



Memo Date: October 31, 2006
Order Date: November 8, 2006

TO: Board of County Commissioners

DEPARTMENT: Public Works Dept./Land Management Division

PRESENTED BY: BILL VANVACTOR, COUNTY ADMINISTRATOR
KENT HOWE, PLANNING DIRECTOR

AGENDA ITEM TITLE: 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 (PA05-6805/OMLID)

I. MOTION

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

II. AGENDA ITEM SUMMARY

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 Lee Omlid and the Erling G. Omlid Revocable Living Trust to use the property as allowed at the time they acquired an interest in the property?

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

Applicant: Lee Omlid

Current Owners: Lee Omlid and the Erling G. Omlid Revocable Living Trust

Agent: none

Map and Tax lots: 18-12-11 #2200

Acreage: 37 acres

Current Zoning: CLWP (Clear Lake Watershed Protection) and F2 (Impacted Forest) zones.

Date Property Acquired: June 15, 1962 (Lloyd Omlid), January 18, 2000 (Lee Omlid), October 4, 2005 (Omlid Trust).

Date claim submitted: December 22, 2005. On that day, the applicant waived the processing timeline.

Land Use Regulations in Effect at Date of Acquisition: Unzoned until January 5, 1980. On that date, the property was zoned F-F20 (Farm-Forestry).

County land use regulation which restricts the use and reduces the fair market value of claimant's property: Minimum parcel size and restrictions on new dwellings in the F2 (Impacted Forest) zone, LC 16.211 and the CLWP (Clear Lake Watershed Protection), LC 16.258.

B. Policy Issues

As directed by the Board on March 21, 2006, a claimant must submit reasonable and competent evidence of a reduction in fair market value from a land use regulation. An appraisal is not required, but an analysis of the tax values is not adequate. This applicant has submitted a real estate broker's opinion of value. Because of this, the County Administrator has waived the requirement for an appraisal. If the Board determines the submitted evidence is not reasonable or competent, the Board has the authority to require an appraisal.

In addition, the Board will need to determine if the CLWP (Clear Lake Watershed Protection) zone is exempt from a M37 claim. The purpose of this zone is to protect public health and safety as well as establish pollution control regulations. Because of this, it appears that this zone is exempt from a claim.

C. Board Goals

The public hearing will provide an opportunity for citizen participation in decision making, in conformance with the overall goals of the Lane County Strategic Plan.

D. Financial and/or Resource Considerations

The applicant has requested compensation in the amount of \$1,070,000 or a waiver of the F2 (Impacted Forest) zone and CLWP (Clear Lake Watershed Protection) zone regulations that prohibit the division of the property into lots containing less than 80 acres, placement of a dwelling on each lot and construction of a mobile home park.

E. Analysis

Issues specific to this claim:

- Although this appears to be a valid claim, the minimum parcel size and dwelling restrictions of the F2 zone can not be waived for the current owners.

- The CLWP (Clear Lake Watershed Protection) zone appears to be exempt from a Measure 37 claim.

The claimant has submitted information in support of this claim including a real estate broker's opinion of value, deeds and the processing fee. The property contains approximately 37 acres and is zoned F2 (Impacted Forest) and CLWP (Clear Lake Watershed Protection). The majority of the property is zoned CLWP. The minimum parcel size in the F2 zone is 80 acres and new dwellings require a special use permit. The CLWP zone contains various limits on new development, including land divisions, in order to maintain the Clear Lake watershed as a domestic water supply source. The applicant wishes to subdivide the property into lots that contain less than 80 acres, place a dwelling on each lot and construct a mobile home park.

The property is currently owned by Lee Omlid (2/3 undivided interest) and the Erling G. Omlid Revocable Living Trust (1/3 undivided interest). The Omlid family acquired an interest in the property on June 15, 1962 (WD 24868) when Lloyd Omlid signed a land sale contract. Erling Omlid acquired a 1/3 interest in the property on February 1, 1978 (Bargain and Sale Deed 7814914). Lloyd conveyed his interest to Lee Omlid on January 18, 2000 (Bargain and Sale Deed 2000-34252). Erling transferred his interest to the Erling G. Omlid Revocable Living Trust on October 4, 2005 (Bargain and Sale Deed 2006-050042). It appears this is a revocable trust and Erling Omlid was a trustee. As stated in the cover letter, Erling Omlid passed away on July 13, 2006, and O'Jay Omlid became the trustee.

It appears the Omlid family acquired an interest in the property when it was unzoned. Lee Omlid is a member of the Omlid family and is allowed to demonstrate a reduction in value from the date the Omlid family acquired an interest in the property (1962). If the Board determines this is a valid claim, the restrictive regulations can be waived to the date Lee acquired an interest in the property (2000), and the date the Trust acquired an interest in the property (2005). Because the minimum lot size and dwelling restrictions of the F2 zone were applicable on those dates, those regulations can not be waived.

The application lists Erling Omlid as an applicant as trustee of the Erling G. Omlid Revocable Living Trust. A waiver can not be granted to Erling because he passed away in July. O'Jay Omlid succeeded Erling as trustee. It is unclear whether O'Jay is requesting a waiver be granted to him or the Trust. If it is granted to the Trust, the restrictive regulations can be waived to 2005. If it is granted to O'Jay, the restrictive regulations can be waived to July 13, 2006, the date that O'Jay became the trustee. The order attached to this memo has been written to waive the regulations for the Trust.

If the Board determines the evidence demonstrates a reduction in fair market value from enforcement of a restrictive regulation, it appears this is a valid claim for the portion of the property that is zoned F2. However, the CLWP zone may be exempt from a M37 claim because its purpose is to protect Clear Lake as a source of drinking water. Lane Code 16.258(1) states:

"The Clear Lake Watershed has been recognized as an area deserving

protection in order to maintain high water quality in Clear Lake as a domestic water supply source. The Oregon Environmental Quality Commission has adopted regulations to protect the water quality of Clear Lake. The Clear Lake Watershed is made up of properties, a substantial majority of which are in private ownership. The general purpose of the Clear Lake Watershed Protection Zone is to protect the quality of the Watershed, and at the same time, protect the rights of private property owners to make reasonable use of their land. The specific purposes of the Clear Lake Watershed Protection Zone are:

- (a) To protect the aquifer and surface waters (the Lakes) of the Clear Lake Watershed;
- (b) To help achieve the water quality standards set-forth in OAR 340-41-270 and to ensure that all uses within the Clear Lake Watershed are consistent with the objective of achieving these water quality standards; and
- (c) To provide clear and objective development standards necessary to meet water quality standards and avoid land use litigation.”

Measure 37 states that any regulations that restrict or prohibit “activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;” are exempt from a claim. Because the purpose of the CLWP zone is to preserve the Clear Lake Watershed as a source of public drinking water, all the regulations in that zone can be considered public health and safety and/or pollution control regulations.

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.

