regulations “continue to apply” to plaintiffs’ use of the property in
16 violation of Measure 37. The parties are not adverse because the State has not taken a position
17 on the validity of plaintiffs’ demand or the scope of relief available. Plaintiffs’ claim for
18 compensation is not ripe.

19 Plaintiffs’ declaratory claim also is premature. The Supreme Court “has explained that a
20 ripe claim for declaratory judgment under ORS 28.020 ‘must involve present facts as opposed to
21 a dispute which is based on future events of a hypothetical issue.’” *MacPherson v. DAS*, 340 Or
22 117, 124 (2006) (citing *Brown, supra*). Thus, a dispute that relates only to “contingent or
23 hypothetical events” is not justiciable under the Declaratory Judgments Act. *US West
24 Communications v. City of Eugene*, 336 Or 181, 191 (2003). Rather, some “existing state of
25 facts” must currently threaten the plaintiff’s legal interests. *Id.*

26 Plaintiffs seek an advisory ruling that “any decision not to apply land use restrictions” is
transferable. The Complaint at most alleges that the State disagrees with plaintiffs’ interpretation
of Measure 37. Because mere difference of opinion concerning a statute does not create a
justiciable controversy, the court lacks jurisdiction on this ground as well. *Oregon Cry. Mfgs.*

1 *Ass'n. v. White*, 159 Or 99, 111 (1938) (difference of opinion as to constitutionality held not
2 justiciable where plaintiff feared future affect on their business); *Beck v. City of Portland*, 202 Or
3 App 360, 371 (2005) (declaratory judgment claims that are not ripe should be dismissed as
4 nonjusticiable).

5 **D. Failure to State a Claim**

6 The Complaint does not allege that the State failed to act on plaintiffs' Measure 37
7 demand within 540 days. Absent this allegation plaintiffs have not alleged a cause of action for
8 compensation under ORS 197.352 (6). Plaintiffs' declaratory claim is based on their anticipated
9 disagreement with "any decision" the State might make. The allegations that the State has
10 "announced" its position on transferability, and plaintiffs disagree, fail to allege a present,
11 justiciable claim, as discussed above. Both claims against the State should be dismissed.


12 **CONCLUSION**

13 The Oregon Legislature found that an extension of time for public entities to decide
14 Measure 37 demands, before a cause of action would accrue, was "necessary for the immediate
15 preservation of the public peace, health and safety." HB 3546 declared an emergency and
16 became effective on May 10, 2007 when signed by the Governor. Plaintiffs' "cause of action for
17 compensation under ORS 197.352 (6)," if any, will arise only if the State fails to act within the
18 next 287 days. The Complaint presents no justiciable issue and should be dismissed.

19 DATED this 25 day of July, 2007.

20 Respectfully submitted,

21 HARDY MYERS
22 Attorney General

23 
24 DARSEE STALEY, OSB 87351
25 Senior Assistant Attorney General
26 Tel (503) 947-4700
Fax (503) 947-4792
darsee.staley@doj.state.or.us
Of Attorneys for State of Oregon

House Bill 3546

House Amendments ([html](#) | [pdf](#))

A-Engrossed ([html](#) | [pdf](#))

House Amendments to A-Engrossed ([html](#) | [pdf](#))

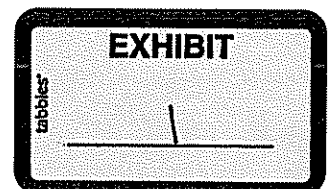
B-Engrossed ([html](#) | [pdf](#))

Enrolled ([html](#) | [pdf](#))

Introduced ([html](#) | [pdf](#))

HB 3546 By Representative MACPHERSON, Senator PROZANSKI -
- Relating to an extension of time for review of demands for
compensation by reason of land use regulations; and
declaring an emergency.

- 04/19 (H) First reading. Referred to Speaker's desk.
- 04/19 (H) Referred to Land Use Fairness with subsequent referral to Ways and Means.
- 04/24 (H) Public Hearing held.
- 04/26 (H) Work Session held.
- 04/26 (H) Recommendation: Do pass with amendments, be printed A-Engrossed, and be referred to Ways and Means by prior reference.
- 04/26 (H) Referred to Ways and Means by prior reference.
- 04/27 (H) Assigned to Subcommittee On Natural Resources.
- 05/01 (H) Work Session held.
- 05/01 (H) Returned to Full Committee.
- 05/01 (H) Work Session held.
- 05/01 (H) Recommendation: Do pass with amendments and be printed B-Engrossed.
- 05/02 (H) Second reading.
- 05/03 (H) Rules suspended. Made a Special Order of Business on May 4, 2007 Calendar.
- 05/04 (H) Third reading. Carried by Roblan. Passed. Ayes, 31; Nays, 24--Berger, Bruun, Burley, Butler, Cameron, Esquivel, Flores, Garrard, Gilliam, Gilman, Girod, Hanna, Jenson, Krieger, Krummel, Maurer, Morgan, Nelson, Olson, Richardson, Smith G., Smith P., Thatcher, Whisnant; Excused, 5--Boquist, Dallum, Lim, Minnis, Scott.
- 05/04 (H) Potential conflict(s) of interest declared by Smith P., Thatcher.
- 05/07 (S) First reading. Referred to President's desk.
- 05/07 (S) Referred to Ways and Means.
- 05/08 (S) Recommendation: Do pass the B-Eng bill.
- 05/08 (S) Second reading.



