

Lane County

LAND MANAGEMENT DIVISION
125 EAST 8TH AVENUE
EUGENE, OREGON 97401
PHONE: 541-682-3823
FAX: 541-682-3947

W. 16. f.

AGENDA COVER MEMO

MEMO DATE: January 6, 2006

AGENDA DATE: January 18, 2006

TO: BOARD OF COUNTY COMMISSIONERS

FROM: BILL VANVACTOR, COUNTY ADMINISTRATOR
KENT HOWE, PLANNING DIRECTOR

RE: In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA 05-6130, Virgil & Harlene Ward Trust)

I. MOTION

Move to approve the Measure 37 Claim and adopt the order attached to this memo.

II. ISSUE OR PROBLEM

Shall the Board of County Commissioners compensate an applicant under Ballot Measure 37 and LC 2.700 through 2.770 for the reduction in fair market value of the affected property interest resulting from enactment or enforcement of restrictive land use regulations or modify, remove, or discontinue application of those land use regulations to the subject property to allow Davidson Industries to use the property as allowed at the time it acquired the property?

III. DISCUSSION

A. Background

Applicant: Jerry Ward

Current Owner: Virgil and Harlene Ward Trust

Agent: Jerry Ward

Legal Description of Property: 17-02-24 #1400

Acreage: 14 acres

Current Zoning: F2 (Impacted Forest)

Date Property Acquired: August 27, 1956

Date claim submitted: August 9, 2005 (180th day is February 9, 2006)

Land Use Regulations in Effect at Date of Acquisition: None

County land use regulation which restricts the use and reduces the fair market value of claimant's property: LC 16.290 RR-5 (Rural Residential)

B. Specific Relief Sought:

On August 9, 2005, Jerry Ward submitted a Measure 37 Claim on behalf of the Virgil and Harlene Ward Trust. The applicant has requested compensation, or a waiver of the RR (Rural Residential) zone regulations that prohibit the division of the property into lots that contain less than five acres each, and development of a single family dwelling on each lot.

C. Lane Code Submittal Requirements

The applicant has paid the processing fee and submitted evidence in support of his claim.

The applicant has submitted information addressing all of the Lane Code submittal requirements, including an appraisal, a title report, and a deed that establishes Virgil Ward is the current owner and acquired the property on August 27, 1956.

D. Analysis

According to the tax assessor, the property contains 14 acres and a dwelling built in 1972. The current zoning is RR-5 (Rural Residential) and requires all new parcels to contain at least 5 acres. The land owner wishes to subdivide the property into approximately 12 lots and place a dwelling on each lot. Because the property contains 14 acres, the current zoning allows a maximum of two parcels.

The property was unzoned when it was acquired in 1956, but the current RR zone requires new parcels to contain at least 5 acres.

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and
2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and
3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

If a reduction in fair market value has been established, the County has two options:

- Compensate the land owner for the loss of fair market value, or
- Waive the restrictive county land use regulations. The regulations can only be waived to allow a use permitted when the current owner acquired the property.

Regarding #1, the current owner acquired the property in 1956 when it was unzoned. The current RR zone requires at least 5 acres for new lots. Because of this, the land owner is prevented from subdividing the land as allowed in 1956.

Regarding #2, the applicant has submitted an appraisal by a certified real estate appraiser. Based on the appraisal, the existing 14 acres is worth \$460,000. If the property is subdivided into 12 lots with a dwelling on each lot, the property would be worth \$1,130,000.

Doug Dupriest has submitted a letter in opposition to this claim. His letter identifies several issues with the claim as well as several assumptions within the appraisal that, in his opinion, render the claim invalid. However, these issues and assumptions are common to other Measure 37 claims that have been deemed valid by Lane County. One of the issues identified by Mr. Dupriest is that the real estate market within Lane County has been fundamentally altered by Measure 37 and any "comparable" sales within the appraisal are not valid if the sales occurred prior to the passage of Measure 37. Based on the approval of previous claims, the Board has accepted the assumptions of a licensed appraiser regarding the valuation of land for a Measure 37 claim.

Regarding #3, the RR-5 (Rural Residential) minimum parcel size does not appear to be an exempt regulation described in Measure 37 or LC 2.710.

Regarding the ownership, Virgil Ward acquired the property in 1956. It remained in his ownership until May 3, 2005, when it was transferred to the Virgil and Harlene Ward Trust. This is a revocable trust and Virgil Ward is a trustee. If the trust is revoked, the property ownership would revert to Virgil Ward. Because of this, the current owner is considered the same as the owner who acquired the property in 1956.

E. Conclusion/County Administrator Recommendation

It appears this is a valid claim and the County Administrator recommends the Board waive the restrictive land use regulations of the RR-5 (Rural Residential) zone that prohibit the Virgil and Harlene Ward Trust from developing the property as allowed when it acquired the property.

IV. ALTERNATIVES/OPTIONS

The Board has three options:

1. Determine the application appears valid and direct staff to draft an order to that effect for final Board action.
2. Require more information regarding the proposed development.
3. Conclude the application is not a valid claim and direct the issuance of a final written decision by the County Administrator denying the Claim.

V. RECOMMENDATION

The County Administrator recommends the Board waive the restrictive land use regulations of the RR-5 (Rural Residential) zone that Virgil and Harlene Ward Trust from developing the property as allowed when it acquired the property.

VI. ATTACHMENTS

Order to approve the Measure 37 claim submitted by Jerry Ward on behalf of the Virgil and Harlene Ward Trust.

- A. Written claim and application dated August 9, 2005.
- B. Letter from Doug DuPriest dated December 22, 2005.
- C. Vicinity map.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY,
OREGON**

ORDER No.) IN THE MATTER OF CONSIDERING A BALLOT
) MEASURE 37 CLAIM AND DECIDING
) WHETHER TO MODIFY, REMOVE OR NOT
) APPLY RESTRICTIVE LAND USE
) REGULATIONS IN LIEU OF PROVIDING JUST
) COMPENSATION (Virgil Ward /PA05-6130)

WHEREAS, the voters of the State of Oregon passed Ballot Measure 37 on November 2, 2004, which added provisions to Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment to landowners if a government land use regulation restricts the use of private real property and has the effect of reducing the property value; and

WHEREAS, the Board of County Commissioners of Lane County enacted Ordinance No. 18-04 on December 1, 2004, to establish a real property compensation claim application process in LC 2.700 through 2.770 for Ballot Measure 37 claims; and

WHEREAS, the County Administrator has reviewed an application for a Measure 37 claim submitted by Virgil Ward (PA05-6130), the owner of real property located at 88500 Periwinkle Road near Springfield and more specifically described in the records of the Lane County Assessor as map 17-02-24, tax lot 1400, consisting of approximately 14 acres in Lane County, Oregon; and

WHEREAS, the County Administrator has determined that the application appears to meet all of the criteria of LC 2.740(1)(a)-(d), appears to be eligible for just compensation and appears to require modification, removal or not applying the restrictive land use regulations in lieu of payment of just compensation and has referred the application to the Board for public hearing and confirmation that the application qualifies for further action under Measure 37 and LC 2.700 through 2.770; and

WHEREAS, the Board has confirmed the application appears to qualify for compensation under Measure 37 but Lane County has not appropriated funds for compensation for Measure 37 claims and has no funds available for this purpose; and

WHEREAS, the County Administrator has determined under LC 2.740(4) that modification, removal or not applying the restrictive land use regulation is necessary to avoid owner entitlement to just compensation under Ballot Measure 37 and made that recommendation to the Board; and

WHEREAS, on January 18, 2006, the Board conducted a public hearing on Virgil Ward's Measure 37 claim (PA05-6130) and has now determined that the restrictive RR (Rural Residential) minimum lot and parcel size requirements of LC 16.290 were enforced and made applicable to prevent Virgil Ward from developing the property as he might have been allowed when he acquired the property on August 27, 1956, and that the public benefit from application of the current RR (Rural Residential) land use regulations to the applicants' property is outweighed by the public burden of paying just compensation; and

WHEREAS, Virgil Ward requests either \$670,000 as compensation for the reduction in value of his property or waiver of all land use regulations that would restrict division of land into lots or parcels smaller than five acres which could have otherwise been allowed at the time he acquired the property; and

WHEREAS, the Board finds that under LC 2.760(3) the public interest would be better served by modifying, removing or not applying the challenged land use regulations of the RR (Rural Residential) zone to the subject property in the manner and for the reasons stated in the report and recommendation of the County Administrator incorporated here by this reference except as explicitly revised here to reflect Board deliberation and action to allow Virgil Ward to make application for development of the subject property in a manner similar to what he could have been able to do under the regulations in effect when he acquired the property; and

WHEREAS, this matter having been fully considered by the Lane County Board of Commissioners.

NOW, THEREFORE IT IS HEREBY ORDERED that the applicant Virgil Ward made a valid claim under Ballot Measure 37 by describing the use being sought, identifying the county land use regulations prohibiting that use, submitting evidence that those land use regulations have the effect of reducing the value of the property, showing evidence that he acquired the property before the restrictive county land use regulations were enacted or enforced and the Board hereby elects not to pay just compensation but in lieu of payment Virgil Ward's request shall be granted and the restrictive provisions of LC 16.290 that require a minimum size of five acres for new lots and parcels in the RR (Rural Residential) zone shall not apply to Virgil Ward, so that he can make application for approval to develop the property at 88500 Periwinkle Road commonly known as Lane County Assessor map 17-02-24, tax lot 1400, in a manner consistent with the land use regulations in effect when he acquired the property on August 27, 1956.

IT IS HEREBY FURTHER ORDERED that Virgil Ward will need to make application and receive approval for a subdivision under the other land use regulations applicable to dividing property in the RR (Rural Residential) zone that were not specifically identified or established by Virgil Ward as restricting the use of the property and it would be premature to not apply those regulations given the available evidence. To the extent necessary to effectuate the Board action to not apply the division restrictions of the applicable zone described above, the claimant shall submit appropriate applications for review and approval of a land division a to show the specific development proposal and in the event additional county land use regulations result in a restriction of those uses that has the effect of reducing the fair market value of the property, the County Administrator shall have the authority to determine those restrictive county land use regulations that will not apply to that development proposal to preclude entitlement to just compensation under Measure 37. All other Lane Code land use and development regulations shall remain applicable to the subject property until such time as they are shown to be restrictive and that those restrictions reduce the fair market value of the subject property.

IT IS HEREBY FURTHER ORDERED that this action making certain Lane Code provisions inapplicable to Virgil Ward's use of his property does not constitute a waiver or modification of state land use regulations and does not authorize immediate division of the land or immediate construction of a dwelling. The requirements of state law may contain specific standards

regulating development of the subject property and the applicants should contact the Department of Administrative Services (DAS - State Services Division, Risk Management - Measure 37 Unit, 1225 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml>) and have the State of Oregon evaluate a Measure 37 claim and provide evidence of final state action before seeking county land use approval.