Restrictive Regulations

When Lloyd and Erling Omlid acquired interests in the property, it was unzoned. When Lee acquired an interest in the property, it was zoned F2 and CLWP. Currently, the property is zoned F2 and CLWP. The minimum parcel size and dwelling restrictions of the F2 zone and the restrictions on development in the CLWP zone would prevent the Omlid family from developing the property as could have been allowed when the earliest member acquired an interest in the property, on June 15, 1962.

Lee Omlid acquired an interest in the property on June 16, 2000, but he has not identified any restrictive regulations that prevent him from developing the property

as could have been allowed when he acquired an interest. Specifically, the property was zoned F2 and CLWP when he acquired it and the zoning has not changed.

Reduction in Fair Market Value

The Omlid family acquired an interest in the property on June 15, 1962 (WD 24868) when Lloyd Omlid signed a land sale contract. Erling Omlid acquired a 1/3 interest in the property on February 1, 1978 (Bargain and Sale Deed 7814914). Lloyd conveyed his interest to Lee Omlid on January 18, 2000 (Bargain and Sale Deed 2000-34252). Erling transferred his interest to the Erling G. Omlid Revocable Living Trust on October 4, 2005 (Bargain and Sale Deed 2006-050042). It appears this is a revocable trust and Erling Omlid was a trustee. As stated in the cover letter, Erling Omlid passed away on July 13, 2006, and O'Jay Omlid became the trustee.

It appears the Omlid family acquired an interest in the property when it was unzoned. Lee Omlid is a member of the Omlid family and is allowed to demonstrate a reduction in value from the date the Omlid family acquired an interest in the property (1962). If the Board determines this is a valid claim, the restrictive regulations can be waived to the date Lee acquired an interest in the property (2000).

The application lists Erling Omlid as an applicant as trustee of the Erling G. Omlid Revocable Living Trust. A waiver can not be granted to Erling because he passed away in July. O'Jay Omlid succeeded Erling as trustee. It is unclear whether O'Jay is requesting a waiver be granted to him or the Trust. If it is granted to the Trust, the restrictive regulations can be waived to 2005. If it is granted to O'Jay, the restrictive regulations can be waived to July 13, 2006, the date that O'Jay became the trustee.

The applicant has submitted an opinion of value from a real estate broker. This opinion alleges a reduction of \$1,070,000. This opinion is based, in part, on the sales prices of comparable properties and assumes no development restrictions.

If the Board determines the submitted evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation, it appears this is a valid claim.

Exempt Regulations

The F2 (Impacted Forest) limitations on new dwellings, and the minimum parcel size of 80 acres do not appear to be exempt regulations described in Measure 37 or LC 2.710. However, Measure 37 states that any regulations that restrict or prohibit "activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;" are exempt from a claim. Because the purpose of the CLWP zone is to preserve the Clear Lake Watershed as a source of public drinking water, all the regulations in that zone are considered public health and safety and/or pollution control regulations and would be exempt from a claim.

The Board will need to determine if the CLWP (Clear Lake Watershed Protection) zone is exempt from M37 claims.

Conclusion

It appears this is a valid claim if the Board determines the submitted evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation. If so, the restrictive regulations of the F2 zone can be waived for Erling Omlid. Further, the restrictive regulations of the F2 zone that have been enacted since June 15, 2000 can be waived for Lee Omlid. Because the regulations of the CLWP zone protect the public health and safety and control pollution, they are exempt from a M37 claim.

F. Alternatives/Options

The Board has these options:

- Determine the application appears valid and adopt the order attached to this report.
- Require more information regarding the reduction in value or ownership.
- 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. TIMING/IMPLEMENTATION

If the Board determines this is a valid claim and waives a land use regulation, the claimant must receive a similar waiver from the state before a land use application and/or development proposal is submitted.

VI. RECOMMENDATION

If the Board determines the submitted evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation, the County Administrator recommends the Board waive the restrictive land use regulations of the F2 zone enacted since June 15, 2000 for Lee Omlid and since October 4, 2005 for the Trust. In addition, the County Administrator recommends the Board determine the CLWP (Clear Lake Watershed Protection) zone is except from M37 claims.

VII. FOLLOW-UP

If an order is adopted, it will be recorded.

VII. ATTACHMENTS

- Draft order to approve the claim of Lee Omlid and the Trust.
- Vicinity Map.
- Application form and cover letter
- Title Report
- Warranty Deed 24868
- Warranty Deed 7814914
- Bargain and Sale Deed 2000-34252
- Bargain and Sale Deed 2006-050042
- Opinion of Value

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 (PA05-6805/ Omlid)

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 landowner 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 Lee Omlid and the Erling G. Omlid Revocable Living Trust (PA05-6805), the owners of real property specifically described in the records of the Lane County Assessor as map 18-12-11, tax lot 2200, consisting of approximately 37 acres in Lane County, Oregon; and

WHEREAS, the County Administrator has determined that the application for that portion of the property zoned F2 (Impacted Forest) but not the portion subject to the CLWP (Clear Lake Watershed Protection) zone, 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 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, the Board has reviewed the evidence and confirmed the application for that portion of the property zoned F2 (Impacted Forest) but not the portion subject to the CLWP (Clear Lake Watershed Protection) zone 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, on November 8, 2006, the Board conducted a public hearing on the Measure 37 claim (PA05-6805) of Lee Omlid and the Erling G. Omlid Revocable Living Trust and has now determined that the restrictive F2 (Impacted Forest) zone dwelling and land division requirements of LC 16.211 were enforced and made applicable to prevent Lloyd Omlid from developing that portion of the property that is zoned F2 (Impacted Forest) as might have been allowed at the time he acquired an interest in the property on June 15, 1962, and that the public benefit from application of the current F2 dwelling and division land use regulations to that portion of the applicant's property is outweighed by the public burden of paying just compensation; and

WHEREAS, Lee Omlid and the Erling G. Omlid Revocable Living Trust request either \$1,070,000 as compensation for the reduction in value of their property, or waiver of all land use regulations that would restrict the division of the property into lots containing less than eighty acres, placement of a dwelling on each lot and development of a mobile home park, uses that could have otherwise been allowed at the time Lloyd Omlid acquired an interest in 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 F2 zone but not the CLWP (Clear Lake Watershed Protection) 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 Lee Omlid and the Erling G. Omlid Revocable Living Trust to make application for development of that portion of the property zoned F2 (Impacted Forest) in a manner similar to what could have been done under the regulations in effect when each acquired an interest in the property, on January 18, 2000, for Lee Omlid and on October 4, 2005, for the Erling G. Omlid Revocable Living Trust; and

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

NOW, THEREFORE IT IS HEREBY ORDERED that the applicants Lee Omlid and the Erling G. Omlid Revocable Living Trust made a valid claim under Ballot Measure 37 for that portion of the property zoned F2 (Impacted Forest) but not that portion zoned CLWP (Clear Lake Watershed Protection) 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 the family acquired an interest in 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, the request of Lee Omlid and the Erling G. Omlid Revocable Living Trust shall be granted and the current restrictive provisions of LC 16.211 shall not apply to them so they can make application for approval to develop that portion of the property zoned F2 (Impacted Forest) described in the records of the Lane County Assessor as map 18-12-11, tax lot 2200, consisting of approximately 37 acres in Lane County, Oregon, in a manner consistent with the land use regulations in effect when Lee Omlid acquired an interest on January 16, 2000, and the Erling G. Omlid Revocable Living Trust acquired an interest on October 4, 2005. The Board further orders that the claim for that portion of the property zoned CLWP (Clear Lake Watershed Protection) is not valid for the reasons stated in the report and recommendation of the County Administrator incorporated here by this reference.