- 05/09 (S) Motion to refer to Rules failed. Ayes, 12; Nays, 18--Avakian, Bates, Brown, Burdick, Carter, Deckert, Devlin, Johnson, Metsger, Monnes Anderson, Monroe, Morrisette, Prozanski, Schrader, Verger, Walker, Westlund, President Courtney.
- 05/09 (S) Made a Special Order of Business by voice vote.
- 05/09 (S) Third reading. Carried by Prozanski, Schrader. Passed. Ayes, 19; Nays, 11--Atkinson, Beyer, Ferrioli, George, G., George, L., Kruse, Morse, Nelson, Starr, Whitsett, Winters.
- 05/09 (S) Beyer, George, G., George, L., Starr declared potential conflict of interest.
- 05/09 (H) Speaker signed.
- 05/09 (S) President signed.
- 05/10 (H) Governor signed.
- 05/10 (H) Chapter 133, (2007 Laws): Effective date May 10, 2007.

Enrolled
House Bill 3546

Sponsored by Representative MACPHERSON, Senator PROZANSKI

CHAPTER

AN ACT

Relating to an extension of time for review of demands for compensation by reason of land use regulations; and declaring an emergency.

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 197.

SECTION 2. (1) As used in this section:

- (a) "Claimant" means a person that makes a Measure 37 claim.
 - (b) "Measure 37 claim" means a written demand for compensation under ORS 197.352.
 - (c) "Land use regulation" has the meaning given that term in ORS 197.352.
 - (d) "Owner" has the meaning given that term in ORS 197.352.
 - (e) "Public entity" has the meaning given that term in ORS 197.352.
- (2) Notwithstanding ORS 197.352 (4) and (6), if a Measure 37 claim was made on or after

November 1, 2006:

(a) Just compensation under ORS 197.352 is due the owner of the property from the public entity only if the land use regulation continues to be enforced against the property 540 days after the Measure 37 claim is made to the public entity; and

(b) The owner of the subject property has a cause of action for compensation under ORS 197.352 (6) only if a land use regulation continues to apply to the subject property more than 540 days after the Measure 37 claim is made.

(3) If a claimant is an individual, the ability to make or prosecute a Measure 37 claim is not affected by the death of the claimant during the extended review period provided by subsection (2) of this section, and the ability to make or prosecute a Measure 37 claim for property that belonged to the claimant passes to the person who acquires the property by devise or by operation of law.

SECTION 3. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by House May 4, 2007

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate May 9, 2007

.....
President of Senate

Received by Governor:

.....M,, 2007

Approved:

.....M,, 2007

.....
Governor

Filed in Office of Secretary of State:

.....M,, 2007

.....
Secretary of State

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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH

6 GEORGE RAYMOND SMITH, individually,
7 as controlling member of THE RAYMOND
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11 MARITAL TRUST, and RAYMOND SMITH
12 FAMILY TRUST; and SHIRLEE LENSKE,
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14 PROPERTIES, LLC,

15 Plaintiffs,

16 v.

17 MULTNOMAH COUNTY, OREGON, a
18 political subdivision of the State of Oregon;
19 DEPARTMENT OF LAND
20 CONSERVATION AND DEVELOPMENT,
21 an agency of the State of Oregon; LAND
22 CONSERVATION AND DEVELOPMENT
23 COMMISSION, an agency of the State of
24 Oregon; DEPARTMENT OF FORESTRY, an
25 agency of the State of Oregon;
26 DEPARTMENT OF ENVIRONMENTAL
QUALITY, an agency of the State of Oregon;
and DEPARTMENT OF ADMINISTRATIVE
SERVICES, an agency of the State of Oregon,

Defendants.

Case No. 0705-05464

DECLARATION OF JANICE K. DEAN IN
SUPPORT OF THE STATE DEFENDANTS'
MOTION TO DISMISS

I, Janice K. Dean, do declare and say:

1. I am employed by the Oregon Department of Administrative Services as
Administrator, State Services Division. I have held this position since July 9, 2007. I make this
declaration based on my personal knowledge and in support of the State's Motions to Dismiss
(ORCP 21 A (1) and A (8)).

1 2. The following Exhibits, attached hereto, are true and correct copies of documents
2 maintained in the files of the Department of Administrative Services (DAS) on Measure 37 claim
3 number M130680 (George Raymond Smith):

- 4 • Exhibit 1 is a copy of the registry entry which is available on DAS's website; and
- 5 • Exhibit 2 is a copy of the claim form (without attachments) submitted by plaintiffs on
6 November 13, 2006.

7

8 I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST
9 OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE
10 AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

11 DATED this 24 day of July, 2007.

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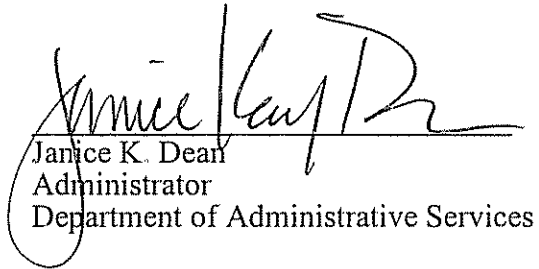
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Janice K. Dean
Administrator
Department of Administrative Services