IT IS HEREBY FURTHER ORDERED that the other county land use regulations and rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision shall be recorded in the county deed records. This order shall be effective and in effect as described in LC 2.770 and Ballot Measure 37 to the extent permitted by law. This order does not resolve several questions about the effect and application of Measure 37, including the question of whether the right of applicants to build another dwelling can be transferred to another owner. If the ruling of the Marion County Circuit Court in *MacPherson v. Dept. of Administrative Services*, (Marion County Circ. Ct. Case No. 00C15769, October 14, 2005) becomes final and that decision or any subsequent court decision has application to Lane County in a manner that affects the authority of this Board to grant relief under Ballot Measure 37 and LC 2.700 through 2.770 then the validity and effectiveness of this Order shall be governed by LC 2.770 and the ruling of the court.

DATED this _____ day of _____, 2006.

Bill Dwyer, Chair
Lane County Board of County Commissioners

APPROVED AS TO FORM

Date 1-10-2006 Lane County

Stephen J. Walker
OFFICE OF LEGAL COUNSEL

LANE COUNTY

Original
Commissioner 8/16/05
William J. ...

REC'D AUG 09 2005

Measure 37 Claim Number: M37-

PA 05-6130

Application for Claims Under LC 2.700 through 2.770

Due to Regulatory Reduction of Property Value Under Provisions Added to ORS Chapter 197 by BM37

Note: This completed form together with the referenced supporting documentation and application fee must be submitted to the Lane County Land Management Division, 125 East 8th Avenue, Eugene, Or., 97401 for all claims subject to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), to be considered for compensation under LC 2.700 through 2.770. In all cases, the applicant has the burden of demonstrating, with competent evidence, that all applicable criteria are met and the applicant would be entitled to compensation if the land use regulation continues to apply. Use additional paper, if necessary.

1. Applicant/ Agent

WARD ARCHITECTURE PC
Applicant Name (Please Print)

JERRY L. WARD
Agent Name (Please Print)

2. Property Owner

Please provide the Name, Mailing Address and telephone number of all property owners of record holding interest in the property that is the subject of this application. Include a complete listing of all lien holders, trustees, renters, lessees or anyone with an interest in the property and describe the ownership interest.

VIRGIL DEWAIN & HARLENE WARD TRUST
Property Owner Name (Please Print) Mailing

Property Owner Name (Please Print) Mailing Address Phone

3. Legal Description

Please provide an accurate legal description, tax account number(s), map, street address and location of all private real properties that are the subject of this application.

Assessor Map & Tax Lot 17-02-24; TAX LOT 1400

Street Address 88500 PERIWINKLE RD, SPRINGFIELD, OR 97478 Legal Description Attached _____

4. Identification of Imposed Land Use Regulation

Please identify the Lane Code section or other land use regulation imposed on the private real property that is alleged to restrict the use of the subject property in a manner that reduces the fair market value. Include the date the regulation was first adopted, enforced or applied to the subject property and a written statement addressing all the criteria in LC 2.740(1).

RR5 - 5 ACRES MINIMUM; JULY 2, 1986, ADOPTED BY LCDC - STATE OF OREGON

UPDATED APRIL 13, 1988; SEE ATTACHMENT - WRITTEN STATEMENT ADDRESSING CRITERIA IN LC 2.740(1)
SEE ATTACHMENT - MAY 10, 2005 LETTER FROM LANE CO. VERIFYING PROPERTY UNZONED @ TIME OF PURCHASE.

5. Title Report

Please attach a Preliminary Title Report showing title history and continuous ownership traced to the earliest family member ownership, the date of current owner(s) acquisition and all current interests of record for the subject property, issued within 30 days of the application submittal. Provide copies of relevant deeds.

6. Appraisal/Regulatory Effect

Please provide one original, signed appraisal prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon addressing the requirements of provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in fair market value by showing the difference in the fair market value of the property before and after the application of the challenged regulations as of the date the owner makes written demand for compensation. Include all of the supporting methodology, assumptions and calculations affecting the appraisal.

SEE JUNE 15, 2005 APPRAISAL BY CRAIG E. MCKERN APPRAISER, P.C. & ADDENDUM DATED JULY 20, 2005 BY CRAIG MCKERN, APPRAISER, P.C.

7. Leases, Covenants, Conditions and Restrictions

Please provide copies of any leases or covenants, conditions and restrictions applicable to the subject property.

N/A

8. Identification of Relief Sought

Please specifically indicate what relief is being sought, either a monetary value of the claim describing the reduction in fair market value of the property or the specific use authorization sought in any waiver of the land use regulation.

REMOVAL OF THE RR5 ZONING, REINSTATEMENT OF NO ZONING PRESENT WHEN PROPERTY WAS PURCHASED. IF THAT IS NOT POSSIBLE, THEN MONETARY RELIEF OF \$670,000 OR GREATER AS NEARBY SIMILAR PROPERTY SALE COMPARISONS BECOME AVAILABLE AND DUE TO PROPERTY VALUE INFLATION.

I (we) have completed all of the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) authorized to submit this application on behalf of all those with an interest in the property and all the owner(s) agree to this claim as evidenced by the signature of those owner(s) below. Include additional signatures, as necessary.

Entry by County or its designee upon the subject property is authorized by the owner(s) and the owner(s) consent to the application for claims under provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

Harold W. Ward
Harold E. Ward
Owner(s) Signature

8/6/05
Date

[Signature]
Applicant/Agent Signature

August 6, 2005
Date

The following contacts are provided to assist you in finding the necessary information for this application. For zoning and land use information, please contact the Land Management Division at 682-3577. This phone contact is a message line. Please leave a message and a Planner will return your call. For deeds and records information, please contact Lane County Deeds and Records at 682-3654.

July 26, 2005

Lane County Land Management Division
125 East 8th Ave.
Eugene, OR 97401

RE: M37 Claim for Ward Property @ 88500 Periwinkle Rd.; Springfield, OR 97478
Statement Addressing All The Criteria in LC 2.740(1)

- a) Mr. And Mrs. Virgil Dewain and Pauline M. Ward bought the subject property on August 27, 1956. It was initially a larger parcel over 35 acres, largely a working mint farm. The couple raised four children on the property. Over time two large portions of the property were sold. The Wards created Periwinkle Rd. (a public road) to access the remaining property still owned by the Wards and others. In 2002 Pauline "Pat" Ward died and in 2004 Dewain Ward remarried to Harlene Ward. The present home occupies 16 acres with three barns (tax lot 1400). Tax Lot 801 is adjacent and east of subject property and owned by applicants. It is not a part of this M37 claim since it is already a one- acre parcel created by applicant and seller Edwin and Beulah Hall on October 25, 1973 by deed attached.

The property at time of purchase by applicant was unzoned and remained so until July 2, 1986 (date of LCDC acceptance of Lane Co. zoning). In those intervening years nearby and adjacent property owners in all directions from subject property subdivided their properties into smaller parcels ranging from +/- one-half acre parcels (tax lot 107 and 100; 17-02-25) to +/- two acres. They met the county and state sanitary and water source requirements.

- b) The present RR5 zoning (5 acre minimum parcel sizes) reduces the property value. Please see attached appraisal report by Craig McKern, Appraiser, P.C. dated June 15, 2005 and addendum dated July 20, 2005. The appraisal was based on generating approximately one acre parcels out of the remaining fifteen acres which would have been permissible from the time of property purchase on August 27, 1956 to July 2, 1986, time of acceptance of Lane County zoning by state's LCDC (5 acre parcels under RR5-Rural Residential Zone). Rezoning of property from no minimum size required to minimum of 5 acres parcels is not an exempt regulation as defined in LC 2.710.

Relief sought is the removal of the RR5 zoning and reenactment of the previous "no zoning" that allowed parcel sizes determined by sanitary and water supply requirements.

NOTARIZED STATEMENT

Virgil Dewain Ward and Harlene Ward, husband and wife authorizes Ward Architecture PC; Jerry L. Ward, President to represent us on any and all M37 Claim(s) per OAR 145.0010-.0120.

Signed: Virgil Dewain Ward

Virgil Dewain Ward

8/6/05

Date

Harlene Ward

Harlene Ward

8/6/05

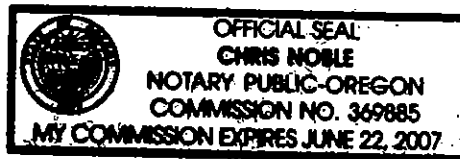
Date

Notarized: On this 6 day of August, 2005 by
Virgil Dewain Ward and Harlene Ward

[Signature]

expires June 22, 2007

State of Oregon
County of Lane



WARRANTY DEED

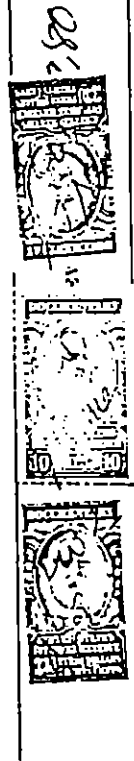
For Value Received A. W. Knox and Johanna Knox, husband and wife

the grantor s. do hereby grant, bargain, sell and convey unto Virgil D. Ward and Pauline M. Ward, husband and wife,

the grantees, the following described premises, to wit:

The Lots numbered Four and Five in Section Twenty Four in Township Seventeen South Range Two West of the Willamette Meridian. Also, Beginning at the Northeast corner of Section Twenty five in said Township and Range and running thence South 89° 4' West 20.00 chains, thence South 11.40 chains to the center of slough, thence along the center of said slough North 62° East 8.31 chains, North 65½° East 4.40 chains, North 49½° East 2.25 chains, thence North 54° East 1.00 chains, thence North 48½° East 2.50 chains, and thence North 53° East 4.63 chains to the place of beginning, all in Lane County, State of Oregon.

"Together with all water rights appurtenant thereto"



TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantor s do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all incumbrances subject to rights of way; easements of record, and taxes for the fiscal year 1956-57 not yet payable

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: August 27, 1956

(SEAL) A. W. Knox (SEAL)
(SEAL) Johanna Knox (SEAL)

STATE OF OREGON, COUNTY OF LANE, ss:
On this 27th day of August 19 56 personally came before me, a Notary Public in and for said county, the within named A. W. Knox and Johanna Knox, husband and wife,

to whom I read the within instrument, and they acknowledged the same to be the identical person s described therein, and that they executed the same freely and voluntarily for the uses and purposes therein named.

Witness my hand and seal this day and year last above written.

[Signature]
Notary Public for Oregon.

My Commission expires April 12th, 1957.

State of Oregon, 1923-1956
County of Lane-ss.

I, Harry L. Chase, County Clerk and ex-officio Recorder of Conveyance, in and for said County, do hereby certify that the within instrument was received for record at

1956 SEP 4 PM 4 09

Rec'd 8'56 D

Lane County, Oregon
HARRY L. CHASE, County Clerk.
Deputy.