IT IS HEREBY FURTHER ORDERED that Lee Omlid and the Erling G. Omlid Revocable Living Trust still need to make application and receive approval of any land division, placement of a dwelling or construction of a mobile home park for that portion of the property zoned F2 (Impacted Forest), under the other land use regulations applicable to dividing the property, placing a dwelling or construction of a mobile home park that were not specifically identified or established by them as restricting the division of the property, placement of a dwelling or construction of a mobile home park, 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 dwelling or division restrictions of the applicable zone described above, the claimant shall submit appropriate applications for review and approval to show the specific development proposals and in the event additional county land use regulations result in a restriction of those uses that have 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, and return to the Board for action, if necessary. 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 use of the property by Lee Omlid and the Erling G. Omlid Revocable Living Trust does not constitute a waiver or modification of state land use regulations and does not authorize immediate division of the subject property or immediate construction of a dwelling. The requirements of state law may contain specific standards regulating development of the subject property and the applicant 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.

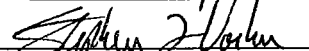
IT IS HEREBY FURTHER ORDERED that the other county land use regulations and rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision shall be recorded in the county deed records. 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 applicant to divide or build dwellings 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) or any other court decision involving Ballot Measure 37 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 11-1-2006 Lane County



OFFICE OF LEGAL COUNSEL



Florence

HEGETA BEACH RD

KELSIE WAY

WOOD LAKE WAY

TAYLOR RD

HWY 101

LOST LN

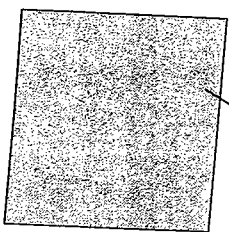
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FRIENDLY ACRES RD

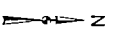
BROWNING'S CORNERS RD

Omlid M37 Claim
PA05-6805





subject property

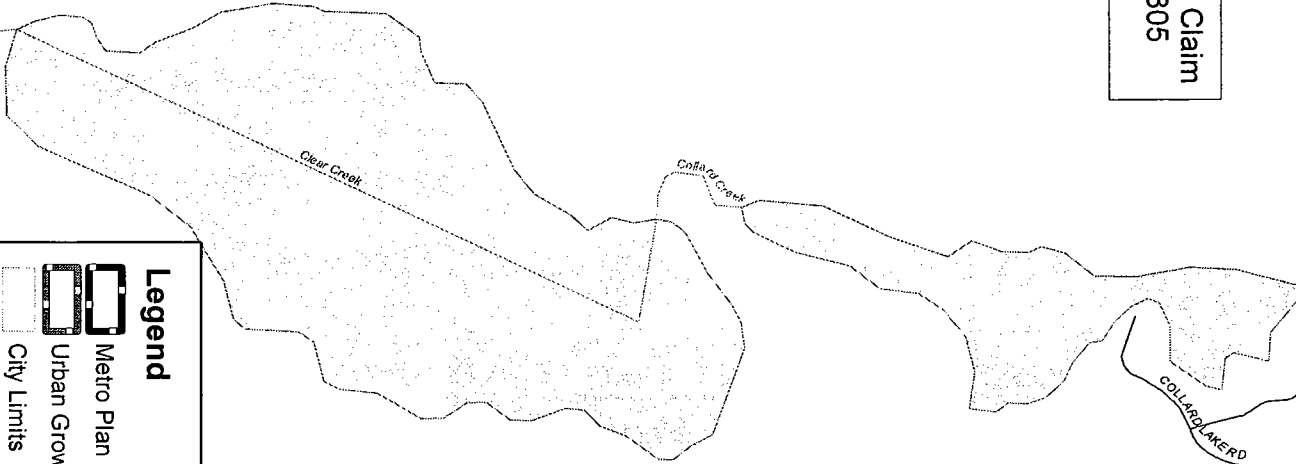


0 250 500 1,000 Feet



Legend

-  Metro Plan Boundary
-  Urban Growth Boundary
-  City Limits
-  Omlid





LAND MANAGEMENT DIVISION

Measure 37 Claim Form

125 E 8th AVENUE, EUGENE OR 97401

PLANNING: 682-3807

PA05-6805

For Office Use Only: FILE # CODE: PLN-M37 FEE: \$850

This completed form, supporting documentation and processing fee must be submitted to the Lane County Land Management Division for all claims subject to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 4, 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.

LOCATION

18 12 11 00 2200

Township Range Section qtr section Taxlot

No site address.

Site address

Applicant (print name): ERLING G. OMLID and LEE OMLID

Mailing address: Erling G. Omlid 36710 Keller Lane, Springfield, OR 97478 (address all correspondence to Lee) Lee Omlid, 216 Nopal Street, Florence, OR 97439

Phone: (541) 997-9983 Email: laonow9@yahoo.com

Applicant Signatures: [Handwritten signatures]

Agent (print name): Lee Omlid

Mailing address: 216 Nopal Street Florence, OR 97439

Phone: 541-997-9983 Email: laonow9@yahoo.com

Agent Signature: [Handwritten signature]

Land Owner (print name): Erling G. Omlid and Lee Omlid, each as to an undivided one-half interest

Mailing address: 216 Nopal Street, Florence, OR 97439

Phone: (541) 997-9983 Email: laonow9@yahoo.com

Land Owner Signature: [Handwritten signatures]

By signing this application, the applicant, agent and landowner(s) certify the following: 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 owners(s) agree to this claim as evidenced by the signature of those owners. (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 4, 2004).

Additional land owners, lien holders, trustees, lessees or anyone with an interest in the subject property. Describe the ownership interest. Attach more pages if necessary.

NONE

Name Signature Address

Name Signature Address

* Signers are legal title holders and owners of vendors' interest in land sale contract dated January 6, 1979, wherein applicants are purchasers,, a memorandum of which was recorded June 25, 1979, at Reel 1003R, Reception No. 79-37179. Baxter G. Renfro (deceased) and Evelyn M. Renfro were named vendors on contract; Evelyn Renfro subsequently conveying her interest by assignment of contract and deed to herself and Robert D. Renfro under instrument number 2004-002946, recorded January 15, 2004.