| Measure 37 Web Registry | | | | | | | | | | | | | | |
|-------------------------|----------------------|----------|-------|-----------|---|----------------|---------------------|----------------------|----------------|--------------|--------------------|-------------------|---------------|---------------------|
| Claimant | Property Address | City | Zip | County | Township, Range, Section | Tax Lot Number | Land Use Regulation | Agency Determination | Initial Demand | Claim Number | Contact First Name | Contact Last Name | Registry Date | Date Claim Received |
| SMITH, GEORGE R | 1408 AROUND CORBIETT | CORBIETT | 02719 | MULTNOMAH | T14 R4E SEC 34C, T14 R4E SEC 01, 01B, 01C, 02C, T14 R4E SEC 03, 03A, 03B, 03D, 03E, 03F, 03G, 03H, 03I, 03J, 03K, 03L, 03M, 03N, 03O, 03P, 03Q, 03R, 03S, 03T, 03U, 03V, 03W, 03X, 03Y, 03Z, 03AA, 03AB, 03AC, 03AD, 03AE, 03AF, 03AG, 03AH, 03AI, 03AJ, 03AK, 03AL, 03AM, 03AN, 03AO, 03AP, 03AQ, 03AR, 03AS, 03AT, 03AU, 03AV, 03AW, 03AX, 03AY, 03AZ, 03BA, 03BB, 03BC, 03BD, 03BE, 03BF, 03BG, 03BH, 03BI, 03BJ, 03BK, 03BL, 03BM, 03BN, 03BO, 03BP, 03BQ, 03BR, 03BS, 03BT, 03BU, 03BV, 03BW, 03BX, 03BY, 03BZ, 03CA, 03CB, 03CC, 03CD, 03CE, 03CF, 03CG, 03CH, 03CI, 03CJ, 03CK, 03CL, 03CM, 03CN, 03CO, 03CP, 03CQ, 03CR, 03CS, 03CT, 03CU, 03CV, 03CW, 03CX, 03CY, 03CZ, 03DA, 03DB, 03DC, 03DD, 03DE, 03DF, 03DG, 03DH, 03DI, 03DJ, 03DK, 03DL, 03DM, 03DN, 03DO, 03DP, 03DQ, 03DR, 03DS, 03DT, 03DU, 03DV, 03DW, 03DX, 03DY, 03DZ, 03EA, 03EB, 03EC, 03ED, 03EE, 03EF, 03EG, 03EH, 03EI, 03EJ, 03EK, 03EL, 03EM, 03EN, 03EO, 03EP, 03EQ, 03ER, 03ES, 03ET, 03EU, 03EV, 03EW, 03EX, 03EY, 03EZ, 03FA, 03FB, 03FC, 03FD, 03FE, 03FF, 03FG, 03FH, 03FI, 03FJ, 03FK, 03FL, 03FM, 03FN, 03FO, 03FP, 03FQ, 03FR, 03FS, 03FT, 03FU, 03FV, 03FW, 03FX, 03FY, 03FZ, 03GA, 03GB, 03GC, 03GD, 03GE, 03GF, 03GG, 03GH, 03GI, 03GJ, 03GK, 03GL, 03GM, 03GN, 03GO, 03GP, 03GQ, 03GR, 03GS, 03GT, 03GU, 03GV, 03GW, 03GX, 03GY, 03GZ, 03HA, 03HB, 03HC, 03HD, 03HE, 03HF, 03HG, 03HH, 03HI, 03HJ, 03HK, 03HL, 03HM, 03HN, 03HO, 03HP, 03HQ, 03HR, 03HS, 03HT, 03HU, 03HV, 03HW, 03HX, 03HY, 03HZ, 03IA, 03IB, 03IC, 03ID, 03IE, 03IF, 03IG, 03IH, 03II, 03IJ, 03IK, 03IL, 03IM, 03IN, 03IO, 03IP, 03IQ, 03IR, 03IS, 03IT, 03IU, 03IV, 03IW, 03IX, 03IY, 03IZ, 03JA, 03JB, 03JC, 03JD, 03JE, 03JF, 03JG, 03JH, 03JI, 03JJ, 03JK, 03JL, 03JM, 03JN, 03JO, 03JP, 03JQ, 03JR, 03JS, 03JT, 03JU, 03JV, 03JW, 03JX, 03JY, 03JZ, 03KA, 03KB, 03KC, 03KD, 03KE, 03KF, 03KG, 03KH, 03KI, 03KJ, 03KK, 03KL, 03KM, 03KN, 03KO, 03KP, 03KQ, 03KR, 03KS, 03KT, 03KU, 03KV, 03KW, 03KX, 03KY, 03KZ, 03LA, 03LB, 03LC, 03LD, 03LE, 03LF, 03LG, 03LH, 03LI, 03LJ, 03LK, 03LL, 03LM, 03LN, 03LO, 03LP, 03LQ, 03LR, 03LS, 03LT, 03LU, 03LV, 03LW, 03LX, 03LY, 03LZ, 03MA, 03MB, 03MC, 03MD, 03ME, 03MF, 03MG, 03MH, 03MI, 03MJ, 03MK, 03ML, 03MN, 03MO, 03MP, 03MQ, 03MR, 03MS, 03MT, 03MU, 03MV, 03MW, 03MX, 03MY, 03MZ, 03NA, 03NB, 03NC, 03ND, 03NE, 03NF, 03NG, 03NH, 03NI, 03NJ, 03NK, 03NL, 03NM, 03NO, 03NP, 03NQ, 03NR, 03NS, 03NT, 03NU, 03NV, 03NW, 03NX, 03NY, 03NZ, 03OA, 03OB, 03OC, 03OD, 03OE, 03OF, 03OG, 03OH, 03OI, 03OJ, 03OK, 03OL, 03OM, 03ON, 03OO, 03OP, 03OQ, 03OR, 03OS, 03OT, 03OU, 03OV, 03OW, 03OX, 03OY, 03OZ, 03PA, 03PB, 03PC, 03PD, 03PE, 03PF, 03PG, 03PH, 03PI, 03PJ, 03PK, 03PL, 03PM, 03PN, 03PO, 03PP, 03PQ, 03PR, 03PS, 03PT, 03PU, 03PV, 03PW, 03PX, 03PY, 03PZ, 03QA, 03QB, 03QC, 03QD, 03QE, 03QF, 03QG, 03QH, 03QI, 03QJ, 03QK, 03QL, 03QM, 03QN, 03QO, 03QP, 03QQ, 03QR, 03QS, 03QT, 03QU, 03QV, 03QW, 03QX, 03QY, 03QZ, 03RA, 03RB, 03RC, 03RD, 03RE, 03RF, 03RG, 03RH, 03RI, 03RJ, 03RK, 03RL, 03RM, 03RN, 03RO, 03RP, 03RQ, 03RR, 03RS, 03RT, 03RU, 03RV, 03RW, 03RX, 03RY, 03RZ, 03SA, 03SB, 03SC, 03SD, 03SE, 03SF, 03SG, 03SH, 03SI, 03SJ, 03SK, 03SL, 03SM, 03SN, 03SO, 03SP, 03SQ, 03SR, 03SS, 03ST, 03SU, 03SV, 03SW, 03SX, 03SY, 03SZ, 03TA, 03TB, 03TC, 03TD, 03TE, 03TF, 03TG, 03TH, 03TI, 03TJ, 03TK, 03TL, 03TM, 03TN, 03TO, 03TP, 03TQ, 03TR, 03TS, 03TT, 03TU, 03TV, 03TW, 03TX, 03TY, 03TZ, 03UA, 03UB, 03UC, 03UD, 03UE, 03UF, 03UG, 03UH, 03UI, 03UJ, 03UK, 03UL, 03UM, 03UN, 03UO, 03UP, 03UQ, 03UR, 03US, 03UT, 03UU, 03UV, 03UW, 03UX, 03UY, 03UZ, 03VA, 03VB, 03VC, 03VD, 03VE, 03VF, 03VG, 03VH, 03VI, 03VJ, 03VK, 03VL, 03VM, 03VN, 03VO, 03VP, 03VQ, 03VR, 03VS, 03VT, 03VU, 03VV, 03VW, 03VX, 03VY, 03VZ, 03WA, 03WB, 03WC, 03WD, 03WE, 03WF, 03WG, 03WH, 03WI, 03WJ, 03WK, 03WL, 03WM, 03WN, 03WO, 03WP, 03WQ, 03WR, 03WS, 03WT, 03WU, 03WV, 03WW, 03WX, 03WY, 03WZ, 03XA, 03XB, 03XC, 03XD, 03XE, 03XF, 03XG, 03XH, 03XI, 03XJ, 03XK, 03XL, 03XM, 03XN, 03XO, 03XP, 03XQ, 03XR, 03XS, 03XT, 03XU, 03XV, 03XW, 03XX, 03XY, 03XZ, 03YA, 03YB, 03YC, 03YD, 03YE, 03YF, 03YG, 03YH, 03YI, 03YJ, 03YK, 03YL, 03YM, 03YN, 03YO, 03YP, 03YQ, 03YR, 03YS, 03YT, 03YU, 03YV, 03YW, 03YX, 03YY, 03YZ, 03ZA, 03ZB, 03ZC, 03ZD, 03ZE, 03ZF, 03ZG, 03ZH, 03ZI, 03ZJ, 03ZK, 03ZL, 03ZM, 03ZN, 03ZO, 03ZP, 03ZQ, 03ZR, 03ZS, 03ZT, 03ZU, 03ZV, 03ZW, 03ZX, 03ZY, 03ZZ | Unknown | \$ 20,205,450.00 | 111355031 | MARK | COOZMEL | 11/13/09 | 11/13/09 | | |