FOR VALUE RECEIVED

EDWIN H. HALL and BEULAH D. HALL, husband and wife

herein referred to as grantors, hereby grant, bargain, sell, and convey unto

VIRGIL D. WARD and PAULINE WARD, husband and wife

herein referred to as grantees, the following described real property, with tenements, hereditaments, and appurtenances to said

A tract of land lying in lot 9 of Section 19 and in lot 5 of Section 30 in Township 17 South, Range 1 West of the Willamette Meridian, bounded and particularly described as follows:

Beginning at the Southwest corner of said Section 30, which point is marked by a 2-inch iron pipe, thence along the West line of said Section 19 North 0° 30' East 316.00 feet to a point which is South 0° 30' West 80.00 feet from a 1-inch iron pin marking the Southwest corner of the Jeremia M. Dick Donation Land Claim No. 44 in said township and range; thence South 61° 01.7' East 245.44 feet; thence South 69° 46' East 10.00 feet to a point marked by a 1-inch iron pin; thence South 0° 30' West 94.00 feet to a point in the center of that certain strip of land 40 feet in width conveyed to Lane County by Fred W. Crabtree, et al, by instrument recorded on March 21, 1963 on Reel 215 D, under Clerk's Filing No. 4040, Lane County Oregon Official Records; thence along the center line of said strip of land three courses as follows: (1) North 79° 35' West 33.8 feet, (2) South 61° 30' West 57.0 feet, and (3) South 52° 47' West 180.0 feet, more or less, to a point on the West line of said Section 30; thence North along the West line of said Section 30 a distance of 26.9 feet to the point of beginning, excepting therefrom all of that part thereof lying within the boundaries of said strip of land 40 feet in width conveyed to Lane County, and containing, exclusive of said exception, 0.91 acre, more or less, in Lane County, Oregon.

The true and actual consideration for this transfer is \$1,000.00. The foregoing recital of consideration is true as I verify below.

Dated October 25 1973
Edwin H. Hall (Seal)
Beulah D. Hall (Seal)

STATE OF OREGON, County of Lane, ss.
EDWIN H. HALL and BEULAH D. HALL

Personally appeared the above named

and all of them in the foregoing instrument to be their voluntary act and deed before me:

Dated October 25, A.D. 1973
My Commission Expires May 30, 1975

[Signature]
Notary Public for Oregon

7357536

Commitments of
CASCADE TITLE COMPANY
972 Oak Street Eugene, Oregon
BARGAIN & SALE
DEED

State of Oregon,
County of Lane—ss.
I, D. M. Fenfold, Director of the
Department of Records and Elections,
in and for the said County, do hereby
certify that the within instrument was
received for record at

1973 DEC 28 AM 10 47

Reel 670 R
Lane County OFFICIAL Records.
D. M. FENFOLD, Director of the
Department of Records & Elections.

By [Signature]
Deputy
C22-083-05

Return To:

4435 - CASCADE TITLE COMPANY

2005-05

Bargain and Sale Deed

KNOW ALL MEN BY THESE PRESENTS, That VIRGIL D. WARD, hereinafter called Grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey to VIRGIL D. WARD AND HARLENE WARD AS TRUSTEES, OF THE VIRGIL AND HARLENE WARD TRUST, hereinafter called Grantee, and unto Grantees' heirs, successors and assigns, all of that certain real property situated in the County of Lane, State of Oregon, described as follows, to wit:

SEE ATTACHED EXHIBIT "A"

To have and to hold the same unto the said Grantee and Grantee's heirs, successors and assigns forever. The true and actual consideration paid for this transfer, stated in terms of dollars is \$0.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OF COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

In Witness Whereof, the Grantor has executed this instrument this 3RD day of MAY, 2005.

Virgil D. Ward
VIRGIL D. WARD

STATE OF OREGON, (County of Lane) ss.

This instrument was acknowledged before me on MAY 3, 2005 by Virgil D. Ward.

Joseph M. Silence
Notary Public for Oregon

Grantor's Name and Address:
Virgil D. Ward

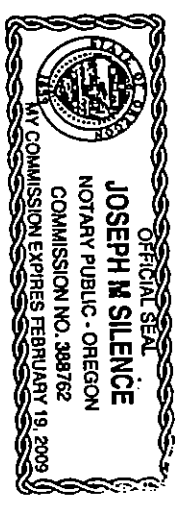


EXHIBIT "A"

The Lots number 4 and 5 in Section 24 in Township 17 South Range 2 West of the Willamette Meridian. Also, beginning at the Northeast corner of Section 25 in said Township and Range and running thence South 89° 4' West 20.00 chains; thence South 11.40 chains to the center of said slough; thence along the center of said slough North 62° East 8.31 chains, North 65 1/2° East 4.40 chains, North 49 1/2° East 2 2/25 chains; thence North 54° East 1.00 chains; thence North 48 1/2° East 2.50 chains, and thence North 63° East 4.63 chains to the Place of Beginning, all in Lane County, State of Oregon.

EXCEPTING therefrom that portion conveyed to Lane County, by instrument recorded September 5, 1957, Real 104D, Instrument No. 20898, Lane County Oregon Records.

ALSO EXCEPTING therefrom a tract of land consisting of all of Lot 4 and a portion of Lot 5 in Section 24 in Township 17 South, Range 2 West of the Willamette Meridian, bounded and particularly described as follows, to-wit:

Beginning at the Northeast corner of said Lot 4, which point is marked by a 1 1/2 inch steel shaft; thence along the North line thereof South 89° 52 1/2' West 272.5 feet, more or less, to a 1 1/2 inch steel shaft marking the Northwest corner of said Lot 4; thence along the West lines of said Lots 4 and 5 South 0° 11 1/2' East 1431.9 feet to a point marked by a 1 1/2 inch steel shaft; thence South 89° 46' East 403.6 feet to a point marked by a 1 1/2 inch steel shaft (which point is hereinafter referred to as "Point A"); thence North 0° 07' West 126.0 feet, more or less, to a point marked by a 1 1/2 inch steel shaft in the South line of the Jeremiah M. Dick Donation Land Claim No. 43; thence along said South line thereof North 89° 46' West 127.3 feet to a 1 1/2 inch steel shaft marking the Southwest corner of said D.L.C. No. 43; thence along the West line of D.L.C. No. 43 North 0° 23 1/2' West 1307.6 feet, more or less, to the Point of Beginning, in Lane County, Oregon.

EXCEPTING therefrom that portion conveyed to Lane County, by instrument Recorded October 22, 1971, Reel 554R, Instrument No. 69479, Lane County Oregon Records.

ALSO EXCEPTING a tract of Land in Lot 5 of Section 24 and in the Northeast quarter of the Northeast quarter (NE 1/4 NE 1/4) of Section 25 in Township 17 South, Range 2 West of the Willamette Meridian, bounded and particularly described as follows, to-wit:

RETURN TO EVERETT

Beginning at a 1 ½ inch steel shaft marking the Southwest corner of the Jeremiah M. Dick Donation Land Claim No. 43 in said township and range; thence along the South line thereof South 89° 46' East 127.3 feet to a point marked by a 1 ½ inch steel shaft; thence South 0° 07' East 126.0 feet, more or less, to a point marked by a 1 ½ inch steel shaft (which point is hereinabove referred to as "Point A"); said point being the TRUE POINT OF BEGINNING; thence along the South line of the tract of land hereinabove described and hereby conveyed North 89° 46' West 190.0 feet; thence South 68° 00' East 172.7 feet; thence South 0° 07' East 798.94 feet, more or less, to the Southerly line of Grantors' property, said Southerly line being along the Northerly line of a roadway right of way 45 feet in width; thence along said Southerly property line and said Northerly right-of-way line North 63° 22 ½' East 33.52 feet to a point marked by a 1 ½ inch steel shaft; thence North 0° 07' West 847.84 feet, more or less, to said True Point of Beginning in Lane County, Oregon.

FURTHER EXCEPTING a portion of Section 24 and 25, Township 17 South, Range 2 West, Willamette Meridian, more particularly described as follows: Beginning at the 1/16th corner on the Section line between the Southeast ¼ of Section 24 and the Northeast ¼ of 25, said Township and Range said beginning point being marked by a 1 ½ inch steel shaft; thence North 0° 11' 30" West along the subdivision line a distance of 302.2 feet to a point marked by a 1 ½ inch steel shaft; thence South 89° 46' East a distance of 213.6 feet; thence South 68° 00' East a distance of 172.7 feet; thence South 0° 07' East a distance of 782.18 feet to the North line of Periwinkle Road as dedicated to Lane County by Instrument Recorded May 19, 1972, Recorder's Reception No. 80, Lane County Oregon Records; thence South 63° 22' 30" West along the said North line to the point of intersection with the North line of relocated Camp Creek Road, County Road Numbered 547 and 1290; thence Westerly along the North line of the said County Road to a point of intersection with the West line of the Northeast ¼ Northeast ¼ of Section 25; thence along the said West line North 0° 07' West a distance of 637 feet, more or less, to the Point of Beginning in Lane County, Oregon.

REC'D DEC 27 2005

VIRGIL AND HARLENE WARD TRUST

This declaration of Trust is for the primary benefit of Virgil and Harlene Ward, and for the secondary benefit of their respective children. The Grantors of this trust are Virgil C. Ward and Harlene Ward. Virgil C. Ward has four children, namely Ron Ward, Jerry Ward, Debra Couche, and Robert Ward. Harlene Ward has five children, namely, James Parker, Susan Munkers, Rodney Vitto, Hollys Slabaug, and Bethyne Hunter.

ARTICLE 1

NAME OF TRUST

This trust shall be known as the Virgil and Harlene Ward Trust.

ARTICLE 2.

PURPOSE OF TRUST

The purpose of this Trust is to provide for the administration and disposition of the trust estate for the benefit of Virgil C. Ward and Harlene Ward during their lifetimes, and to transfer trust property upon their deaths to their beneficiaries outside of probate and in accordance with the terms and conditions of the Trust.

ARTICLE 3

TRUST FUNDING

3.1 INITIAL FUNDING. Trustors will cause to be transferred to the Trustees the sum of approximately \$1,000.00.

3.2 ADDITIONAL CONTRIBUTIONS. The Trustors intend to contribute additional sums on a periodic basis at such times and in such amounts as they may in their complete discretion decide to make.

3.3 REAL PROPERTY. The trustors intend to contribute to the trust the real property in which they reside.

3.4 PERSONAL PROPERTY. The trustors intend to contribute to the trust the personal which each of them own.

3.5 INVESTMENTS, INSURANCE AND INCOME. The trustors intend to contribute to the trust their investments, life insurance, and income.

ARTICLE 4.

DUTIES OF TRUSTEES

4.1 HOLD AND MANAGE PROPERTY. The property shall be held, managed, conservatively invested and reinvested by the Trustees, and their successor or successors, with all the powers as herein provided.