Submit the following documents: (Included in Narrative)

- Title Report. This report must identify the current land owner(s) and the date the current land owner(s) acquired the property or an interest in the property.
Description Card and deeds. The description card is available in the Tax Assessor's Department. Submit all the deeds listed on the card from the date the current owner acquired an interest in the property.
If the property is in a Trust, LLC or other type of ownership, submit documentation regarding the ownership.
If the property was acquired though a land sale contract, identify the original land owner and each person who assumed the contract prior to the current land owner.
Leases, covenants, conditions or restrictions applicable to the subject property.
Reasonable and competent evidence of a reduction in fair market value from a land use regulation.

Current Zoning: Clear Lake Watershed Protection Zone (vast majority) and F-2 (Impacted Forest)

Acreeage: 40 acres

When did the current land owner acquire an interest in the property?

Erling Omlid: February 1, 1978; Lee Omlid: Jan 22, 2000 and Jan 18, 2001

When did the family acquire an interest in the property? June 15, 1962 (Lloyd Omlid)

Current fair market value of property: see Narrative/CMA

Alleged reduction in fair market value: See Narrative/CMA

EXISTING IMPROVEMENTS Identify any existing improvements to the property such as any homes, roads, other structures, etc.

Bare land

What relief is being sought? Are you requesting monetary compensation or a waiver of a land use regulation(s)? If a waiver is desired, what is the desired use and/or how do you want to develop the property?

See Narrative

APPROVAL CRITERIA

Lane Code 2.740(1)

The County Administrator shall make a determination as to whether the application qualifies for Board compensation consideration. An application qualifies for compensation consideration if the applicant has shown that all of the following criteria are met:

- (a) The County has either adopted or enforced a land use regulation that restricts the use of private real property or any interest therein;
- (b) The restriction on use has the effect of reducing the fair market value of the property or any interest therein, upon which the restriction is imposed;
- (c) The challenged land use regulation was adopted, enforced or applied after the current owner of the property (the applicant) became the owner; and
- (d) The challenged regulation is not an exempt regulation as defined in LC 2.710.

Answer the following questions. Attach additional pages if necessary.

- What land use regulation(s) has been enacted since the current owner acquired the property that reduced the fair market value of the property? FF20 (1-5-80); CLWP Zone F-2 (12-2-98) and BDCD 7-1-80); F2 (9-8-84)*
- How has the identified regulation(s) reduced the fair market value of the property? See Narrative*
- What evidence are you providing that demonstrates the value reduction? Explain the evidence.
See real estate broker opinion of value/Comparative Market Analysis*

***SEE NARRATIVE SUBMITTED SEPARATELY**

Agent Authorization

Erling G. Omlid authorizes Lee Omlid to act as his/her/trust agent in submitting a Measure 37 claim to both Lane County and the State of Oregon.

DATED this 7th day of July, 2006.

Erling G. Omlid

LEE OMLID
Attorney

JUL 21 REC'D

**Mediation
Living Trusts
Real Estate Law
Land Use Consulting**

**216 Nopal Street
Florence, Oregon 97439
laonow9@yahoo.com
541.997.9983**

July 21, 2006

Steve Hopkins, AICP, Planner
Kent Howe, Planning Director
Lane County Land Management Division
125 East 8th Avenue
Eugene, OR 97401

Re: Ballot Measure 37 Claim (PA05-6805, Omlid), Map 18-12-11 tax lot 2200

Gentlemen:

I am delivering with this cover our claim form together with a narrative and supporting exhibits.

Please advise regarding your time-line for hearing. We are open to waiving the deadline date, as I indicated in previous mailing, but would like to talk with you about this first. Thanks.

Thank you,


Lee Omlid

copy: O'Jay Omlid

Measure 37 Claim Form—PA 05-6805

SUPPLEMENTAL NARRATIVE

1. GENERAL INFORMATION

Owner/Applicant:	Erling G. Omlid Lee Omlid
Agent	Lee Omlid, Attorney 216 Nopal Street Florence, OR 97439 (541) 997-9983 <u>lee@leemlid.com</u>
Assessor's map and tax lot nos.	18 12 11 2200
Acreage:	40 acres
Current zoning:	Clear Lake Watershed Protection Zone (predominantly) and F-2 (Impacted Forest)
Date property acquired by Omlid family:	March 6, 1978 (for waiver purposes); May 14, 1968 (for compensation purposes)
Land use regulations in effect at date of acquisition:	Unzoned Area Development Permit (in March, 1978)
County land use regulations which restrict the use and reduces fair market value of claimant's property:	The minimum parcel size and parcel number limitations of CLWP (16.258) and F-2 (16.211)

2. INTRODUCTION

Applicants Erling Omlid and Lee Omlid claim that Lane County's enforcement of land use regulations that restrict the use of their property has reduced the fair market value of their property. Applicants request, pursuant to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and Lane code 2.700, that Lane county pay just compensation for the reduction in the fair market value of applicants' property resulting from those restrictions on its use. This application constitutes written demand pursuant to Section (4) of Ballot Measure 37. Concurrent with the waiver of CLWP and F-2 zoning restrictions requested herein, the applicants request a roll back of any filing fees to those in effect before the initial effective date(s) of each of these zones.

In lieu of such payment of just compensation, it is requested that Lane County waive the offending regulations, as provided below, that prevent the applicant from building more than one residence upon the property, and that prevent subdivision of the property into buildable parcels of less than 40 acres in size.

Applicant Erling G. Omlid acquired by deed an undivided 1/3 interest in the property on March 6, 1978, and has owned it continuously since that time. Lloyd F. Omlid, father of applicant Lee Omlid, acquired an undivided one-half interest in the property by contract purchase on June 15, 1962, conveying (along with original partner Ellis Rackleff) an undivided 1/3 interest to Erling Omlid in the 1978 conveyance. On June 16, 2000, Lloyd Omlid conveyed out his entire remaining 1/3 interest in the property to son Lee Omlid. On January 18, 2001, Lee Omlid acquired the remaining 1/3 interest in the property from the estate of Ellis Rackleff.

On the date of Erling Omlid's acquisition by deed recorded March 6, 1978, the property was subject to an Unzoned Area Development Permit (LC 9.700). At present, about 98% of the property is zoned Clear Lake Watershed Protection Zone (CLWP), with the remainder F-2 (Impacted Forest). [See zoning history response letter from County Associate Planner Jerry Kendall, dated May 19, 2005 (Exhibit A).]

The CLWP zone (LC16.258), will not permit more than one residence on the forty acre parcel; while the F-2 zone (LC 16.211) allows a new dwelling only if one can comply with the strict Template dwelling requirements of LC 16.211(5), the Lot of Record dwelling requirements of LC 16.211(6), or the Large Tract dwelling requirements of LC 16.211(7). LC 16.211(10) restricts the minimum parcel size for the creation of new parcels, with a few narrow exceptions, to 80 acres.

3. BACKGROUND INFORMATION

3.1 General site description.

The property consists of one forty acre parcel. It is located approximately ¼ mile north of the urban growth boundary in Florence, Oregon.