M37 Claim Form

Department of Administrative Services
Risk Management - State Services Division

1225 Ferry St. SE U160, Salem, Oregon 97301-4292

Web Site: <http://www.oregon.gov/DAS/Risk/M37.shtml> Phone: 503-378-5513

INSTRUCTIONS FOR SUBMITTING A CLAIM

This form identifies the information that is required for the State of Oregon to act on a claim made under ORS 197.352 (2004 Oregon Ballot Measure 37). Please complete each box of the claim form, and attach any additional information or evidence that you want to support the claim. Attached documents may not be used to complete sections 1 or 2, or any section that requires a signature.

- Claims may only be submitted by an Owner or an Authorized Agent of the Owner.
- Claims may only be submitted: in person, by private carrier, by U.S. Postal Service Certified, or by Registered Mail to:
Risk Management-State Services Division, 1225 Ferry St. SE, U160, Salem OR 97301 - 4292
- Only Original Signed Claims will be accepted, claims submitted electronically or by facsimile, will not be accepted.
- If you need more space, attach *separate sheets of paper* as needed, with reference to the appropriate **Section number on this form.**
- Claim criteria/requirements may be found in Oregon Administrative Rules 125-145-0010 to 0120

Section 1 NAME AND CONTACT INFORMATION OF ALL CLAIMANTS/PROPERTY OWNERS

Enter the name and contact information of each person that this claim is submitted for. Please note, the claimant(s) *must* own an interest in the property. If the present owner of the property is a business entity (such as a corporation), the claim should be made by an appropriate authorized person on behalf of that entity. If the property has been placed in a trust, the claim should be made by a trustee of the trust.

