

BEFORE THE DEPARTMENT OF ADMINISTRATIVE SERVICES, THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT OF THE STATE OF OREGON

IN THE MATTER OF THE CLAIM )  
FOR COMPENSATION UNDER )  
BALLOT MEASURE 37 (CHAPTER 1, )  
OREGON LAWS 2005) OF ) FINAL ORDER  
George I. and Earlene L. Hansen, ) CLAIM NO. M119181  
Kendall G. Hansen, Krystal D. Hansen-Kirsten, )  
and Michelle L. Hansen-Parcel and )  
Jeffery Parcel, CLAIMANTS )

Claimants: George I. and Earlene L. Hansen, Kendall G. Hansen, Krystal D. Hansen-Kirsten, and Michelle L. Hansen-Parcel and Jeffery Parcel (the Claimants)

Property: Tax Lots 900, 901, 902, 903 and 904, Section 13C, and Tax Lots 2201 and 2201, Section 14D, W.M., Clackamas County

Claim: The demand for compensation and any supporting information received from the Claimants by the State of Oregon (the Claim).

Claimants submitted the Claim to the State of Oregon under Ballot Measure 37 (2004) (Oregon Laws 2005, Chapter 1) (hereafter, Measure 37). Under OAR 125-145-0010 *et seq.*, the Department of Administrative Services (DAS) referred the Claim to the Department of Land Conservation and Development (DLCD) as the regulating entity. This order is based on the record herein, including the Findings and Conclusions set forth in the Final Staff Report and Recommendation of DLCD (the DLCD Report) attached to and by this reference incorporated into this order.

ORDER

The Claim is approved as to laws administered by DLCD and the Land Conservation and Development Commission (LCDC) for the reasons set forth in the DLCD Report, and subject to the following terms:

1. In lieu of compensation under Measure 37, the State of Oregon will not apply the following laws to George and Earlene Hansen’s, Kendall Hansen’s and Krystal Hansen-Kirsten’s division and residential development on Tax Lots 900, 901, 902, 903, 904 and 2201: Statewide Planning Goal 4 (Forest Lands), the 2000 amendments to Statewide Planning Goal 14 (Urbanization), ORS 215.705 to 215.755 and 215.780, OAR 660-004-0040, and OAR 660, Division 6; and will not apply the following laws to Michelle and Jeffery Parcel’s division and residential development of Tax Lot 2200: The 2000 amendments to Goal 14 and OAR 660-004-0040. However, the state will apply the 2000 amendments to Goal 14 and OAR 660-004-0040 to Kendall Hansen’s use of Tax Lot 902.

2. The relief granted by this order does not authorize George and Earlene Hansen to use the Property for a use that was not permitted when they acquired their interest in the Property. The use of Tax Lots 900, 901, 902, 903, 904 and 2201 in 1964 was not govern by any specific state laws, except for portions of ORS 92, which generally were in effect in 1964. Specifically, George and Earlene Hansen are authorized to divide and develop Tax Lots 900, 901, 902, 903, 904 and 2201, subject to partitioning laws under ORS 92 in effect in 1964. In addition, with regard to the two tax lots zoned for forest uses (Tax Lots 900 and 901) that make up a portion of the Property subject to this claim, ORS 215.730 and those current provisions of Goal 4 relating to siting standards for dwellings for the protection of the public health and safety are also exempt under subsection (3) of Measure 37 and will continue to apply to the claimants' use of these two tax lots.

The relief granted by this order does not authorize Kendall Hansen to use the Property for a use not permitted when he acquired his interest in the Property. The use of Tax Lots 2201 and 903 in 1998 were not govern by any state laws, except for the provisions of ORS 92, which generally were in effect in 1999. The use of Tax Lot 902 in 2004 was governed by state laws that include, but are not limited to: the provisions of ORS 92; the 2000 amendments to Statewide Planning Goal 14; and OAR 660-004-0040. Specifically, Kendall Hansen is authorized to divide and develop Tax Lot 2201, subject to the laws in effect on December 31, 1998; Tax Lot 903, subject to laws in effect on December 29, 1999; and Tax Lot 902, subject to laws in effect on November 24, 2004. The relief granted by this order does not authorize Kendall Hansen to independently use Tax Lot 902 as requested in this Claim.