The property is described as Tax Lot 2200 on Lane County Assessor's Map No. 18-12-11-00. The legal description is found in attached Exhibit B. The property is undeveloped, vacant and subject to receiving the following public services: Central Lincoln PUD; Heceta Water District; Lane Education Service District; Port of Siuslaw; Siuslaw School District 97J; Lane Community College; Western Lane Ambulance District; Lane County Sheriff's Department and Oregon State Police.

3.2 List of Exhibits

- Exhibit A—County zoning research letter
- Exhibit B—Property legal description
- Exhibit C—Assessor map of property
- Exhibit D—Copy Lane County Application form
- Exhibit E—Title Report
- Exhibit F—Assessor's Description Card w/ copies of recorded conveyances/documents Exhibits F-2 through F-8.
- Exhibit G—Lane County Official Zoning Map, Plot #021
- Exhibit H—Lane Code 16.211 (F-2 zone), Ordinance 884
- Exhibit I—Lane Code 16.258 (CLWP)
- Exhibit J—Ordinance 9-73 (Lane Code 9.700-9.765), Unzoned Area Development Permit
- Exhibit K—Ordinance 12-73
- Exhibit L—Beaches and Dunes Combining District (LC 16.239, 16.243)
- Exhibit M—Comparative Market Analysis (CMA)
- Exhibit N—Certification and Memorandum of Trust
- Exhibit O—Lane County Ordinances 3-72, 6-72, 14-72 and 24-72
- Exhibit P—Filing fee receipt PA-056805

4. APPLICABLE CRITERIA. (Lane Code 2.700—Real Property Compensation/Regulation Application Process). (**Note:** Application requirements appear in bold type below, applicant response in regular type.)

4.1 Lane Code Application for Claim

Lane Code requires the applicant(s) be present owners of the property at the time the claim is submitted. The applicants are the present and sole owners of the property.

Lane Code also contains the required items for a completed application as follows:

- a. **A completed application form. See attached Amended Exhibit D.**
- b. **The name, mailing address and phone number of the property owner filing the application, and each of the other owners of the subject property and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each, if any, along with the signature of each of the other owners indicating consent to the application claim.**

The co-applicants own the property free and clear of all other encumbrances and interests of record. Applicants' names, mailing address(es), and phone number(s) are provided in the application form attached. The applicants have signed the application form.

- c. **A legal description and tax lot number of the subject property as well as a street address for the property, if any.**

A legal description of the property is found in attached Exhibit B. The Lane County Assessor's Map No. for the property is 18-12-11 tax lot 2200. The street address is: none.

The property is located approximately ¼ mile north of the Florence Urban Growth Boundary, ¼ mile east of Highway 101, and ¼ mile west of Clear Lake. See Exhibits C and G.

- d. **A title report issued within 30 days of the application's submittal, including title history and including a statement of the date the applicant acquired ownership of the subject property and showing the ownership interests of all owners of the property or, as an alternative to the title report, a copy of the deed(s) granting all existing ownership interests to the owner(s) of the subject property signing the petition.**

A title report (Exhibit E), together with a copy of a Lane County Tax Assessor description card (Exhibit F) show the property title history from the time the Omlid family first acquired an interest on June 15, 1962. Copies of all recorded instruments referenced on the description card are made a part of Exhibit F.

At the time of the filing of this claim, applicant Erling Omlid, as Trustee under the Erling G. Omlid Revocable Living Trust, owns an undivided

one-third interest in the property and applicant Lee Omlid owns an undivided two-thirds interest.

History of family interests. Lloyd Omlid and Ellis Rackleff acquired their interest by contract purchase June 15, 1962 (Exhibit F-1), later acquiring legal title on recordation of a deed on May 14, 1968 (Exhibit F-2). On February 1, 1978, Lloyd Omlid and Ellis Rackleff deeded applicant Erling G. Omlid an undivided one-third interest in the property, which deed was recorded March 6, 1978 (Exhibit F-3).

On February 28, 1978, a memorandum of contract was recorded (Exhibit F-4) showing owners Ellis Rackleff, Lloyd Omlid and Erling Omlid entered into an unrecorded land sale contract to sell the property to Gary R. Parks and Judy L. Parks (daughter of Erling Omlid)—legal title remaining at all times in the Rackleff/Omlid/Omlid ownership. On August 19, 1985, because of a contract default, the equitable interest of the Parks was conveyed back to Rackleff/Omlid/Omlid by quitclaim deed recorded on that date (Exhibit F-5). Gary and Judy Parks were never in legal title.

Co-applicant Lee Omlid acquired a one-third interest on January 22, 2000, by deed of even date from his father, Lloyd Omlid; which deed was recorded June 16, 2000 (Exhibit F-6). He subsequently acquired the Ellis Rackleff 1/3 interest by deed recorded January 18, 2001 (Exhibit F-7).

On October 4, 2005, applicant Erling Omlid created the Erling G. Omlid Revocable Living Trust. On that date, he conveyed his original undivided 1/3 interest to himself as trustee under the living trust by deed recorded July 18, 2006 (Exhibit F-8). Applicant Erling Omlid is grantor as well as trustee of the revocable living trust and, as such, remains a 1/3 owner of the property since March 6, 1978. See Exhibit N. On July 13, 2006, Erling G. Omlid passed away. His son, O'Jay Omlid is named the Successor Trustee under the Trust.

- e. A statement specifically identifying the section of Lane Code or other land use regulation that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property, including the date the regulation was adopted, first enforced or applied to the subject property;**

Previous Zoning

At the time of acquisition by applicant Erling Omlid, on March 6, 1978, the property was subject to the following zoning or lack thereof:

(1) On May 30, 1972, and on August 16, 1973, Lane County regulated subdivision development of the property with Lane Code Chapter 13 that included the following adopted ordinances:

- Ord. No. 3-72, enacted on February 9, 1972, Reel 60, pages 113-118 and Reel 60, pages 245-277;
- Ord. No. 6-72, enacted on March 1, 1972, Reel 60, pages 534, 541-42;
- Ord. No. 14-72, enacted on July 12, 1972, Reel 63, pages 394-96; and
- Ord. No. 24-72, enacted on December 20, 1972, Reel 66, pages 23 and 30-33. See Exhibit O for all of these ordinances.

(2) On August 15, 1973, the Commissioners enacted Ordinance No. 9-73 (a copy of relevant portions are attached as Exhibit J), that included LC 9.700-.765 for unzoned areas. LC 9.710 required approval of unzoned area development permits for certain development or uses, including: (17) "More than five dwelling units per lot or parcel or contiguous lots or parcels under the same ownership; ...and (29) "Preliminary major subdivision applications as defined by Chapter 13."

(3) On October 3, 1973, the Commissioners enacted Ordinance No. 12-73 which adopted a minor amendment to the unzoned area development permit requirements of LC 9.700-9.765. A copy of Ordinance No. 12-73 is attached as Exhibit K. The property was not zoned on October 3, 1973.