| | |
|--|--|
| Name of Claimant #1: George Raymond Smith, individually and as controlling member of The Raymond Smith, LLC, and as Trustee for the Raymond Smith Survivor's Trust, Raymond Smith Qualified Marital Trust, and Raymond Smith Family Trust | Day Time Phone #: (see agent information, Section 2, <i>infra</i>) |
| Address: P.O. Box 183 | |
| City: Corbett | State: OR Zip: 97019 |
| To file a claim for a particular property, you must own an interest in that property. Please describe what your ownership interest in the property is (e.g., fee title, contract purchaser, lessee, life estate holder, etc). | |
| Owner Equitable Interest (individually and in capacity as Trustee) and Fee Title (as controlling member of family LLC) | |

Received
Risk Management

NOV 13 2006

Dept. of Administrative Services

| | | | |
|---|--|---|------------|
| Name of Claimant #2: Shirlee Lenske, as controlling member of Lenske Properties, LLC. | | Day Time Phone #: (see agent information, Section 2, <i>infra</i>) | |
| Address: 7475 SE 52nd Ave. | | | |
| City: Portland | | State: OR | Zip: 97206 |
| To file a claim for a particular property, you must own an interest in that property. Please describe what your ownership interest in the property is (e.g., fee title, contract purchaser, lessee, life estate holder, etc.) | | | |
| Owner Fee Title | | | |

Section 2 NAME AND CONTACT INFORMATION OF PERSON SUBMITTING CLAIM (AGENT, IF ANY)

If you have an attorney, relative, or some other person who is filing this claim for you, enter the name and contact information of that person.

| | | | |
|--|--|----------------------------------|---|
| Name of Agent: Mark P. O'Donnell, Esq. Kristian Roggendorf, Esq. O'Donnell & Clark LLP | | Day Time Phone #: (503) 306-0224 | |
| Address: 1650 NW Naito Parkway, Suite 302 | | | |
| City: Portland | | State: OR | Zip: 97209 |
| Must attach a written notarized statement signed by the owner(s) or a Power of Attorney properly authorizing submittal of this claim. | | | Attachment: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |

Section 3 THE PROPERTY THE CLAIM IS FOR

Identify the property(ies) the claim is for. You should attach a county tax lot map, with each tax lot the claim is for marked clearly on the map. To assist in the review of your claim, you also are encouraged to obtain and include a copy of the county tax assessor's "plat" or "deed" card for each tax lot your claim is for. *Attachment if Applicable*

| | |
|---|---|
| Street Address or nearest intersection: Properties in the vicinity of Howard Road and Louden Road between O'Regan Road and Mannthey Road, as well as parcels near Larch Mountain Road near Brower Road, and parcels near the intersection of Curtis Road and Smith Road | |
| City (only if within a city): | |
| County: Multnomah County | State: OR |
| Zip: 97019 | |
| Tax Lot #(s): 17 Parcels <i>See attached Parcel Matrix Exhibit A</i> | County Tax Assessor's Map Reference #(s): 1N 4E 34C (3/16/06) 1S 4E 1 (4/14/04) 1S 4E 1B (4/14/04) 1S 4E 1DC (12/22/04) 1S 5E 3 (7/30/04) 1S 5E 6 (7/27/06) 1S 5E 6C (4/16/04) 1S 5E 6D (4/16/04) |
| Township: <i>See attached Parcel Matrix Exhibit A</i> | |
| Range: <i>See attached Parcel Matrix Exhibit A</i> | Section: <i>See attached Parcel Matrix Exhibit A</i> |
| On what date did the claimant(s) acquire an interest in each tax lot this claim is for? <i>Various, see attached See attached Parcel Matrix, Exhibit A, Zoning History Table, Exhibit F-2, and Chain of Title Exhibits, C1 -- C17</i> | |
| Current Zoning (of each tax lot): <i>Various, see attached Zoning History Table and Zoning History Narrative</i> | Property Size (acreage of each tax lot): <i>Various, see attached Zoning History Table and Chain of Title Exhibits</i> |
| What was the zoning of each tax lot when the claimant(s) acquired the property? <i>Various, see attached Zoning History Table and Zoning History Narrative</i> | 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? <i>Claimant George Raymond Smith is an original owner of all but one of the parcels, and continues in that capacity as controlling member of The Raymond Smith, LLC. Claimant Lenske Properties, LLC</i> |

Other Information. If your property is located within a subdivision or partition, please provide a copy of any recorded conditions relating to that subdivision or partition).

Attachment: Yes No

Section 4 EVIDENCE OF OWNERSHIP

Include evidence or information documenting that the claimant(s) owns an interest in each lot or parcel the claim is for, when the claimant(s) acquired that interest, and that the claimant(s) have continued to own an interest since that date. The information required by this section may be provided in the form of a preliminary title report, if you also include a copy of the deed or other document conveying an interest in the lot or parcel to the claimant(s), along with copies of the exceptions listed in the title report, and a statement that the claimant has owned the property continuously.

| | |
|--|--|
| <p>The following is attached as proof that the claimant owns an interest in each lot or parcel: (provide for each claimant, and each lot or parcel, and list all attachments)</p> | <p><i>See Chain of Title Exhibits and attached conveyance documents for Individual Parcels, Exhibits C1 – C17</i></p> |
| <p><small>At a minimum, you must include a copy of the document conveying an interest in the lot or parcel to the present owner(s) of each property. Normally, this will be a deed.</small></p> | |
| <p>Is the property in a Trust?</p> <p>If yes, please provide the date of the trust.</p> <p>If yes, is the trust Revocable or Irrevocable?</p> <p>If yes, are you filing on behalf of the Trust, as an Individual, or both?</p> <p>If yes, please attach a certificate of trust indicating who the current trustees of the trust are.</p> | <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Date Property Placed In Trust:</p> <p><input type="checkbox"/> Revocable <input type="checkbox"/> Irrevocable</p> <p><input type="checkbox"/> Trust <input type="checkbox"/> Individual <input type="checkbox"/> Both</p> |
| <p><small>Is the Property owned by a Corporation, by a Partnership, by a Limited Liability Company or by a Limited Liability Partnership?</small></p> | |
| <p>If yes, please provide the name of the business entity that owns the property and the date on which the business entity acquired the property.</p> | <p>Name of business entity:</p> <p>The Raymond Smith, LLC and Lenske Properties, LLC hold legal title to the properties in this claim. <i>See Ownership History Narrative, Exhibit E.</i> Raymond Smith individually has retained an interest in these properties since the time he purchased them. The legal title on the parcels was transferred to the LLCs on March 1, 2001.</p> |

