



**OREGON DEPARTMENT OF LAND CONSERVATION AND  
DEVELOPMENT**

**ORS 195.300 to ORS 195.336 (MEASURE 49) SUPPLEMENTAL REVIEW  
OF MEASURE 37 CLAIM  
Final Order of Denial**

**STATE ELECTION NUMBER:** E118962

**CLAIMANT:** BLM Inc. of Hood River<sup>1</sup>  
1450 Nunamaker Road  
Hood River, OR 97031

**MEASURE 37 PROPERTY  
IDENTIFICATION:** Township 2N, Range 10E  
Section 2DD, Tax lots 2200 and 2400  
Section 11A, Tax lots 200, 400 and 500  
Section 11C, Tax lots 101, 1100 and 1200  
Section 15, Tax lots 900 and 1100  
Hood River County

**AGENT CONTACT INFORMATION:** Kristian S. Roggendorf, Esq.  
O'Donnell Clark and Crew LLP  
1650 Naito Parkway, Suite 302  
Portland, OR 97209

The claimant, BLM Inc. of Hood River, filed a claim with the state under ORS 197.352 (2005) (Measure 37) on December 13, 2004, for property located at 1750 Orchard Road, 1897 Orchard Road, 1839 Orchard Road, 1511 Orchard Road, 1545 Orchard Road, 1470 Nunamaker Road, 1400 Icy Road, 2128 Dee Highway and 2200 Tucker Road, near Hood River, in Hood River County. ORS 195.300 to ORS 195.336 (Measure 49) entitles claimants who filed Measure 37 claims to elect supplemental review of their claims. The claimant has elected supplemental review of its Measure 37 claim under Section 6 of Measure 49, which allows the Department of Land Conservation and Development (the department) to authorize up to three home site approvals to qualified claimants.

This Final Order of Denial is the conclusion of the supplemental review of this claim.

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<sup>1</sup> The Oregon Secretary of State administratively dissolved BLM, Inc. of Hood River on September 4, 1997.

## I. ANALYSIS OF CLAIM

### A. Maximum Number of Home Sites for Which the Claimant May Qualify

Under Section 6 of Measure 49, the number of home site approvals authorized by the department cannot exceed the lesser of the following: three; the number stated by the claimant in the election materials; or the number described in a Measure 37 waiver issued by the state, or if no waiver was issued, the number of home sites described in the Measure 37 claim filed with the state. The claimant has requested three home site approvals in the election material. No waiver was issued for this claim. The Measure 37 claim filed with the state describes more than three home sites. Therefore, the claimant may qualify for a maximum of three home site approvals under Section 6 of Measure 49.

### B. Qualification Requirements

To qualify for a home site approval under Section 6 of Measure 49, the claimant must meet each of the following requirements:

#### 1. Timeliness of Claim

A claimant must have filed a Measure 37 claim for the property with either the state or the county in which the property is located on or before June 28, 2007, and must have filed a Measure 37 claim with both the state and the county before Measure 49 became effective on December 6, 2007. If the state Measure 37 claim was filed after December 4, 2006, the claim must also have been filed in compliance with the provisions of OAR 660-041-0020 then in effect.

#### Findings of Fact and Conclusions

The claimant, BLM Inc. of Hood River, filed a Measure 37 claim, M118962, with the state on December 13, 2004. The claimant filed a Measure 37 claim, 04-M002, with Hood River County on December 13, 2004. The state claim was filed prior to December 4, 2006.

The claimant timely filed a Measure 37 claim with both the state and Hood River County.

#### 2. The Claimant Is an Owner of the Property

Measure 49 defines "Owner" as: "(a) The owner of fee title to the property as shown in the deed records of the county where the property is located; (b) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or (c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner."

### **Findings of Fact and Conclusions:**

According to the deed submitted by the claimant, BLM Inc. of Hood River is the owner of fee title to the property as shown in the Hood River County deed records and, therefore, is an owner of the property under Measure 49.

However, on September 4, 1997, the claimant was administratively dissolved by the Oregon Secretary of State, Corporation Division (ORS 60.647 – 60.657). ORS 60.654 allows for the reinstatement of administratively dissolved corporations within five years after the date of dissolution. The Corporation Division has no record that any effort was made within that five-year period to reinstate the claimant corporation.

While dissolution of a corporation does not affect the claimant's title to its property (ORS 60.637(2)), the fact that the claimant corporation was dissolved limits its authority to act as an owner with regard to its property. ORS 60.651(3) provides:

A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under ORS 60.637, and notify claimants under ORS 60.641 and 60.644.

In other words, an administratively dissolved corporation may only carry on those activities listed in ORS 60.637 that are "necessary" to wind up and liquidate its business and affairs. The department finds that the pursuit of this claim for relief under Measure 49 is not within the scope of activities in which the claimant, as an administratively dissolved corporation, is permitted to engage because the claimant's claim for relief under Measure 49 is not "necessary" to wind up the corporation's business and affairs as the claimant could not implement the relief.

Based on this determination, the department does not make any further evaluation or determination on the merits or substance of the claim.

### **II. COMMENTS ON THE PRELIMINARY EVALUATION**

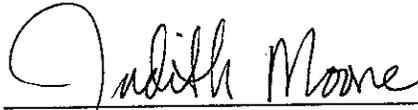
The department issued its Preliminary Evaluation for this claim on January 4, 2010. Pursuant to OAR 660-041-0090, the department provided written notice to the owners of surrounding properties. No written comments were received in response to the 28-day notice.

### **III. CONCLUSION**

Based on the analysis above, the claimant is not eligible for any relief under Measure 49 because the claimant is an administratively dissolved corporation with no authority to pursue or implement relief under Measure 49.

IT IS HEREBY ORDERED that this Final Order of Denial is entered by the Director of the Department of Land Conservation and Development as a final order of the department and the Land Conservation and Development Commission under ORS 197.300 to ORS 195.336 and OAR 660-041-0000 to 660-041-0160.

FOR THE DEPARTMENT AND THE LAND  
CONSERVATION AND DEVELOPMENT  
COMMISSION:



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Judith Moore, Division Manager  
Dept. of Land Conservation and Development  
Dated this 24<sup>th</sup> day of February 2010

#### **NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF**

You are entitled, or may be entitled, to judicial remedies including the following:

1. Judicial review is available to anyone who is an owner of the property as defined in Measure 49 that is the subject of this final determination, or a person who timely submitted written evidence or comments to the department concerning this final determination.
2. Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 must be filed in the Circuit Court in the county in which the affected property is located. Upon motion of any party to the proceedings, the proceedings may be transferred to any other county with jurisdiction under ORS 183.484 in the manner provided by law for change of venue.
3. Judicial review of this final determination is limited to the evidence in the record of the department at the time of its final determination. Copies of the documents that comprise the record are available for review at the department's office at 635 Capitol St. NE, Suite 150, Salem, OR 97301-2540. Judicial review is only available for issues that were raised before the department with sufficient specificity to afford the department an opportunity to respond.