Current Zoning

In contrast, today the property is designated by the Lane County Rural Comprehensive Plan as forest land and partially within the Clear Lake Watershed Area boundary. **The property is zoned mostly Clear Lake Watershed Protection Zone (CLWP)**, as depicted on Lane County Official Zoning Map Plot 021 (Exhibit G) and subject to compliance with the significantly more restrictive requirements of LC 16.258 (Exhibit I), established December 2, 1998 by Ordinance 6-98.

A small area of the property, on the southwest corner, is zoned F-2 and subject to compliance with the significantly more restrictive land use requirements in LC 16.211 (Exhibit H) established September 8, 1984, as part of Ordinance #884 (Exhibit H-1)—in which new dwellings are subject to special use permit and review processes and must comply with strict dwelling requirements for a lot of record, the 160-acre template or a large tract. Minimum area requirement in LC 16.211 for the division of land is, with a few narrow exceptions, 80 acres.

In addition to Ordinance 6-98, and in addition to Ordinance #884 the primary land use regulations that further restrict the use of the property are: LC 16.258; LC 16.211(5)(6)(7) and (10); and the Beaches and Dunes Combining District added on 7-1-80, later updated to the Chapter 16 version (LC 16.243) on 9-8-84 (Exhibit L). These Lane Code provisions and Zoning Map Plot #021 prevent applicants from subdividing their property into residentially buildable parcels less than 40 acres in size as was allowed by Lane County regulations (or lack thereof) prior to the county's adoption of current code provisions.

Further, the following Lane County regulations restrict the use of the property: (all references are the Lane Code) 10.100-10, 30 and 40; 13.050(1) (2) (5) and (12); 15.045(1); 15.070; 15.080; 15.137; and 15.138.

- f. **A copy of a written appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, addressing the requirements of the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after the application of each of the challenged regulations, individually, and after the application of all of the challenged regulations, cumulatively; OR**

as the County currently provides, appraisals are not required for an application to be complete; rather the applicant is required to submit "reasonable and competent" evidence of a reduction in fair market value from an enforcement of a land use regulation;

A comparative market analysis (CMA), attached as Exhibit M, was prepared by Jim Hoberg, Principal Broker of West Coast Real Estate, Florence, Oregon, who has over 17 years experience in the western Lane County real estate market. The CMA demonstrates the fair market value of it as currently configured and as if configured into eight (8) five acre parcels for hypothetical purposes.

- g. **A written statement addressing the criteria listed in LC 2.740(1)(a) through (d);**

LC 2.740(1)(a) through (d) provides the following criteria:

- (a) The County has either adopted or enforced a land use regulation that restricts the use of private property or any interest therein;**

Response: The County has zoned the property primarily CLWP and partly F-2, as shown on Lane County Official Zoning Map Plot #021—the CLWP zoning adopted by Lane County on 12-2-98 as part of Ordinance 6-98 (LC 16.258), and the F-2 zoning adopted on 9-8-84 by Lane County as part of Ordinance 884 (LC 16.211(5) (7) and (10). Also see section 4.1(e) above.

- (b) The restriction on use has the effect of reducing the fair market value of the property or any interest therein, upon which the restriction is imposed;**

Response: See discussion above in sections 4.1(e) and (f), and below in section 4.1(h).

- (c) The challenged land use regulation was adopted, enforced or applied after the current owner of the property (the applicant) became the owner, and ...**

Response: See discussion above in sections 4.1(d) and (e).

- (d) The challenged regulation is not an exempt regulation as defined in LC 2.710.**

Response: Ordinance 6-98 (LC 16.258), Ordinance 884 (LC 16.211(5)-(7) and (10), and the Lane Code provisions listed in the response to section 4.1(e) above are land use regulations as defined by provisions added to ORS Chapter 197 by Ballot Measure 37. They do not restrict nor prohibit public nuisances, are not public health and safety protection regulations, are not required to comply with federal law, do not relate to the use of the property for pornography or nude dancing and were not enacted prior to the date the applicants acquired the property.

- h. A statement by the applicant specifying the amount of the claim, and the fair market value of the property before and after application of the challenged land use regulation(s); and ...**

The applicants claim from Lane County the sum of \$1,070,000 which is the lower end of the value opinion by Jim Hoberg (Exhibit M). This represents the reduction in market value of the subject property resulting from Lane County's enforcement of the aforementioned regulations that restrict the residential use of the property and which prohibit land divisions to parcels less than 40 acres in size.

According to the CMA by Jim Hoberg, the total fair market value of the 40 acre parcel before the application of the challenged land use

regulations is between \$1,520,000 to \$1,800,000. According to the CMA valuation, the fair market value of the property after the application of the restrictive land use regulation is \$450,000 to \$500,000. The reduction in fair market value of the property resulting from Lane County's restrictions on its use totals \$1,070,000, the amount of applicants' claim.

- i. **Copies of any leases or covenants, conditions and restrictions applicable to the property, if any exist that impose restrictions on the use of the property. Unless waived by the County Administrator, an application shall also include an application fee, in the amount established by Order of the Board, to at least partially cover the County costs of processing the application, to the extent an application fee may be required as a condition of acceptance of filing an application for a claim under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004). The county shall refund the application fee if it is determined by the county or by a court that the applicant is entitled to compensation under the provisions added to ORS Chapter 197 by Ballot Measure 37.**

The property is free and clear of any encumbrances that would restrict the use of it.

5. CONCLUSION.

The applicants have demonstrated that Lane County's enforcement of Ordinance 6-98 (LC 16.258), and Ordinance 884 (LC 16.211(5)-(7) and (10)), restrict the use of the property to either one dwelling subject to numerous restrictions and compliance requirements (CLWP), or to impacted forest use on 80 acre minimum parcel sizes (F-2). The restrictions reduce the fair market value of the property from what it would be if residential use on parcels less than forty acres in size were allowed.

If the aforementioned Lane County regulations did not exist, were not enforced, or were consistent with provisions preceding March 6, 1978, the value of the applicants' property would be considerably higher if divided into two-acre or five-acre or larger parcels for residential use rather than remaining in its current use-and-acreage-restriction status.

The applicants have demonstrated compliance and consistency with the provisions added to ORS Chapter 197 by Ballot Measure 37 and LC 2.700. Accordingly, the applicants' claim for just compensation for the reduction in the fair market value of their property as a result of the restriction should be paid by Lane County. In lieu of such payment of just compensation, Lane County should

waive the offending regulations as provided above that prevent the applicants from subdividing the property into buildable lots of less than forty acres in size.

EXHIBIT E



**STATUS OF RECORD TITLE REPORT
AMENDED**

LEE OMLID
ATTORNEY AT LAW
2690 VAN NESS STREET
EUGENE, OR 97403

Our No: CT-0244271
Date: July 20, 2006
Charge: \$200.00
Government Service Fee: \$25.00

As requested, Cascade Title Co. has searched our tract indices as to the following described real property:

The Northwest one-quarter of the Northeast one-quarter of Section 11, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

and as of: JULY 13, 2006, at 8:00 A.M. we find the following:

Vestee:

LEE A. OMLID
as to undivided 2/3 interest and
ERLING G. OMLID
as trustee under the ERLING G. OMLID REVOCABLE LIVING TRUST
as to an undivided 1/3 interest
as tenants in common

Said property is subject to the following on record matters:

1. Taxes, Account No. 0781011, Assessor's Map No. 18 12 11, #2200, Code 97-19, 2004-2005, in the amount of \$672.81; 2005-2006, in the amount of \$687.05, BOTH DUE PLUS INTEREST. Taxes for the fiscal year 2006-2007, a lien not yet payable.