Section 5 INTENDED USE OF PROPERTY

What is your desired use of the property that is restricted by one or more state land use regulations? Please provide as much detail as possible concerning the desired use, as your claim will be evaluated based on this information. You must identify your desired use so that we are able to: (1) determine whether that use has been restricted by one or more state land use regulations and if so, which ones; (2) determine whether state land use regulations have had the effect of reducing the value of the property; (3) state clearly what state land use regulations will not apply to your use of your property (if the state elects not to pay compensation); and (4) provide adequate notice to those entitled to notice. At the very least you need to identify the type of use and give us some idea of the intensity of the use. Some typical examples of the of what other claimants have said are: (a) to divide the property into five lots, and to establish a residence on each lot; (b) to build a single-family home on the property; (c) to develop a golf course on ten acres of the property along with a clubhouse. The more general you are in your description, the less likely it is that we are to determine that particular state land use regulations restrict your use. The more specific you are, the less likely it is that you will have to file additional claims. If you have already filed a claim with a city or a county, and the use you want the state to consider is the same as for your local claim, then please tell us that. If you do not tell us what your desired use is, we will assume that you wish to establish one additional dwelling on your property, and we will process your claim on that basis.

Attach narrative statement, proposed plan, or other documentation of desired use, as you think necessary

Claimants seek to develop the properties in several subdivisions of single family residences on lots ranging from 1 acre to 10 acres in size, depending on specific site conditions. This will result in approximately 90 – 104 buildable single family residential lots spread over approximately 561 acres. Also included in this claim is the intent to log non-health and safety related riparian buffers along Howard Creek and a tributary. See also Statement of Value, Exhibit N

Section 6 Laws that Restrict Your Desired Use of the Property¹

Identify the state Land Use Regulations that the Claim is based on, and describe how each restricts the desired use of the Property you described in Section 5. If you believe that state land use regulations, other than those enforced by the Department of Land Conservation and Development (DLCD or LCDC) restrict your desired use, then you must specifically identify those land use regulations and describe how they restrict your desired use. Attach additional narrative if you need more space.

| | | |
|--|--|--|
| <p>Law or Rule:</p> <p>Attachment if Applicable <input checked="" type="checkbox"/></p> <p>(See Exhibit G)</p> | <p>Multnomah County Subdivision and Partition Ordinances—MCZO §§ 35.7000 et seq.</p> | <p>Describe how this Land Use Law or Rule restricts the use of this property:</p> <p>Land division statutes limit development of rural parcels. The Partition and Subdivision Ordinances impose restrictions that were not in effect at the time of acquisition of the property.</p> |
| <p>Law or Rule:</p> <p>Attachment if Applicable <input checked="" type="checkbox"/></p> <p>(See Exhibit G)</p> | <p>Multnomah County Zoning Ordinance – Comprehensive Plan; Chapter 35; Traffic Rules; and Urban Rural Growth Management Policies</p> | <p>Describe how this Land Use Law or Rule restricts the use of this property:</p> <p>Current zoning limits subject properties to either one or zero single family residences. From a subsurface/sewage disposal basis, the subject properties support not less than 85—95 dwelling units. Zoning ordinances establishing minimum lot size and permissible uses limit development of rural forestry parcels. Claimants' parcels would be worth more absent all of the provisions set out in the attachment.</p> |

¹ For convenience and comprehensiveness, all land use regulations affecting the properties have been included in this claim.

| | | |
|---|---|---|
| <p>Law or Rule:</p> <p>Attachment if Applicable ✓</p> <p>(See Exhibits H, C1-C17)</p> | <p>State Land Division Statutes—ORS Chapter 92 (selected, see attachments)</p> | <p>Describe how this Land Use Law or Rule restricts the use of this property:</p> <p>Land division statutes are read in conformity with statewide planning goals, and thereby limit development of claimant's parcel to the extent that Multnomah County's regulations are based on conformity with statewide goals and other statutes.</p> |
| <p>Law or Rule:</p> <p>Attachment if Applicable ✓</p> <p>(See Exhibits H, I, J, K, C1-C17)</p> | <p>State Land Use Statutes—ORS Chapters 197, 215, 227, and administrative rules (selected, see attachments)</p> | <p>Describe how this Land Use Law or Rule restricts the use of this property:</p> <p>State statutes require counties to comply with statewide planning goals, and thereby limit development on claimant's parcel.</p> |
| <p>Law or Rule:</p> <p>Attachment if Applicable ✓</p> <p>(See Exhibits H & L)</p> | <p>State Forestry Statutes—ORS Chapters 526 and 527 (selected, see attachments)</p> | <p>Describe how this Land Use Law or Rule restricts the use of this property:</p> <p>State forestry statutes limit the development and division of land zoned for forestry.</p> |
| <p>Law or Rule:</p> <p>Attachment if Applicable ✓</p> <p>(See Exhibits H & M)</p> | <p>State Sewage Disposal Standards—ORS Chapter 454 and administrative rules (selected, see attachments)</p> | <p>Describe how this Land Use Law or Rule restricts the use of this property:</p> <p>State on-site sewage disposal statutes are tied to statewide planning and development goals, and thereby limit development of rural parcels.</p> |