The relief granted by this order does not authorize Krystal Hansen-Kirsten to use the Property for a use that was not permitted when she acquired her interest in the Property. The use of Tax Lot 2201 in 1999 was not governed by any state laws, except for the provisions of ORS 92, which generally were in effect in 1999. Specifically, Krystal Hansen-Kirsten is authorized to divide and develop Tax Lot 2201, subject to laws in effect on December 29, 1999.

The relief granted by this order does not authorize Michelle and Jeffery Parcel to use the Property for a use not permitted when they acquired their interest in the Property. The use of Tax Lot 2200 in 1999 was not governed by any state laws, except for the provisions of ORS 92, which generally were in effect in 1999. Specifically, Michelle and Jeffery Parcel are authorized to divide and develop Tax Lot 2200, subject to the laws in effect on May 4, 1999.

3. To the extent that any law, order, deed, agreement or other legally-enforceable public or private requirement provides that the Property may not be used without a permit, license, or other form of authorization or consent, this order does not authorize the use of the Property unless the Claimants first obtains that permit, license, or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a permit as defined in ORS 215.412 or ORS 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the Property imposed by private parties.

4. Any use of the property by the Claimants under the terms of this order remains subject to the following laws: (a) those laws not specified in (1), above; (b) any laws enacted or enforced

by a public entity other than DLCD; and (c) those laws not subject to Measure 37 including, without limitation, those laws exempted under section (3) of Measure 37.

5. Without limiting the generality of the foregoing terms, in order for the Claimants to use the property, it may be necessary for the Claimant to obtain a decision under Measure 37 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves the Claimants from the necessity of obtaining a decision under Measure 37 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the property by the Claimants.

This Order is entered by the Director of the DLCD as a final order of DLCD and the Land Conservation and Development Commission under Measure 37, OAR 660-002-0010(8), and OAR 125, division 145, and by the Deputy Administrator for the State Services Division of the DAS as a final order of DAS under Measure 37, OAR 125, division 145 and ORS 293.

FOR DLCD AND THE LAND CONSERVATION  
AND DEVELOPMENT COMMISSION:

\_\_\_\_\_  
Lane Shetterly, Director  
DLCD

Dated this \_\_\_\_ day of \_\_\_\_\_, 2005.

FOR the DEPARTMENT OF ADMINISTRATIVE  
SERVICES:

\_\_\_\_\_  
Dugan Petty, Deputy Administrator  
DAS, State Services Division

Dated this \_\_\_\_ day of \_\_\_\_\_, 2005.

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

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

1. Judicial review under ORS 293.316: Judicial review under ORS 293.316 may be obtained by filing a petition for review within 60 days from the service of this order. Judicial review under ORS 293.316 is pursuant to the provisions of ORS 183.482 to the Court of Appeals.
2. Judicial review under ORS 183.484: 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 may be filed in the Circuit Court for Marion County and the Circuit Court in the county in which you reside.

3. A cause of action under Oregon Laws 2005, chapter 1 (Measure 37 (2004)): A present owner of the property, or any interest therein, may file a cause of action in the Circuit Court for the county where the property is located, if a land use regulation continues to apply to the subject property more than 180 days after the present owner made a written demand for compensation.

(Copies of the documents that comprise the record are available for review at the Department's office at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540)

#### **FOR INFORMATION ONLY**

The Oregon Department of Justice has advised the Department of Land Conservation and Development that “[i]f the current owner of the real property conveys the property before the new use allowed by the public entity is established, then the entitlement to relief will be lost.”