This report is to be utilized for information only. Any use of this report as a basis for transferring, encumbering or foreclosing the real property described will require prior notification to the undersigned and payment in an amount equivalent to applicable title insurance premiums as required by the rating schedule on file with the Oregon Insurance Division.

The liability of Cascade Title Co. is limited to the addressee and shall not exceed the premium paid hereunder.

CASCADE TITLE CO., by:

alg/Title Officer: Doug Pierce

MAIN OFFICE * 811 WILLAMETTE ST. * EUGENE, OREGON 97401 * PH: (541) 687-2233
FLORENCE * 1234 RHODODENDRON DR. * FLORENCE, OREGON 97439 * PH: (541) 997-8417
EUGENE FAX: 485-0307 * E-MAIL: info@cascadetitle.com * FLORENCE FAX: 997-8246

24969

EXHIBIT F-2

KNOW ALL MEN BY THESE PRESENTS, that CHAS. H. HANLON and GAIL HANLON, and wife,

in consideration of One and No/100, (\$1.00), & other good & valuable, no notes, paid by LLOYD OMLID and ELLIS L. HACKLERT,

have granted, bargained, sold and conveyed

not as tenants in common but with the right of survivorship, their assigns and the heirs of such survivor, all the following real property, with the tenements, hereditaments and appurtenances situated in the County of Lane and State of Oregon, bounded and described as follows, to-wit:

The Northwest 1/4 of the Northeast 1/4 of Section 11, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

To Have and to Hold the above described and granted premises unto the said Lloyd Omlid and Ellis L. Hacklert,

their heirs and the heirs of such survivor forever. Provided, however, that the grantees herein do not take the title in common but with the right of survivorship; that is, that the fee shall rest absolutely in the survivor of the grantees.

And Chas. H. Hanlon and Gail Hanlon, husband and wife,

the grantor(s) above named, do covenant to and with the above named grantees, their heirs and assigns, that they shall lawfully defend in fee simple of the above granted premises; that the above granted premises are free from all encumbrances,

and that they will and their heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whatsoever.

Witness my hand and seal this 15 day of June, 1952.
Chas. H. Hanlon (Seal)
Gail Hanlon (Seal)
Notary Public for Oregon
My Commission Expires May 24, 1953

STATE OF OREGON

County of Lane

BE IT REMEMBERED, That on this 1st day of May 1968, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Guss R. Hanlon and Gail Hanlon, husband and wife.

Who said they are to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year last above written.

Notary Public for

My Commission Expires

31871 04866

WARRANTY DEED

(Survivorship)
ORCSA No. 001

4366 Hanlon

4269 Rockloff
418000 sq. ft.

STATE OF

State of Oregon
County of Lane

Department of Records and Elections
in and for the said County, do hereby certify that the within instrument was checked for recording.

1968 MAY 14 10 07

Fee: 3.92 = R

Less County Official Record Fee.

INA RANDOLPH, Director of the Department of Records & Elections.

By *[Signature]* Deputy

028-001-03

150

7814914

EXHIBIT F-3

After recording, return to:

600

NAME, ADDRESS, ZIP

Until a change is requested, mail all tax statements to:

NAME, ADDRESS, ZIP

State of Oregon,
County of Lane—ss.

I, D.M. Penfold, Director of the
Dept of General Services, in and for
County, do hereby certify that this
instrument was received for recording

State

6 MAR 78 158 20

Reel 894 R

Lane County OFFICIAL RECORDS

D.M. Penfold, Director of the Department of
General Services

Jerry L. McFall
Clerk

CS-48

7814914

WARRANTY DEED-STATUTORY FORM

LLOYD F. OMLID and ELLIS L. RACKLEFF

Grantor

conveys and warrants to

ERLING G. OMLID

Grantee, an undivided one-third interest in the following described property:

The Northwest 1/4 of the Northeast 1/4 of
Section 11, Township 18 South, Range 12
West of the Willamette Meridian, in Lane
County, Oregon.

B 3 • 6876 7400 0000

(IF INSUFFICIENT SPACE, CONTINUE DESCRIPTION ON ADDITIONAL PAGE)

The said property is free from all encumbrances except easements, reservations and
restrictions of record.

true consideration for this conveyance is \$ 2,550.00

Dated FEB 1 1978

Lloyd F. Omlid
Ellis L. Rackleff

STATE OF OREGON, County of Lane, ss.

LLOYD F. OMLID and ELLIS L. RACKLEFF

Personally appeared the above named

and acknowledged the foregoing instrument to be their voluntary act and deed before me:

Dated Feb 16 1978 A.D. 1978

My Commission Expires: 10-16-78

Jerry Omlid
Notary Public for Oregon

CASCADE TITLE COMPANY

1075 Oak Street, Eugene

Form No.

EXHIBIT F-4

300

MEMORANDUM OF CONTRACT

7814913

LET IT BE KNOWN THAT on the 28th day of February, 1978, that LLOYD F. OMLID, ELLIS L. RACKLEFF and ERLING G. OMLID, hereinafter referred to as Sellers, and GARY R. PARKS and JUDY L. PARKS, hereinafter referred to as Buyers, did execute a certain Land Sale Contract, wherein and whereby the Sellers agreed to sell and Buyers agreed to purchase, under certain terms and conditions, that certain real property described as follows:

The Northwest 1/4 of the Northeast 1/4 of Section 11, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

This Memorandum is executed to evidence and confirm the contract of sale referred to above, to which reference is made for its terms and conditions which include the following:

a. Possession on the 28th day of February, 1978;

b. Annual installments of \$7,686.35, including interest on the unpaid balance at the rate of eight and one-half percent (8-1/2%) per annum, the first payment to be due and payable on the 5th day of March, 1979, and subsequent payments to be due and payable on the same day of each and every year thereafter, with the balance of the purchase price, including both principal and interest, being due and payable no later than the 5th day of March, 1984.

B 3 • 6287106 0600200

c. Conveyance by Warranty Deed upon completion of the contract;

d. Consideration in the amount of \$45,000.00.

DATED this 28th day of February, 1978.

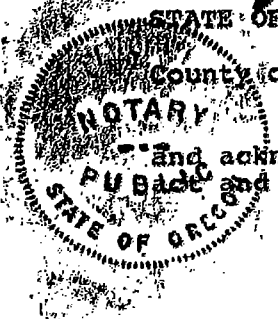
SELLERS:

Ellis Rackleff
Erling G. Omlid
Lloyd F. Omlid

BUYERS:

Gary R. Parks
Judy L. Parks

STATE OF OREGON)
) ss.
County of Lane)



Personally appeared each of the above named individuals and acknowledged the foregoing instrument to be their voluntary and deed.