Section 7 Effect on Fair Market Value of the Property

By what amount has the enactment or enforcement of each state land use regulation identified in section 6, above, reduced the fair market value of the property? Describe what the basis of your statement is, and attach evidence or provide information to support your statement.

| Law or Rule: | Amount of Reduction in Fair Market Value: | Basis of Statement |
|--------------|---|--|
| | | <p>It is impossible to assign a specific value of value lost by individual regulations in a complex, interrelated, and comprehensive land use regulatory scheme, particularly where state and local regulations overlap and reinforce one another—nor does ORS 197.352 require such breakdowns. Rather, the question is what is the fair market value of property with zoning that was in place as of the date of acquisition.</p> <p>For a breakdown of value lost by virtue of all land use regulations imposed on Claimant's property since the date of acquisition, see Statement of Value, Exhibit N.</p> |

Section 8 NAMES AND CONTACT INFORMATION OF OTHERS WITH INTEREST IN THIS PROPERTY

Enter the name and contact information of other persons or entities that own an interest in the Property, or attach a preliminary title report. Other ownership interests that should be listed include but are not limited to:

- (a) Every lessee and lessor of the Property;
- (b) Every person or entity holding a lien against, or a security interest in, the Property;
- (c) Every person or entity holding a future, contingent, or other interest of any kind in the Property.

This could be other owners, persons holding an easement over your property, banks, mortgage companies, state or federal agencies or entities, programs specific to the use of the property and any and all others with any interest in the property. Some examples could be; a USDA program providing funds for an owner not to grow a particular crop on the land, banks with second, third or other mortgage interest. If using an attachment, the attachment must be submitted in such a format as to easily distinguish the various owners and interest in the property.

| | | | |
|--------------------------------|---|-------------------|--------------|
| Name: | Heritage Rock LLC | Day Time Phone #: | 503-723-7730 |
| Address: | 15903 S. Park Place Court | | |
| City: | Oregon City | State: | OR |
| | | Zip: | 97045 |
| Describe Interest in Property: | Ground Lease from The Raymond Smith, LLC and Lenske Properties, LLC | | |

Section 9 AUTHORITY TO ENTER PROPERTY

This section of the form authorizes the Department, the Regulating Entity and their officers, employees, agents, and contractors to enter the Property as necessary to verify information, appraise the property, or conduct other business related to this claim. Each person that can restrict access to the property must sign in the appropriate box in this section.

| | |
|---|------------------------------------|
| I/We Affix Our Signature(s) to this Form Granting Access to the Subject Property in ANY Manner or Form Deemed Appropriate by State Agency or Agencies for the Review of the Property in Furtherance of the Processing or Handling of this Claim: SIGNATURES OF ALL OWNERS WITH AUTHORITY TO RESTRICT ACCESS | |
| Printed Name: <i>Raymond Smith</i> | Signature: <i>Raymond Smith</i> |
| Interest in Property: | |
| Printed Name: | Signature: |
| Interest in Property: | |
| Printed Name: | Signature: |
| Interest in Property: | |
| Printed Name: | Signature: |
| Interest in Property: | |
| Printed Name: | Signature: |
| Interest in Property: | |

Section 8 NAMES AND CONTACT INFORMATION OF OTHERS WITH INTEREST IN THIS PROPERTY

Enter the name and contact information of other persons or entities that own an interest in the Property, or attach a preliminary title report. Other ownership interests that should be listed include but are not limited to:

- (a) Every lessee and lessor of the Property;
- (b) Every person or entity holding a lien against, or a security interest in, the Property;
- (c) Every person or entity holding a future, contingent, or other interest of any kind in the Property

This could be other owners, persons holding an easement over your property, banks, mortgage companies, state or federal agencies or entities, programs specific to the use of the property and any and all others with any interest in the property. Some examples could be; a USDA program providing funds for an owner not to grow a particular crop on the land, banks with second, third or other mortgage interest. If using an attachment, the attachment must be submitted in such a format as to easily distinguish the various owners and interest in the property.

| | | |
|--------------------------------|-------------------|------|
| Name: None | Day Time Phone #: | |
| Address: | | |
| City: | State: | Zip: |
| Describe Interest in Property: | | |

Section 9 AUTHORITY TO ENTER PROPERTY

This section of the form authorizes the Department, the Regulating Entity and their officers, employees, agents, and contractors to enter the Property as necessary to verify information, appraise the property, or conduct other business related to this claim. Each person that can restrict access to the property must sign in the appropriate box in this section.

| | |
|---|------------------------------------|
| I/We Affix Our Signature(s) to this Form Granting Access to the Subject Property in ANY Manner or Form Deemed Appropriate by State Agency or Agencies for the Review of the Property in Furtherance of the Processing or Handling of this Claim: SIGNATURES OF ALL OWNERS WITH AUTHORITY TO RESTRICT ACCESS | |
| Printed Name: <i>Shirlee Lenke</i> | Signature: <i>Shirlee Lenke</i> |
| Interest in Property: <i>Controlling member of Lenke Properties LLC</i> | |
| Printed Name: | Signature: |
| Interest in Property: | |
| Printed Name: | Signature: |
| Interest in Property: | |
| Printed Name: | Signature: |
| Interest in Property: | |
| Printed Name: | Signature: |
| Interest in Property: | |

Section 10 ATTACHMENTS

Check the appropriate box for all documents, evidence and supporting information that is attached and included as a part of this claim.