4.2 PAY FOR EXPENSES. The Trustees shall pay for the support and maintenance of Virgil C. Ward and Harlene Ward.

4.3 DEATH OF BENEFICIARY. Upon the death of Virgil C. Ward, the personal property he brought into the marriage with Harlene shall be distributed to his children. In addition, sufficient assets from the trust shall be distributed so that a total of \$100,000 is divided equally among his children, including any investments, life insurance or other assets which may still be payable directly to Jerry Ward, which Jerry Ward is requested to divide equally among his siblings. All the rest and remainder of the trust property shall remain in the trust and used during her lifetime for the benefit and use of Harlene Ward. If Virgil C. Ward survives Harlene Ward all the trust property, except for the tangible personal property Harlene brought into the marriage, which shall be distributed to her children, share and share alike, shall remain in the trust and used during his lifetime for the benefit and use of Virgil C. Ward. Upon the death of both Virgil C. Ward and Harlene Ward, the successor trustees shall distribute the assets of the trust one half to the children of Virgil C. Ward, share and share alike, and the other half of the trust to the daughters of Harlene Ward, Susan Munkers, Hollys Slabaug, and Bethyne Hunter, share and share alike, and the trust shall thereupon be terminated.

SPENDTHRIFT/NON ASSIGNMENT

ARTICLE 5

No interest in the principal or income of this trust shall be anticipated, or encumbered, or be subject to any creditor's claim or the legal process, prior to its actual receipt by the beneficiary, who shall not have the power to sell, assign, transfer, encumber or in any other manner anticipate or dispose of any interest in the trust prior to its actual distribution by the Co-Trustees for the benefit of the beneficiary in the manner authorized by this trust. The trust shall

not be liable for the debts of the beneficiary.

ARTICLE 6

REVOCABILITY

The Trustors retain the right to modify, alter or revoke this trust as they shall deem appropriate. Upon the death of one of the Trustors, this trust shall become irrevocable and may not be modified.

ARTICLE 7

POWERS OF TRUSTEE

The trustees shall have all powers granted to trustees by Oregon law, including the power to manage, distribute and retain assets, to make distributions to or on behalf of the beneficiary; to transfer, convey, loan and make gifts; to employ persons such as attorneys or other advisors to asset at the cost of the trust; and, except as limited by this trust, to do all acts that might legally be done by an individual with absolute ownership and control of the property.

ARTICLE 8

TRUSTEE SUCCESSION

The trustors shall serve as Co-Trustees for as long as they are able and willing to act as such. Upon either of the trustors becoming unable or willing to act as a Co-Trustee, the other trustor shall have the option of serving as sole Trustee, or of appointing Jerry Ward and Susan Munkers as Co-Trustee. Upon the death, resignation or inability of both trustors, Jerry Ward and Susan Munkers are designated successor Trustees.

IN WITNESS WHEREOF Virgil C Ward and Harlene Ward, as Trustors and as Trustees, have hereunto set their hands and seal this _____ day of July, 2004.

COPY

2005-05

Bargain and Sale Deed

RETURN TO EVERGREEN LAND TITLE CO

KNOW ALL MEN BY THESE PRESENTS, That VIRGIL D. WARD , hereinafter called Grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey to VIRGIL D. WARD AND HARLENE WARD AS TRUSTEES, OF THE VIRGIL AND HARLENE WARD TRUST, hereinafter called Grantee, and unto Grantees' heirs, successors and assigns, all of that certain real property situated in the County of Lane, State of Oregon, described as follows, to wit:

SEE ATTACHED EXHIBIT "A"

To have and to hold the same unto the said Grantee and Grantee's heirs, successors and assigns forever. The true and actual consideration paid for this transfer, stated in terms of dollars is \$0.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OF COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

In Witness Whereof, the Grantor has executed this instrument this 3RD day of MAY, 2005.

Virgil D Ward
VIRGIL D. WARD

STATE OF OREGON, (County of Lane) ss.

This instrument was acknowledged before me on MAY 3, 2005 by Virgil D. Ward.

Joseph M Silence
Notary Public for Oregon



Grantor's Name and Address:
Virgil D. Ward

Grantee's Name and Address:
Virgil D. Ward and Harlene Ward, Trustees
88500 Perrywinkle Road
Springfield, Oregon 97478

Send Tax Statements to:
Same as Grantee Above

Division of Chief Deputy Clerk
Lane County Deeds and Records

2005-032251



\$36.00

RPR-DEED Cnt=1 Stn=4 CASHIER 02
\$15.00 \$11.00 \$10.00

05/04/2005 10:48:22 AM

EXHIBIT "A"

The Lots number 4 and 5 in Section 24 in Township 17 South Range 2 West of the Willamette Meridian. Also, beginning at the Northeast corner of Section 25 in said Township and Range and running thence South 89° 4' West 20.00 chains; thence South 11.40 chains to the center of said slough; thence along the center of said slough North 62° East 8.31 chains, North 65 1/2° East 4.40 chains, North 49 1/2° East 2/25 chains; thence North 54° East 1.00 chains; thence North 48 1/2° East 2.50 chains, and thence North 63° East 4.63 chains to the Place of Beginning, all in Lane County, State of Oregon.

EXCEPTING therefrom that portion conveyed to Lane County, by instrument recorded September 5, 1957, Real 104D, Instrument No. 20898, Lane County Oregon Records.

ALSO EXCEPTING therefrom a tract of land consisting of all of Lot 4 and a portion of Lot 5 in Section 24 in Township 17 South, Range 2 West of the Willamette Meridian, bounded and particularly described as follows, to-wit:

Beginning at the Northeast corner of said Lot 4, which point is marked by a 1 1/2 inch steel shaft; thence along the North line thereof South 89° 52 1/2' West 272.5 feet, more or less, to a 1 1/2 inch steel shaft marking the Northwest corner of said Lot 4; thence along the West lines of said Lots 4 and 5 South 0° 11 1/2' East 1431.9 feet to a point marked by a 1 1/2 inch steel shaft; thence South 89° 46' East 403.6 feet to a point marked by a 1 1/2 inch steel shaft (which point is hereinafter referred to as "Point A"); thence North 0° 07' West 126.0 feet, more or less, to a point marked by a 1 1/2 inch steel shaft in the South line of the Jeremiah M. Dick Donation Land Claim No. 43; thence along said South line thereof North 89° 46' West 127.3 feet to a 1 1/2 inch steel shaft marking the Southwest corner of said D.L.C. No. 43; thence along the West line of D.L.C. No. 43 North 0° 23 1/2' West 1307.6 feet, more or less, to the Point of Beginning, in Lane County, Oregon.

EXCEPTING therefrom that portion conveyed to Lane County, by instrument Recorded October 22, 1971, Reel 554R, Instrument No. 69479, Lane County Oregon Records.

ALSO EXCEPTING a tract of Land in Lot 5 of Section 24 and in the Northeast quarter of the Northeast quarter (NE 1/4 NE 1/4) of Section 25 in Township 17 South, Range 2 West of the Willamette Meridian, bounded and particularly described as follows, to-wit:

CONTINUED

Beginning at a 1 ½ inch steel shaft marking the Southwest corner of the Jeremiah M. Dick Donation Land Claim No. 43 in said township and range; thence along the South line thereof South 89° 46' East 127.3 feet to a point marked by a 1 ½ inch steel shaft; thence South 0° 07' East 126.0 feet, more or less, to a point marked by a 1 ½ inch steel shaft (which point is hereinabove referred to as "Point A"); said point being the TRUE POINT OF BEGINNING; thence along the South line of the tract of land hereinabove described and hereby conveyed North 89° 46' West 190.0 feet; thence South 68° 00' East 172.7 feet; thence South 0° 07' East 798.94 feet, more or less, to the Southerly line of Grantors' property, said Southerly line being along the Northerly line of a roadway right of way 45 feet in width; thence along said Southerly property line and said Northerly right-of-way line North 63° 22 ½' East 33.52 feet to a point marked by a 1 ½ inch steel shaft; thence North 0° 07' West 847.84 feet, more or less, to said True Point of Beginning in Lane County, Oregon.

FURTHER EXCEPTING a portion of Section 24 and 25, Township 17 South, Range 2 West, Willamette Meridian, more particularly described as follows: Beginning at the 1/16th corner on the Section line between the Southeast ¼ of Section 24 and the Northeast ¼ of 25, said Township and Range said beginning point being marked by a 1 ¼ inch steel shaft; thence North 0° 11' 30" West along the subdivision line a distance of 302.2 feet to a point marked by a 1 ¼ inch steel shaft; thence South 89° 46' East a distance of 213.6 feet; thence South 68° 00' East a distance of 172.7 feet; thence South 0° 07' East a distance of 782.18 feet to the North line of Periwinkle Road as dedicated to Lane County by instrument Recorded May 19, 1972, Recorder's Reception No. 80, Lane County Oregon Records; thence South 63° 22' 30" West along the said North line to the point of intersection with the North line of relocated Camp Creek Road, County Road Numbered 547 and 1290; thence Westerly along the North line of the said County Road to a point of intersection with the West line of the Northeast ¼ Northeast ¼ of Section 25; thence along the said West line North 0° 07' West a distance of 637 feet, more or less, to the Point of Beginning in Lane County, Oregon.

Craig E. McKern, Appraiser, P.C.
 State Certified Residential Real Estate Appraiser
 Mailing: 1574 Coburg Road, PMB 397, Eugene, Oregon 97401-4802
 Telephone 541-345-0744 Facsimile 541-345-0577
 email: cem9th@msn.com

July 20, 2005

Virgil and Harlene Ward
 c/o Jerry L. Ward, agent
 7409 SW Fulton Park Boulevard
 Portland, OR 97219

RE: Lane Code 2.740 (6)

Jerry,

For your files, here is the Ballot Measure 37 summary for the Ward property at 88500 Periwinkle Road, Springfield, Oregon 97478. This includes two appraisal reports: the subject site in its entirety (Tax Lot 17-02-24-00-01400) as report 041705A and for a hypothetical 1.2 acre portion of that site as described in report 041705.

The assignment consisted of two appraisals:

Estimated value of subject in total "as is" on current 14.18 acre m/l site -	\$460,000
Estimated value of one hypothetical 1.2 acre site out of Tax Lot 1400 -	\$70,000

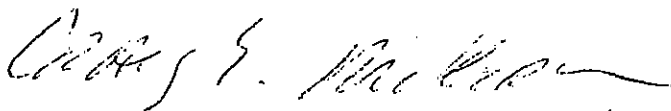
For purposes of this letter and summary required by the county, it is postulated :

- 1) thirteen (13) hypothetical one acre parcels could be created from 14.18 acre Tax Lot 1400, including the present homesite.
- 2) The present dwelling would be on one of the one plus acre hypothetical sites and its calculated value (not separately appraised) could be generally determined for purposes of this county requirement as: \$70,000 site plus \$207,920 depreciated improvement value plus \$10,000 depreciated site improvements for a calculated total of \$287,920; say, \$290,000. Note that depreciated contributory value of outbuildings not on the hypothetical one plus acre dwelling site are excluded from this calculation.
- 3) This leaves 12 hypothetical one plus acre parcels at \$70,000 each which calculates to \$840,000.

The value difference using appraised and hypothecated values is then arrived at arithmetically: \$290,000 plus \$840,000 = \$1,130,000 less \$460,000 "as is" value = \$670,000 estimated hypothetical value difference under a one acre hypothetical parcel scenario assumption.