L. Omlid
NOTARY PUBLIC FOR OREGON
My Commission Expires: 10-16-78

7811913

State of Oregon,
County of Lane--ss.

I, D.M. Penfold, Director of the Department of General Services, in and for the said County, do hereby certify that the within instrument was received for record at

6 MAR 78 15: 20

Reel **894 R**

Lane County OFFICIAL RECORDS.

D.M. Penfold, Director of the Department of General Services.

By *James H. Fall*
2000

CS-03

Mail all tax statements to:
Lee Omlid
2690 Van Ness St.
Eugene, OR 97403

EXHIBIT F-6

BARGAIN AND SALE DEED

For value received, Lloyd F. Omlid, Grantor, hereby grants, bargains, sells and conveys unto Lee A. Omlid, Grantee, the following described real property:

See Exhibit A attached and incorporated herein by this reference.

This property is otherwise described in Lane County Tax Assessor rolls as property number 18 12 11 000 2200 and is listed under account no. 0781011.

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 OR 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. [ORS 93.040(2)].

True consideration for this conveyance is love and affection.

DATED this 22nd day of January, 2000.

Lloyd F. Omlid
Lloyd F. Omlid

STATE OF OREGON, County of Lane, ss.

This instrument was executed and acknowledged before me by Lloyd F. Omlid on the 22nd day of January, 2000.

Renée Nancy
NOTARY PUBLIC FOR OREGON

DIVISION OF CHIEF DEPUTY CLERK
LANE COUNTY DEEDS AND RECORDS



31.00

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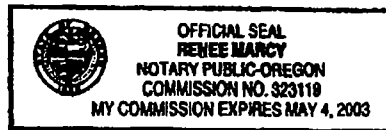


EXHIBIT A

The Northwest 1/4 of the Northeast 1/4 of Section 11, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

Mail all tax statements to:
Erling Omlid
36710 Keller Lane
Springfield, OR 97478

After recording, return to:
Lee Omlid
216 Nopal Street
Florence, OR 97439

EXHIBIT F-8

BARGAIN AND SALE DEED

For value received, Erling G. Omlid, Grantor, hereby grants, bargains, sells and conveys unto Erling G. Omlid, as Trustee, under the Erling G. Omlid Revocable Living Trust, Grantee, the following described real property:

The Northwest 1/4 of the Northeast 1/4 of Section 11, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

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 OR 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. [ORS 93.040(2)].

True consideration for this conveyance is other than monetary and is for estate planning purposes.

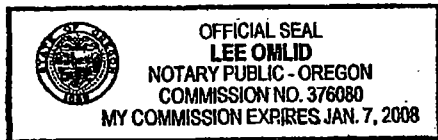
DATED this 4th day of October, 2005.

Erling G. Omlid

Erling G. Omlid

STATE OF OREGON, County of Lane, ss.

This instrument was executed and acknowledged before me by Erling G. Omlid on the 4th day of October, 2005.



Lee Omlid

NOTARY PUBLIC FOR OREGON

Division of Chief Deputy Clerk
Lane County Deeds and Records

2006-050042



\$25.00

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07/18/2006 11:45:40 AM

Bargain and Sale Deed - 1

RPR-DEED Cnt=1 Stn=15 CASHIER 02
\$5.00 \$11.00 \$10.00

WEST COAST
REAL ESTATE
SERVICES, INC.

July 20, 2006

Lee Omlid, Attorney
216 Nopal Street
Florence, OR 97439

EXHIBIT M
CMA

Re: Omlid/Ballot Measure 37
Tax Map Numbers: 18-12-11 Tax Lot 2200

DESCRIPTION:

Approximately 40 acres north of Florence
Acquisition Date: March 6, 1978
Zoning at Time of Acquisition: Unzoned Area Development Permit
Current Zoning: F-2 and CLWP Zone

PURPOSE OF OPINION OF VALUE:

Estimated market value of the subject property in light of currently imposed land use regulations and what the estimated market value would be if such land use regulations had not been imposed subsequent to acquisition.

BASIS OF REASONING AND VALUE CONCLUSION:

A computer inquiry of RMLS Multiple Listing Service shows that similar parcels of land zoned F-2 are actively listed from \$479,000 to \$650,000. There are three pending sales of F-2 zoned parcels. These properties are considerably smaller and the owners are currently in the process of obtaining one building site approval per parcel. The list price of these parcels range from \$149,000 to \$299,000. The computer inquiry of comparable sold properties resulted in two properties sold in April 2006. The sale price for 24 acre piece was \$135,000 and the 35 acre parcel was \$75,000. Both properties were in the Deadwood, Sweet Creek area and not of the same quality and location of the subject property.

Other factors to consider when determining market value is the cost of providing utilities to the property, value of marketable timber, views and the ability to obtain acceptable access and a building permit to the desired location on the property. With these statistics in mind, it is my opinion that the current market value of the 40 acres zoned F-2 is from \$450,000 to \$500,000.

P.O. BOX 3040 • FLORENCE, OREGON 97439
PHONE 541-997-SOLD (7653) • FAX 541-997-7654

WWW.WCRESINC.COM

A further computer inquiry of properties without the F-2 zoning restrictions indicates that splitting the 40 acres into approximately eight 5 acre parcels would raise the market value considerably. Comparable properties have sold in a range from \$140,000 to \$240,000 depending on lot size. The suggested price for the eight parcels would be from \$190,000 to \$225,000 per lot. The total value of the property would be between \$1,520,000 to \$1,800,000.

It is my opinion that by dividing the property the owner would optimize the marketability of the property and obtain the best possible price.

LIMITING CONDITIONS:

Any "value" or price statement in this letter is the estimated worth of, or price for the specific property described above and is given only in the context of advising a potential seller or buyer. Such statements are not intended to mean or imply the "value" was arrived at by any method of appraisal.

Respectfully,

Jim Hoberg

Jim Hoberg
Broker/Owner
Accredited Buyer Representative
Certified Residential Specialist
Graduate Realtor Institute

JIM HOBERG PROFESSIONAL PROFILE:

Principal Broker/Owner West Coast Real Estate Services, Inc.
I obtained my Oregon Real Estate License in 1989 and became a member Central Oregon Coast Board of Realtors in the same year. I have served on the Board of Directors, Co-Chair of the Education Committee, Vice President and President and was named Realtor of the Year in 2000. My professional designations are: Accredited Buyers Representative earned in 2002, Certified Residential Specialist earned in 1999, and Graduate Realtor Institute earned in 1998

THIS LETTER OPINION IS NOT INTENDED AS AN APPRAISAL:

This Letter Opinion is not intended as an appraisal. If an appraisal is desired, the services of a competent professional licensed appraiser should be obtained. The above signed licensee is not licensed by the Appraisal Certification and Licensure Board and this report is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice.