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

HARRY T. LARSEN and ALBERTA M. LARSEN,

Plaintiffs,

v.

STATE OF OREGON, by and through the Oregon Development of Land Conservation and Development,

Defendant.

Case No. 06CV0048
DEFENDANT'S RESPONSE TO PLAINTIFFS' MOTION FOR RECONSIDERATION

Plaintiffs moved for summary judgment on the dispositive issues in this case: (1) the date on which plaintiffs acquired the property for purposes of Measure 37 and (2) whether state land use restrictions subsequently enacted reduced the property's value. The court decided those issues against plaintiffs and determined that defendant is entitled to judgment. Plaintiffs' Motion for Reconsideration should be denied.

Plaintiffs moved for summary judgment on the grounds that there was no genuine issue of material fact and plaintiffs were entitled to judgment as a matter of law. The State agreed that the facts were not in dispute and also moved for summary judgment. The court's opinion specifically found that "the history of acquisition is undisputed" and recited the material facts in detail. Letter Opinion, June 18, 2007, p 2. Moreover, having denied plaintiffs' motion the court determined that plaintiffs' "failure of proof goes to the very foundation of a claim under ORS 197.352," and instructed defendant's counsel to prepare an order *and judgment*.

Plaintiffs seek reconsideration on the grounds that "there is at a minimum a question of fact" about the existence of an oral agreement, or at least that the court failed to determine

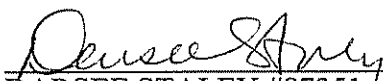
1 whether there were any genuine issues of material fact on that issue. Plaintiffs are mistaken.
2 The alleged oral agreement was one of several issues extensively briefed and argued by the
3 parties on the basis of undisputed facts. Plaintiffs' Motion for Reconsideration does not identify
4 any conflicting evidence on this issue, and the court specifically determined that "no admissible
5 evidence establishes proof of a sales agreement between the owner and Plaintiff." Ltr Op, p 3
6 (emphasis in original).

7 The Motion should be denied.

8 DATED this 5 day of July, 2007.

9 Respectfully submitted,

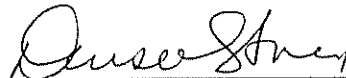
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1 **CERTIFICATE OF SERVICE**

2 I certify that on July 5, 2007, I served the foregoing *Defendant's Response to*
3 *Plaintiffs' Motion for Reconsideration* upon the parties hereto by the method indicated below,
4 and addressed to the following:
5 Edward P. Fitch
6 Michael R. McLane
7 Bryant, Emerson & Fitch, LLP
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9 Redmond, OR 97756
10 Attorney for Plaintiffs

___ HAND DELIVERY
✓ MAIL DELIVERY
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___ TELECOPY (FAX)

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