Cordially,

Craig E. McKern



delivered via facsimile to 503-246-0746

ls, Jls 8/6/05

File No. 041705B

Summary Appraisal Reports of Complete Appraisals of

88500 Periwinkle Road
Springfield, Oregon 97478
(the entire parcel of Tax Lot 17-02-24-00-01400
the "before" scenario)

AND

a HYPOTHETICAL vacant acreage located at

Number Not Assigned Periwinkle Road
Springfield, Oregon 97478

A Hypothetical 1.2 acre portion of Tax Lot 17-02-24-00-01400
shown as "Parcel 1" on attached client's map
(as an "after" scenario)

Client:

Ward, Virgil D.
88500 Periwinkle Road
Springfield, Oregon 97478

Purpose and Use of the Report:
For Measure 37 Land Use Appeal proceedings
in Lane County, Oregon

Date of Most Recent Inspection
and Effective Date of Report:

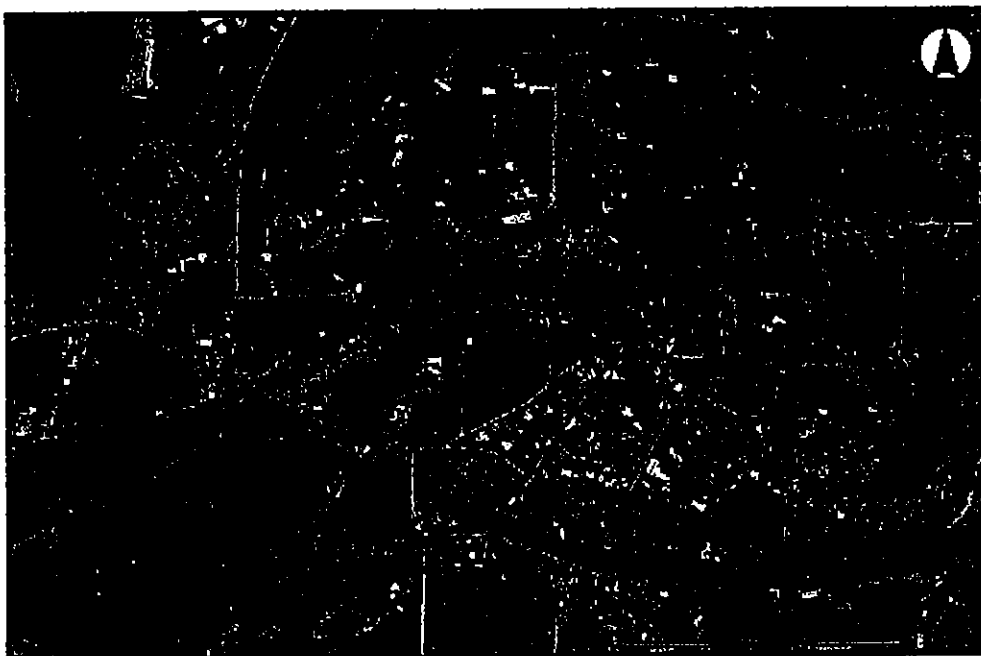
May 2, 2005

Report Completion Date:

June 15, 2005

Prepared by:

Craig E. McKern, Appraiser, P.C.
Certified Residential Real Estate Appraiser
1574 Coburg Road, PMB 397
Eugene, Oregon 97401-4802
files 041705A and 041705B



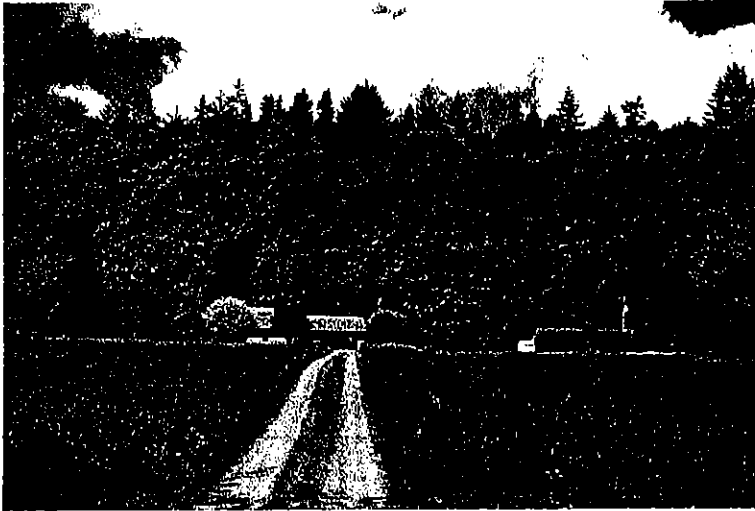
Aerial view from county sources of subject's general location with Camp Creek Road running east-west along the lower third of the photo and Periwinkle Road running diagonally to the northeast out of the center of the photo



Detail photo of Ward property with west property line to right of driveway on left, Periwinkle Road diagonally lower left to upper right and subject dwelling in upper center of photo. Not shown is a steep hillside area north of dwelling and barn

Selling PHOTOGRAPH ADDENDU One

Borrower/Client	No borrower				
Property Address	88500 Periwinkle Road				
City	Springfield	County	Lane *** fire patrol fee	State	OR Zip Code 97478
Lender	Ward, Virgil D.				



Subject from periwinkle Road looking north
 Note steep wooded area with subject site
 extending to near top of slope; about 13 of the
 14 plus acres is level or fairly level open pasture
 land at this time



South elevation



Southwest elevation

Lending PHOTOGRAPH ADDENDUM Two

Borrower/Client	No borrower						
Property Address	88500 Periwinkle Road						
City	Springfield	County	Lane *** fire patrol fee	State	OR	Zip Code	97478
Lender	Ward, Virgil D.						



View to west from west lawn area



Creek looking from northwest backyard to west showing toe of steep slope on right; pasture land between trees appears buildable

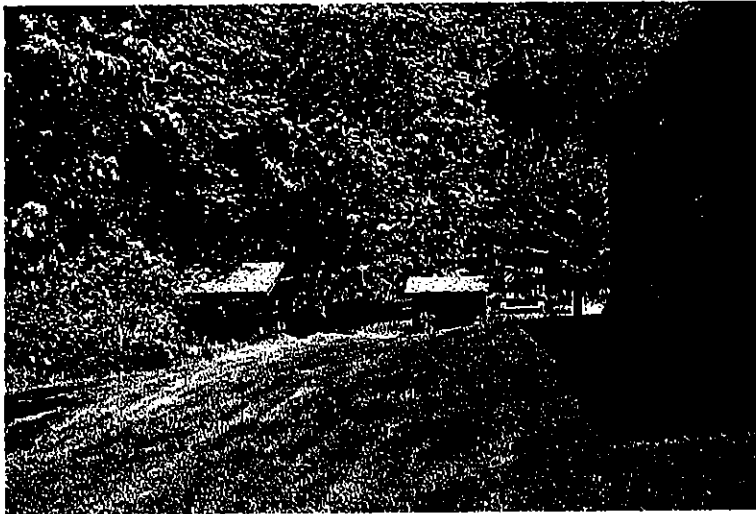
Creek generally holds water all year and does not flood above the near bank, per owner



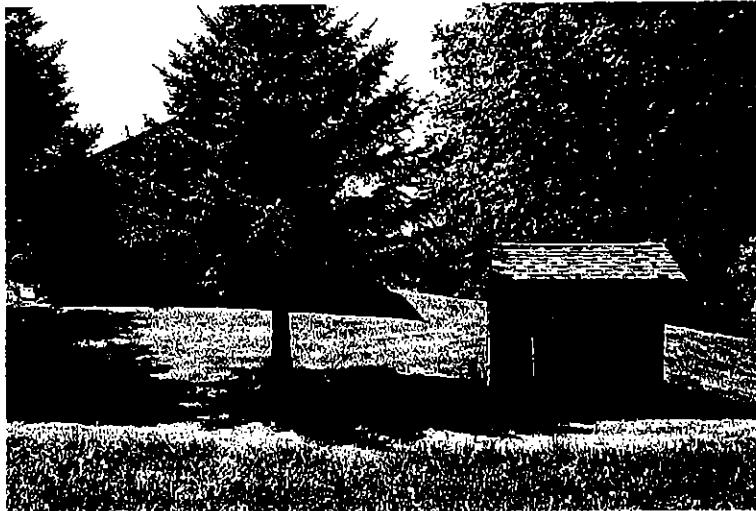
North elevation looking east

D. Listing PHOTOGRAPH ADDENDUM Three

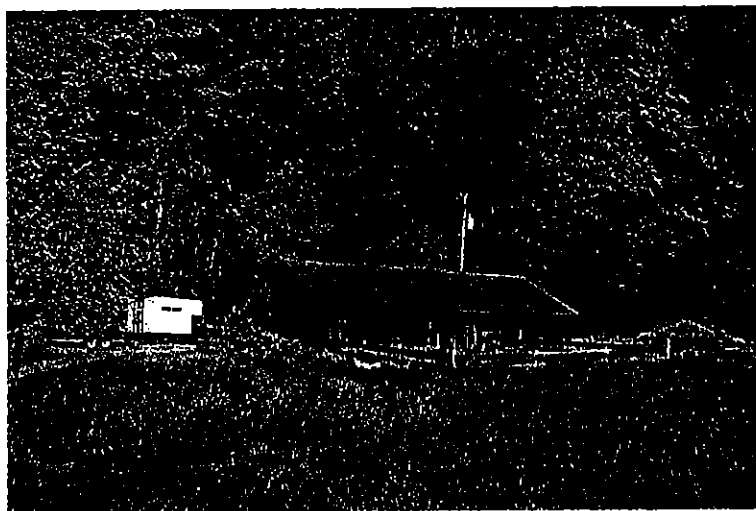
Borrower/Client	No borrower						
Property Address	88500 Periwinkle Road						
City	Springfield	County	Lane *** fire patrol fee	State	OR	Zip Code	97478
Lender	Ward, Virgil D.						



North elevation showing pumphouse, shed
Creek at toe of slope along left of photo



East elevation from east lawn area



Older horse barn is 24' x 48', pole and beam construction, metal roof, dirt floor, three horse stalls and tack room plus two equipment bays

Summary Appraisal Report

UNIFORM RESIDENTIAL APPRAISAL REPORT

File No. 041705A

Property Address 88500 Periwinkle Road City Springfield State OR Zip Code 97478
Legal Description Metes and Bounds Legal Description; see deed or exhibit attached
Assessor's Parcel No. Tax Lot 17-02-24-00-01400 Tax Year 04-05 R.E. Taxes \$ 1,527.51 Special Assessments \$ 56.00 ***

Location Urban Suburban Rural
Built up Over 75% 25-75% Under 25%
Growth rate Rapid Stable Slow
Property values Increasing Stable Declining
Demand/Supply Shortage In balance Over supply
Marketing time Under 3 mos. 3-6 mos. Over 6 mos.