| | | | |
|---|---|--|---|
| Title Report: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | Deed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | Appraisal(s) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | County Assessor's Plat Card: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| Affidavits: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Tax Lot Map(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | Subdivision or Partition Conditions: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Tax Reductions: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| Property Tax Statement (proof of ownership): Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> See Exhibit O, attached | | | |
| Participating Federal Programs: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | | <input type="checkbox"/> Other Information: (Explain) | |
| <input type="checkbox"/> Other Information: (Explain) | | <input type="checkbox"/> Other Information: (Explain) | |

Section 11 OTHER CLAIMS FILED

List all other governmental entities you or someone on your behalf has submitted claims to regarding the Property involved in this claim. List all claims submitted to the state or other entities relating to this property or any portion thereof on anyone's behalf. You must list all entities even if you only submitted a claim to them for a portion of the Property that is the subject of this claim.

| | | |
|---|---------------------------|---------------|
| Have you submitted a claim to another governmental entity regarding the property listed in this claim? No <input type="checkbox"/> | | |
| Yes <input checked="" type="checkbox"/> Date: | To Whom: Multnomah County | Claim number: |
| Yes <input type="checkbox"/> Date: | To Whom: | Claim number: |
| Yes <input type="checkbox"/> Date: | To Whom: | Claim number: |
| Yes <input type="checkbox"/> Date: | To Whom: | Claim number: |

ADDITIONAL INFORMATION THAT MAY BE SUBMITTED IN SUPPORT OF THIS CLAIM

| |
|--|
| <p>1. A report by a certified appraiser that addresses the Reduction in Fair Market Value of the Property resulting from the enactment or enforcement of the cited Land Use Regulation(s) as of the date the Claim was filed;</p> <p>2. A statement of the effect of the cited Land Use Regulation(s) on any Owner's tax status, including without limitation any tax deferrals or tax reductions related to the cited Land Use Regulation(s);</p> <p>3. Citation to each Land Use Regulation(s) in effect at the time the owner acquired the property explaining how the use that is now not permitted by the Land Use Regulation(s) set forth in Oregon Administrative Rules (OAR) 125-145-0040(9) was permitted at the time the owner acquired the property;</p> <p>4. Names and addresses of Owners of all real property located within 100 feet of the Property if the Property is located in whole or in part in an urban growth boundary, 250 feet of the Property if the Property is located outside an urban growth boundary and not within a farm or forest zone and 750 feet of the Property if the Property is located in a farm or forest zone.</p> |
|--|

I ATTEST THAT I HAVE THE INFORMATION CONTAINED IN THIS CLAIM IS TRUE AND CORRECT (Signatures of the claimant(s) and (if the claim is prepared by an agent) any agent of the claimant(s).)

① Raymond Smith 11/16/06
Claimant Signature Date

_____/_____/_____
Claimant Signature Date

_____/_____/_____
Claimant Signature Date

State of Oregon

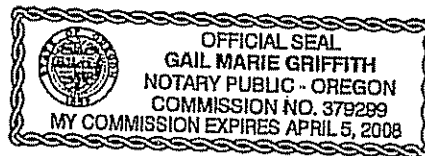
County of Multnomah

① Signed and sworn to before me on 11 / 6, 2006 by
(month - day - year)

Gail Marie Griffith
(Notary Public - State of Oregon)

Notary Seal

My commission expires: April 5, 2008



I ATTEST THAT I HAVE THE INFORMATION CONTAINED IN THIS CLAIM IS TRUE AND CORRECT. (Signatures of the claimant(s) and (if the claim is prepared by an agent) any agent of the claimant(s).)

Shirley Lencke 11/18/06
Claimant Signature Date

_____/_____/_____
Claimant Signature Date

_____/_____/_____
Claimant Signature Date

State of Oregon

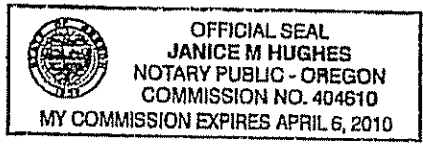
County of Multnomah

Signed and sworn to before me on 11 - 08, 2006 by ^{Shirlee} ~~Shirley~~ Lencke
(month - day - year)

Janice M. Hughes
(Notary Public - State of Oregon)

Notary Seal

My commission expires: April 6, 2010



1 **CERTIFICATE OF SERVICE**


2 I certify that on July 25, 2007, I served the foregoing *State Defendants' Motions to*
3 *Dismiss; Memorandum of Points and Authorities (ORCP 21A(1)(8)) and Declaration of Janice*
4 *K. Dean in Support of the State Defendants' Motion to Dismiss* upon the parties hereto by the
5 method indicated below, and addressed to the following:

6 Kelly Clark
7 Kristian Roggendorf
8 O'Donnell & Clark, LLP
9 Fremond Place II, Suite 302
10 1650 NW Naito Parkway
11 Portland, OR 97209

HAND DELIVERY
 MAIL DELIVERY
 OVERNIGHT MAIL
 TELECOPY (FAX)

12 Stephen Madkour
13 Office of Multnomah County Counsel
14 501 SE Hawthorne
15 Suite 500
16 Portland, OR 97214

HAND DELIVERY
 MAIL DELIVERY
 OVERNIGHT MAIL
 TELECOPY (FAX)

17 
18 _____
19 DARSEE STALEY #87351
20 Senior Assistant Attorney General
21 Trial Attorney
22 Tel (503) 947-4700
23 Fax (503) 947-4792
24 Darsee.Staley@doj.state.or.us
25 Of Attorneys for State Defendants
26