



**OREGON DEPARTMENT OF LAND CONSERVATION AND  
DEVELOPMENT**

**ORS 195.300 to ORS 195.336 (MEASURE 49) SUPPLEMENTAL REVIEW  
OF MEASURE 37 CLAIM  
Preliminary Evaluation**

October 24, 2008

**STATE ELECTION NUMBER:** E129551

**CLAIMANT:** Florence Gross  
P.O. Box 43  
Falls City, Oregon 97344

**MEASURE 37 PROPERTY  
IDENTIFICATION:** Township 8S, Range 6W  
Section 16: tax lots 400, 501, 600, and 700  
Section 16CC: tax lot 100<sup>1</sup>  
Section 16CD: tax lot 1100<sup>1</sup>  
Polk County

**AGENT CONTACT INFORMATION:** Stephen Mannenbach  
P.O. Box 220  
Dallas, Oregon 97338

**I. ELECTION**

The claimant, Florence Gross, filed a claim under ORS 197.352 (2005) (Measure 37) on June 20, 2006, for property located at 703 Alan Street, near Falls City, in Polk County. ORS 195.300 to ORS 195.336 (Measure 49) entitles claimants who filed a Measure 37 claim to elect supplemental review of their claim. The claimant has elected supplemental review of her Measure 37 claim under Section 6 of Measure 49, which authorizes the Department of Land Conservation and Development (the department) to issue up to three home site approvals to qualified claimants.

**II. SUMMARY OF PRELIMINARY EVALUATION**

Based on the department's preliminary analysis, it appears that the claimant is not eligible for any relief under Section 6 of Measure 49 because a portion of the Measure 37 claim property is located within the boundary of Falls City.

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<sup>1</sup> The Measure 37 claim property consists of tax lots 400, 501, 600, 700, 100 and 1100. The claimant did not elect a supplemental review on tax lots 100 and 1100; however, a claim cannot be amended to remove claim property.

### **III. PRELIMINARY ANALYSIS OF QUALIFICATION FOR HOME SITE APPROVAL**

#### **1. Preliminary Analysis**

To qualify for a home site approval under Section 6 of Measure 49, 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.

The claimant, Florence Gross, filed a Measure 37 claim, M129551, with the state on June 20, 2006. The claimant filed Measure 37 claims with Polk County on June 9, 2006. The state claim was filed prior to December 4, 2006.

It appears that the claimant timely filed a Measure 37 claim with both the state and Polk County.

In addition to filing a claim with both the state and the county in which the property is located, to qualify for a home site approval under Section 6 of Measure 49 the claimant must establish:

- (a) The Measure 37 Claim Property is Located Entirely Outside Any Urban Growth Boundary and Entirely Outside the Boundaries of Any City.

A portion of the Measure 37 claim property, tax lots 100 and 1100, is located within the boundary of Falls City.

Because this requirement has not been met, the remaining approval criteria will not be evaluated.

#### **2. Preliminary Conclusion**

Based on the preliminary analysis, the claimant, Florence Gross, does not qualify for any home site approvals under Section 6 of Measure 49 because a portion of the Measure 37 claim property is located within the boundary of Falls City.

#### IV. NOTICE OF OPPORTUNITY TO COMMENT

A claimant or a claimant's authorized agent, a county and any third party may submit written comments, evidence and information in response to the preliminary evaluation. The comments, evidence and information must be filed with the department no more than twenty-eight (28) calendar days after the date this evaluation is mailed to the claimant and the claimant's agent and notice of this evaluation is mailed to third parties.

The department will mail a copy of all materials timely filed by a county or a third party with the department to the claimant and the claimant's agent. A claimant or a claimant's authorized agent may then file written comments, evidence or information in response to the materials filed by the third party or county. That response must be filed no more than twenty-one (21) calendar days after the date the department mails the materials to the claimant and the claimant's authorized agent.

All comments, evidence and information in response to the preliminary evaluation and all responses to materials filed by a third party or a county shall be delivered to Supplemental Measure 49 Claim Review, 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540 and will be deemed timely filed either (1) if actually delivered to the department before the close of business on the final eligible calendar day, or (2) if mailed on or before the final eligible calendar day.

**Note: Please reference the claim number and claimant name and clearly mark your comments as "Preliminary Evaluation Comments." Comments must be submitted in original written form only. Comments submitted electronically or by facsimile will not be accepted.**