Note: Race and the racial composition of the neighborhood are not appraisal factors.
Neighborhood boundaries and characteristics: The subject area is generally bounded by the McKenzie River (south and east), Camp Creek-Mohawk River ridgelines (north and west).
Factors that affect the marketability of the properties in the neighborhood (proximity to employment and amenities, employment stability, appeal to market, etc.):

Project information for PUDs (if applicable) - Is the developer/builder in control of the Home Owners' Association (HOA)?
Approximate total number of units in the subject project
Describe common elements and recreational facilities: The subject site is not in a Planned Unit Development.

Dimensions Irregular, see map attached
Site area 14.18 acres more or less
Specific zoning classification and description RR-5 (5 acre minimum site for new partitions)
Zoning compliance Legal
Highest & best use as improved: Present use
Utilities Public Other
Off-site Improvements Type Public Private

Comments (apparent adverse easements, encroachments, special assessments, slide areas, illegal or legal nonconforming zoning use, etc.): The site is a larger than presently typical parcel for this location after a series of partitions and subdivisions over the past 40 plus years.

Table with columns: GENERAL DESCRIPTION, EXTERIOR DESCRIPTION, FOUNDATION, BASEMENT, INSULATION. Rows include No. of Units, No. of Stories, Type, Design, Existing/Proposed, Age, Effective Age.

Table with columns: ROOMS, Foyer, Living, Dining, Kitchen, Den, Family Rm., Rec. Rm., Bedrooms, # Baths, Laundry, Other, Area Sq. Ft. Rows include Basement, Level 1, Level 2.

Interior Materials/Condition HEATING KITCHEN EQUIP. ATTIC AMENITIES CAR STORAGE:
Floors Carpet, Vinyl
Walls Drywall, Panel
Trim/Finish Maple, painted wood
Bath Floor Vinyl
Bath Wainscot Fiberglass
Doors Six Panel/Slider

Additional features (special energy efficient items, etc.): Retrofit weatherized with vinyl thermal slider and casement windows, weatherstrip, added attic and floor insulation.
Condition of the improvements, depreciation (physical, functional, and external), repairs needed, quality of construction, remodeling/additions, etc.: Subject has been a one owner home built in 1973 per county records.

UNIFORM RESIDENTIAL APPRAISAL REPORT

File No. 041705A

Valuation Section

Table with columns for COST APPROACH and COMMENTS. Includes rows for ESTIMATED SITE VALUE, ESTIMATED REPRODUCTION COST-NEW-OF IMPROVEMENTS, and INDICATED VALUE BY COST APPROACH.

Table with columns for SALES COMPARISON ANALYSIS. Includes rows for ITEM, SUBJECT, COMPARABLE NO. 1, 2, and 3, detailing sales price, location, and adjustments.

Comments on Sales Comparison (including the subject property's compatibility to the neighborhood, etc.): Very limited recent sale data in subject area for similar age and size homes on acreages which can be divided into two parcels.

Table with columns for SALES COMPARISON ANALYSIS. Includes rows for ITEM, SUBJECT, COMPARABLE NO. 1, 2, and 3, detailing date, price, and data source.

INDICATED VALUE BY SALES COMPARISON APPROACH \$ 460,000

INDICATED VALUE BY INCOME APPROACH (if Applicable) Estimated Market Rent \$ N/A /Mo. x Gross Rent Multiplier N/A = \$

This appraisal is made [X] "as is" [] subject to the repairs, alterations, inspections or conditions listed below [] subject to completion per plans & specifications.

The purpose of this appraisal is to estimate the market value of the real property that is the subject of this report, based on the above conditions and the certification, contingent and limiting conditions, and market value definition that are stated in the attached Freddie Mac Form 439/FNMA form 1004B (Revised June 1993).

I (WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS REPORT, AS OF May 2, 2005

APPRaiser: Signature [Signature] Name Craig E. McKern, Appraiser, P.C. Date Report Signed June 15, 2005 State Certification # CR00024

Supervisory Appraiser (Only if Required): Signature [] Did [] Did Not [] Inspect Property

Or State License # State OR State email: cem9th@msn.com State phone 541-345-0744/fax 541-345-0577 State

Comparable Photo Page

Borrower/Client No borrower			
Property Address 88500 Periwinkle Road			
City Springfield	County Lane *** fire patrol fee	State OR	Zip Code 97478
Lender Ward, Virgil D.			

**Comparable 1**

88440 Periwinkle Road
 Prox. to Subject 1/4 mile northwest
 Sale Price 550,000
 Gross Living Area 2,411
 Total Rooms 9
 Total Bedrooms 3
 Total Bathrooms 2.5
 Location Above Average
 View Valley, Hills
 Site 10.18 acres m/l
 Quality Very Good
 Age 25act 10eff

RMLS file photo to show
 "as was" condition

**Comparable 2**

36890 Edgehill Road
 Prox. to Subject 4 air miles northwest
 Sale Price 320,000
 Gross Living Area 2,114
 Total Rooms 9
 Total Bedrooms 4
 Total Bathrooms 2
 Location Above Average
 View Valley, hills, wds
 Site 6.81 acres m/l
 Quality Good plus
 Age 26act 20eff

RMLS file photo to show
 "as was" condition

**Comparable 3**

90640 Nadeau Road
 Prox. to Subject 4.5 air miles northwest
 Sale Price 407,500
 Gross Living Area 1,890
 Total Rooms 8
 Total Bedrooms 3
 Total Bathrooms 2
 Location Above Average
 View Fields, hills
 Site 15.98 acres m/l
 Quality Good minus
 Age 29act 20eff

RMLS file photo to show
 "as was" condition

LAND APPRAISAL REPORT

HYPOTHETICAL

Summary Appraisal Report

File No. 041705B

IDENTIFICATION
Borrower No borrower
Property Address Number Not Assigned Periwinkle Road
City Springfield County Lane State OR Zip Code 97478
Legal Description Hypothetical Metes and Bounds Legal Description portion of Tax Lot 17-02-24-00-01400 // proposed plat map attached
Sale Price \$ Not Sold Date of Sale N/A Loan Term N/A yrs. Property Rights Appraised Fee Leasehold De Minimis PUD
Actual Real Estate Taxes \$ 97.64 (yr) Loan charges to be paid by seller \$ N/A Other sales concessions Not Applicable
Lender/Client Ward, Virgil D. Address
Occupant Vacant Appraiser Craig E. McKern Instructions to Appraiser appraise to market value per USPAP standards.
Craig E. McKern, Appraiser, P.C. 1574 Coburg Road, PMB 397, Eugene, Oregon 97401 telephone 541-345-0744 fax 541-345-0577

NEIGHBORHOOD
Location Urban Suburban Rural
Built Up Over 75% 25% to 75% Under 25%
Growth Rate Fully Dev. Rapid Steady Slow
Property Values Increasing Stable Declining
Demand/Supply Shortage In Balance Oversupply
Marketing Time Under 3 Mos. 4-6 Mos. Over 6 Mos.
Present Land Use 80% 1 Family 2% 2-4 Family % Apts. % Condo 1% Commercial
2% Industrial 5% Vacant 10% public use, parks, river
Change in Present Land Use Not Likely Likely (*) Taking Place (*)
(*) From vacant To residential
Predominant Occupancy Owner Tenant 5 % Vacant
Single Family Price Range \$ 120 to \$ 600+ Predominant Value \$ 250+-
Single Family Age New yrs. to 70+ yrs. Predominant Age 20-30 yrs.
Employment Stability Good Avg. Fair Poor
Convenience to Employment
Convenience to Shopping
Convenience to Schools
Adequacy of Public Transportation
Recreational Facilities
Adequacy of Utilities
Property Compatibility
Protection from Detrimental Conditions
Police and Fire Protection
General Appearance of Properties
Appeal to Market

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): The subject is located about 4 miles west of the Marcola Road and Camp Creek Road intersection. The Camp Creek area contains a wide variety of dwelling types, sizes, ages, acreages, values, site improvements. The area is within 5 road miles of Springfield city limits and freeway access, aiding marketability. Nearby recreation includes McKenzie River, public forests. An elementary school, a place of worship, farms, ranches, parks, are other land uses.

SITE
Dimensions Irregular, see proposed plat map = 1.2 Sq. Ft. or Acres Corner Lot
Zoning classification RR-5 Rural Residential -(present zoning designation) Present improvements do do not conform to zoning regulations
Highest and best use Present use Other (specify) site for one single family home built in conformance with Rural Residential One Acre zoning
Elec. Public Other (Describe) OFF SITE IMPROVEMENTS Topo Level river bottom
Gas Street Access Public Private Size Typical small acres
Water Assumed Surface All Weather Gravel Shape Trapezoidal, see proposed plat map
San. Sewer Assumed Maintenance Public Private View Wooded Hills
Underground Elect. & Tel. Storm Sewer Curb/Gutter Drainage Adequate FEMA 41039-1180F
Sidewalk Street Lights Is the property located in a HUD identified Special Flood Hazard Area? No Yes

Comments (favorable or unfavorable including any apparent adverse easements, encroachments, or other adverse conditions): See plat map and owner's sketch for outline of this HYPOTHETICAL site fronting Periwinkle Road and accessed by a proposed private drive to serve this "Parcel 1", nine other hypothetical parcels in the proposed partition of Tax Lot 1400. Proposed site would be expected to be large enough to allow a home, septic and well systems all on the same parcel. No adverse factors noted; light to moderate traffic on Camp Creek Road, local traffic only on Periwinkle Road.

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to or more favorable than the subject property, a minus (-) adjustment is made thus reducing the indicated value of subject; if a significant item in the comparable is inferior to or less favorable than the subject property, a plus (+) adjustment is made thus increasing the indicated value of the subject.

MARKET DATA ANALYSIS
Table with 5 columns: ITEM, SUBJECT PROPERTY, COMPARABLE NO. 1, COMPARABLE NO. 2, COMPARABLE NO. 3. Rows include Address, Proximity to Subject, Sales Price, Price, Data Source, Date of Sale and Time Adjustment, Location, Site/View, Utilities Installed, Well/Septic system, Drive/Road access, Improvements, Sales or Financing Concessions, Net Adj. (Total), Indicated Value of Subject.

Comments on Market Data: Very limited recent market data for openly marketed and sold small acreages in the Camp Creek or lower McKenzie Valley area. Sales cited are somewhat unavoidably dated as a result. Several additional listings and pending sales were considered such as a number of level two acre sites in the Leaburg area selling in the \$125,000 range; that location is further from services and employment ****

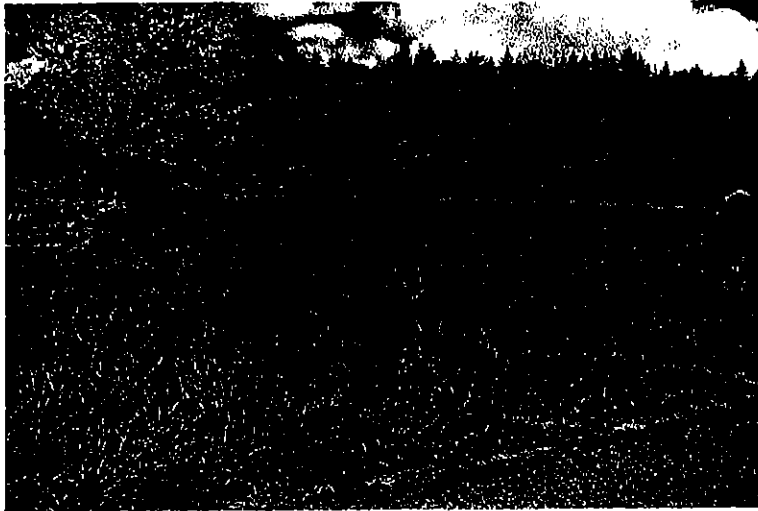
Comments and Conditions of Appraisal: The appraisal is made to cash equivalency per USPAP and FIRREA guidelines; USPAP departure provisions do not apply. See attached assumptions, limiting conditions and comments. **** centers between Highway 126 and Greenwood Drive but above the typical valley fog zone and in what will be a tract of all newer homes. Sales 2 and 3 are very proximate to the subject with Sale 1 being on the hillside above and northwest of the subject and Sale 2 being west of subject fronting Camp Creek Road and with the same ****

Final Reconciliation: The market data (sale comparison) approach is the only reliable method of estimating vacant or non-residential site value. The cost approach is omitted as there is minimal value for the improvements on site. The income approach does not normally apply to vacant land. **** creek at the rear of site; it may have seasonal high water. Overall the value opinion appears well-supported by these three sales.

RECONCILIATION
I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF May 2, 2005 to be \$ 70,000
The opinion of value stated is within a range of indicated values.
The actual site inspection and photo dates was May 2, 2005; effective date is May 2, 2005, report completion date June 15, 2005
Craig E. McKern Appraiser(s) Review Appraiser (if applicable)
Did Did Not Physically Inspect Property

PHOTOGRAPH ADDENDUM

Borrower/Client	No borrower						
Property Address	Number Not Assigned Periwinkle Road						
City	Springfield	County	Lane	State	OR	Zip Code	97478
Lender	Ward, Virgil D.						



Far southwest corner of present Tax Lot 1400 looking north from Periwinkle Road; hypothetical 1.2 acre site is this corner of the overall site
See client's proposed plat map attached and also present plat map of the entire parcel for visualization



Periwinkle Road looking northeast from near Camp Creek Road intersection, hypothetical 1.2 acre "Parcel 1" on left



Reciprocal view on Periwinkle Road looking southwest with hypothetical Parcel 1" to right of road at far end of field

SUPPLEMENTAL ADDENDUM

File No. 041705A

File No. 041705A

Borrower/Client No borrower			
Property Address 88500 Periwinkle Road			
City Springfield	County Lane *** fire patrol fee	State OR	Zip Code 97478
Lender Ward, Virgil D.			

Appraisal Development and Reporting Process:

As per prior agreement with the client named on the cover sheet and first form page of this report, the level of appraisal service requested is a Summary Appraisal Report of a Complete Appraisal of the subject property. This level of service has, in the past, been known as a "form appraisal" using standard FNMA or FHLMC forms to convey information to the reader. This level of appraisal service is for the most part the same as past "form appraisals".

This report is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2b of the Uniform Standards of Professional Appraisal Practice (USPAP) for a Summary Appraisal Report. As such, it represents only summary discussions of the data, reasoning and analyses used in the appraisal process to develop the appraiser's opinion of value stated elsewhere. Supporting documentation that is not provided with this report concerning the data, reasoning and analyses has been retained in the appraiser's file copy. The depth of the discussion contained in this report is specific to the needs of the client and for the intended use of this report stated below.

Scope of Work:

In preparing this report, the appraiser inspected the subject site and the improvements on May 2, 2005. Relevant information on comparable land and improved site sales, construction costs and accrued depreciation were also gathered, verified and considered.

All three approaches to value were considered; the sales comparison approach only was developed for 041705B report; sale comparison and cost approaches were developed for the 041705A report. See reports 041705A and 041705B reports attached.

The income approach, along with rents, comparative rental data and calculated formulas and multipliers, is used ONLY IF the subject is likely to become or remain a rental income property in the foreseeable future, which is not the case for the subject dwelling at this time.

Purpose of the Appraisal and Use of the Report:

The purpose of this appraisal report is to estimate the market value as defined on the attached certification/limiting conditions addendum included with the 1004 form and in the attached USPAP addendum.

This appraisal report is intended ONLY for the use of the client named for the purpose of establishing a fair market value by an independent third party for Measure 37 proceedings. The use of this report is restricted to the clients, Virgil and Pauline Ward, the owners, and their advisor, Jerry Ward, plus an attorney or land use consultant if desired for this purpose only.

Duly constituted Lane County committees or courts for Measure 37 appeals are also an expected reader of this report but Lane County is not a client of the appraiser.

This report in its present configuration is not intended for any financing purpose whatsoever. Any other authorized use of this report will be stated either below or in the letter of engagement.

The appraiser is not and will not become responsible for any unauthorized use. Errors and omissions insurance is not extended to a future third party lender and the appraiser must be notified, timely and in writing, of any future transfer/assignment of this report to any third party.

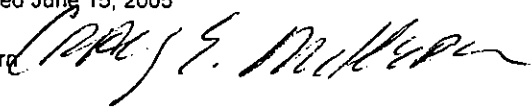
Supplemental Certifications:

I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

In addition, I certify that, to the best of my knowledge and belief, the reported analyses, opinions and conclusions were developed, and this report prepared, with conformity to the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.

signed and dated June 15, 2005

Craig E. McKern
 president
 Craig E. McKern Appraiser P.C.



Borrower No borrower
 Property Address 88500 Periwinkle Road
 City Springfield County Lane *** fire patrol fee State OR Zip Code 97478
 Lender Ward, Virgil D.

File No. 041705A

APPRAISAL AND REPORT IDENTIFICATION

This appraisal conforms to one of the following definitions:

- Complete Appraisal (The act or process of estimating value, or an opinion of value, performed without invoking the Departure Rule.)
 Limited Appraisal (The act or process of estimating value, or an opinion of value, performed under and resulting from invoking the Departure Rule.)

This report is one of the following types:

- Self Contained (A written report prepared under Standards Rule 2-2(a) of a Complete or Limited Appraisal performed under STANDARD 1.)
 Summary (A written report prepared under Standards Rule 2-2(b) of a Complete or Limited Appraisal performed under STANDARD 1.)
 Restricted (A written report prepared under Standards Rule 2-2(c) of a Complete or Limited Appraisal performed under STANDARD 1, restricted to the stated intended use by the specified client or intended user.)

Comments on Standards Rule 2-3

I certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and no (or the specified) personal interest with respect to the parties involved.

I have no bias with respect to the property that is the subject of this report or the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal. My analyses, opinions and conclusions were developed and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.

I have made a personal inspection of the property that is the subject of this report.

No one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

I have made a personal interior inspection of the subject property.

There is no guarantee from the appraiser that the attached report(s) will be found fully satisfactory to the Lane County jurisdiction for handling Measure 37 claims, as these requirements may change due to court ordered or Legislature passed modifications. The owners of the subject are represented by able counsel.

Comments on Appraisal and Report Identification

Note any departures from Standards Rules 1-3 and 1-4, plus any USPAP-related issues requiring disclosure:

This appraisal report is complete on the basis of the full site inspection, not the extent of commentary attached.

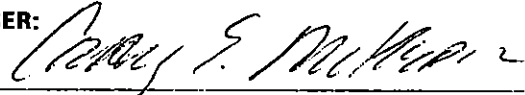
The appraised value includes a realty fee as did the sale prices of the comparables, unless otherwise stated.

There were directly observed toxic materials or hazardous substances in the immediate area of the subject and these are assumed to be safely stored and used according to label directions. A specific search for and recognition of toxic waste and hazardous materials such as might be found in a farm and ranch environment (a Level I assessment) is beyond the scope of the appraiser's training and knowledge. Common household, shop and garden chemicals and substances found in most homes and garages, including those of the reader, are assumed to exist around the site. These common toxic materials and hazardous substances include chemicals such as fertilizers, weed killers, pest poisons and sprays, bleach, detergent, oils, cleansers, solvents and fuels, among other solid, liquid and paste substances, and are assumed to be used according to label directions and Federal, state and local regulations unless otherwise specifically noted in this report.

It is specifically assumed there is no toxic mold or fungus manifest on the site which would affect livability or marketability.

See attached supplemental addendum. This report has been prepared for use in a State Measure 37 proceeding and is restricted to that use only. See the cover letter page for brief explanations of the use and purpose of this report 041705A in conjunction with report 041705B which is for a hypothetical 1.2 acre parcel out of the 14+ acres for this report in hand in order to provide "before and after" scenarios. The actual legality, validity and application of State Measure 37 is still in question with present and future court and Legislature involvements a certainty.

APPRAISER:

Signature: 
 Name: Craig E. McKern, Appraiser, P.C.
 Date Signed: June 15, 2005
 State Certification #: CR00024
 or State License #:
 State: Oregon
 Expiration Date of Certification or License: 09-30-2006

SUPERVISORY APPRAISER (only if required):

Signature: _____
 Name: _____
 Date Signed: _____
 State Certification #: email: cem9th@msn.com
 or State License #: phone 541-345-0744/fax 541-345-0577
 State: _____
 Expiration Date of Certification or License: _____

Did Did Not Inspect Property

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

* Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgement.

STATEMENT OF LIMITING CONDITIONS AND APPRAISER'S CERTIFICATION

CONTINGENT AND LIMITING CONDITIONS: The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.
3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.
6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
8. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.
9. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that completion of the improvements will be performed in a workmanlike manner.
10. The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower; the mortgagee or its successors and assigns; the mortgage insurer; consultants; professional appraisal organizations; any state or federally approved financial institution; or any department, agency, or instrumentality of the United States or any state or the District of Columbia; except that the lender/client may distribute the property description section of the report only to data collection or reporting service(s) without having to obtain the appraiser's prior written consent. The appraiser's written consent and approval must also be obtained before the appraisal can be conveyed by anyone to the public through advertising, public relations, news, sales, or other media.

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.
2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.
3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form.
4. I have no present or prospective interest in the property that is the subject to this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property.
5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.
6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.
7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.
8. I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.
9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and disclosed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

Privacy Act Notification: The confidential data in this report ("confidential data" is limited to that information which is not available in the public record AND that specific data which is requested by the owner or lender to remain confidential) will be retained by the appraiser in accordance with the Ethics and Confidentiality provisions of USPAP and the Code of Ethics of the Appraisal Institute.

