



LANE COUNTY GOVERNMENT NEWS

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LANE COUNTY EXAMINES IMPLEMENTATION OF MEASURE 37 AND CREATES PROCESSES FOR CLAIM REVIEW

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In the wake of Ballot Measure 37's passage by the state's citizens, Lane County Commissioners are moving forward to create some initial local processes to receive claims while awaiting further state mechanisms for processing claims.

Ballot Measure 37, approved by Oregon voters in the November election, went into effect on December 2, 2004. The measure amends Oregon statute to allow an owner of private real property to file a claim with the governmental jurisdiction responsible for implementing or enforcing a regulation when he or she believes it has devalued that property. The government (local or state) receiving a valid claim must either pay compensation for the reduced property value or take action to modify, remove or not apply the regulation to the property. If the government fails to take either of those actions within 180 days of the written demand, the property owner may pursue the claim in Circuit Court.

On December 1, the Lane County Board of Commissioners adopted an ordinance laying out the process for property owners to file claims involving Lane County land use regulations that they believe have reduced their property value. The Lane County process includes a claim form, requires claimants to provide the information necessary for the County to evaluate the claim as well as a claim-processing fee to offset costs of staff time to research the claim, prepare a report and presentation to the Board of Commissioners, and conduct a public hearing.

Oregon Governor Ted Kulongoski has directed state agencies and the Attorney General's office to work on establishing a centralized mechanism for processing claims made against state regulations. State agencies will also be working with local jurisdictions to address issues of joint jurisdiction. The state may act through adoption of administrative

rules or amendment of the statute (through the legislature) to clarify or add implementing language to Measure 37.

There is much uncertainty about how Measure 37 will be implemented and about how the nuances of individual claim situations will be interpreted under the law. Lane County is required to take action on a claim within the 180 days required by the measure.

LANE COUNTY CLAIM PROCESS

The information required to be submitted with a claim includes:

- Identification of the affected property
- Proof of ownership
- A title report reflecting the claimant's ownership interest in the property
- Contact information for the claimant
- Identification of the regulation alleged to reduce the property value
- A statement of how the regulation affects the property value
- The amount claimed as compensation
- An appraisal demonstrating the reduction in property value
- A statement of whether the property owner seeks compensation or a waiver/modification of the regulation
- An initial claim-processing fee deposit of \$750 and \$100 notice costs will be required in order to offset staff time involved in researching the claim, preparing a report for presentation to the Board of Commissioners, and conducting a public hearing.

Claim forms may be obtained from, and submitted to, the Lane County Land Management Division, 125 E. 8th Avenue, Eugene. County staff is not able to provide advice on the validity of a Measure 37 claim nor to perform the research to document a Measure 37 claim. Property owners are advised to consult an attorney or a land use consultant for such assistance.

In advance of the Board of Commissioners public hearing and action on a specific claim, Lane County will notify neighboring property owners of the public hearing. However, it is important to note that decisions made pursuant to Measure 37 are not land use decisions; thus they are not subject to the usual land use decision procedures. Likewise, the Board of Commissioners decision on a Measure 37 claim cannot be appealed as a land use decision.

Once the County has determined the validity of the claim – claimants are referred to the text of Measure 37 to determine if they are eligible – the Board of Commissioners will decide whether to pay the claim, waive or modify the regulation, or deny the claim. At this point, a source of funds for paying claims has not been identified. ###

Lane County Government provides for the safety and security of Lane County's 329,400 citizens through public safety, public works, human services, elections, vital records and other systems