SUPERVISORY APPRAISER'S CERTIFICATION: If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

ADDRESS OF PROPERTY APPRAISED: 88500 Periwinkle Road, Springfield, OR 97478

APPRAISER:
 Signature: *Craig E. McKern*
 Name: Craig E. McKern, Appraiser, P.C.
 Date Signed: June 15, 2005
 State Certification #: CR00024
 or State License #: _____
 State: Oregon
 Expiration Date of Certification or License: 09-30-2006

SUPERVISORY APPRAISER (only if required):
 Signature: _____
 Name: _____
 Date Signed: _____
 State Certification #: email: cem9th@msn.com
 or State License #: phone 541-345-0744/fax 541-345-0577
 State: _____
 Expiration Date of Certification or License: _____

Did Did Not Inspect Property

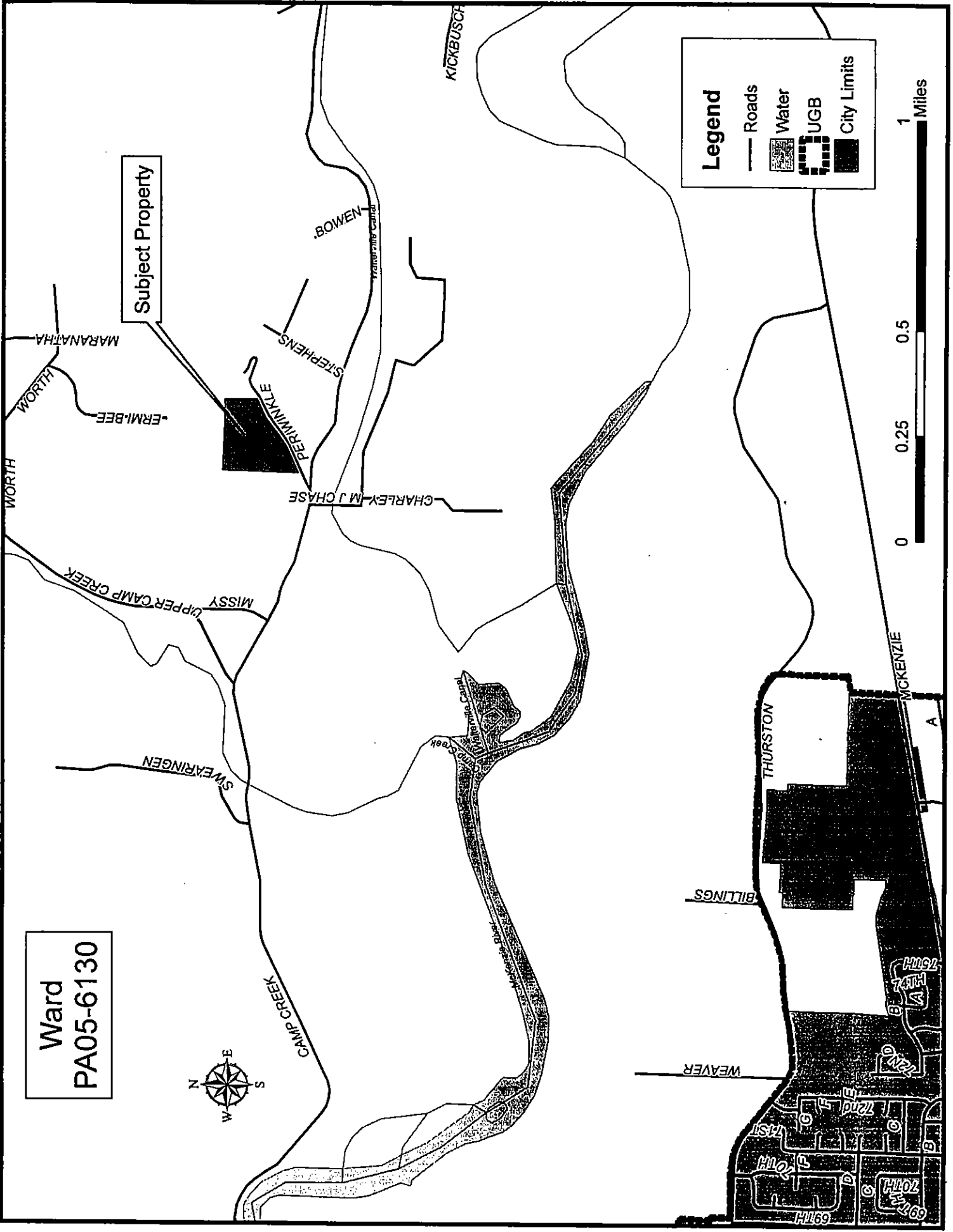
Ward
PA05-6130



Subject Property

Legend

- Roads
- Water
- UGB
- City Limits





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E. Bradley Litchfield

Zack P. Mittge

Patrick L. Stevens

REC'D DEC 22 2005

December 21, 2005

Planning Director Kent Howe
Lane County Land Management Division
Courthouse/Public Service Bldg
125 E 8th Ave
Eugene, OR 97401

RE: PA 05-6130/Measure 37 Claim for 88500 Periwinkle Rd
TRS 17 S R 2 W Sec 24/Lot 1400
Our Clients: Mary Patrick
Our File No. 5600/8638

Dear Mr. Howe,

It has come to our attention that Virgil Dewain Ward and Harlene Ward ("the Wards") have filed a Measure 37 claim with Lane County for the property at 88500 Periwinkle Rd, Springfield, OR 97478. The Wards are seeking a waiver to subdivide approximately fifteen acres of property into 1-acre lots or compensation in the amount of \$670,000.

A claim has also been submitted to the State of Oregon. However, as I am sure you are aware, the Marion County Circuit Court declared Measure 37 to be unconstitutional on October 14, 2005 in at least 4 respects. Since no stay has been issued and the State was a party to that action, the State is bound by that decision, and has ceased to process or even accept Measure 37 claims. I understand that Lane County has not ceased to accept or process claims (although it is offering to waive application fees for parties holding claims in abeyance), nor has it ceased processing claims that require waivers of state law, despite its inability to waive state requirements. Our client challenges the validity of Measure 37 and Lane County's process for the reasons stated in the *MacPherson* decision.

Please advise me whether you intend to continue processing claims of this sort and, if so, advise me of the status of the Wards' claim.

Should you proceed with processing the Wards' claim, you will note that the Wards are not entitled to compensation under Measure 37. It is

readily apparent from information submitted to the State of Oregon that the Virgil and Harlene Ward Trust acquired the property at issue by Bargain and Sale Deed dated May 3, 2005. See attachment A. While the trust itself was not submitted, it is the legal owner of the property at issue. See ORS 128.005(1)(defining "trust" in terms of "a trustee[s']...duty to administer a trust asset"). Under Section 8 of Ballot Measure 37, Lane County is entitled to modify, remove, or "not to apply" land use regulations "to allow the owner to use the property for a use **permitted at the time the owner acquired the property.**" (Emphasis added). Since the trust acquired the property in May of this year, that would only require Lane County to waive restrictions, if any, that arose between then and the date of the claim.

The Wards would likely argue that the appropriate measuring time is the date when Virgil Ward acquired the property in 1956.¹ However, as Mr. Ward no longer owns the property but only controls it for the benefit of the trust, he is not the owner. See ORS 128.009(3)(a)(trustees power to collect and hold "trust assets"); and ORS 128.102(2)(eliminating trustees personal liability for obligations arising out of possession or control of "real property"). In the alternative, it could be argued that, if Mr. Ward is a beneficiary of the trust, which is unknown, he may own some future "interest" in the property which might make him an "owner" for the purposes of the Ballot Measure 37 claim. However, as the date for acquisition of the future interest, if any, would be May, again waiver would only relate back to earlier in 2005.

Hence, the Wards have no Measure 37 claim.

Even if the Wards had a Measure 37 claim, and they do not, it is unclear why the Wards feel \$670,000 is the appropriate measure of compensation. The appraiser estimates the existing value of the subject property as \$460,000, as is, and apparently subtracts this amount from estimated \$840,000 of twelve 1-acre lots (valued at approximately \$70,000) and the estimated value of \$290,000 for the home and one 1-acre lot. However, there is no explanation why the property, presently zoned RR-5, cannot be partitioned into 5-acre parcels, increasing the value of the existing property.

¹ Harlene Ward does not appear on the title to the property until May of 2005, and then only as a trustee of the trust.

Indeed, according to the site plan submitted by Ward Architecture the property is approximately 15.8 acres² in size (not taking into account Parcel 14 which is a separate tax lot). This would permit the property to be subdivided into three 5-acre parcels. Yet, the Wards have made no attempt to address this value in calculating the alleged diminution in value to their property caused by the RR-5 zoning. Hence, the Wards have failed to substantiate their claim for compensation.

Additionally, the "comparables" that the Wards appraiser has relied on for establishing the \$70,000 value per 1.2-acre parcel are not comparable. All of the prior transactions at issue occurred before Measure 37 went into effect. Since that time, the market has fundamentally changed in Lane County, and there is an unknown number of vacant parcels of equivalent size and location that may now be available for sale. A glut of such properties on the market is bound to decrease the value of the Wards property.

Likewise, all of the "comparables" at issue could actually be conveyed. By contrast, under the Oregon Attorney General's Opinion of February 24, 2005, the waiver of the RR-5 zoning would be personal to the current owner of the real property. Hence, the Wards 1.2-acre lots would not be legal lots and could not be built upon once they were conveyed to third-party purchasers. Thus, the Wards appraised value is inflated because it fails to discount for the lack of marketability of the Wards unbuildable lots.

The Wards appraisal also reflects that the market in the area for raw land is slow. In fact, only one 1.2-acre parcel of raw land was sold in the area in the last twelve months, and for a net value of only \$61,000. The Wards will be attempting to sell twelve times as many unimproved lots. Yet, there is no indication in the appraisal regarding the costs associated with holding time for unimproved properties. At a conservative rate of sale of one or two parcels a year, the Wards would should expect to pay taxes (without the benefit of farm tax deferral) on these lots for at least the next six years. Yet, no attempt is made to account for the additional costs of holding the property during this period.

Finally, unlike any other subdivision, there has been no attempt to address the costs of the required improvements (including access) and

² It is important to note that both Lane County tax records and the real estate appraiser's report place the size of the property below fifteen acres. Lane County tax records identify it as approximately 14.52 acres in size, while the appraisal report identifies it as 14.18 acres in size. However, as the Wards claim is based on property being over 15 acres in size, they should be accountable for all of the existing potential uses of such property.

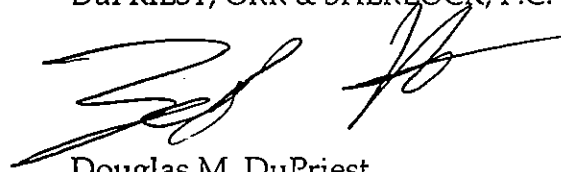
Kent Howe
December 21, 2005
Page 4

administrative expenses in subdividing the property. Even if Lane County refused to apply the RR-5 zoning, the Wards would still need to subdivide their property. There are separate subdivision requirements in state and county law that the Wards must still contend with. The Wards have failed to include the costs of such compliance.

Thus, as the Wards have not demonstrated that they are entitled to compensation or even that they have a Measure 37 claim, their claim should be denied.

Very truly yours,

HUTCHINSON, COX, COONS,
DuPRIEST, ORR & SHERLOCK, P.C.

Handwritten signatures of Douglas M. DuPriest and Zack P. Mittge.

Douglas M. DuPriest
Zack P. Mittge

Enclosure
cc: Clients