

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

IN THE MATTER OF THE CLAIM FOR	)	FINAL ORDER
COMPENSATION UNDER ORS 197.352	)	CLAIM NO. M122149
(BALLOT MEASURE 37) OF	)	
Urban Van Handel, CLAIMANT	)	

Claimant: Urban Van Handel (the Claimant)

Property: Township 9S, Range 1E, Section 20, Tax lot 700<sup>1</sup>, Linn County (the Property)

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

Claimant submitted the Claim to the State of Oregon under ORS 197.352. 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 ORS 197.352, the State of Oregon will not apply the following laws to Urban Van Handel's partition of 17.58-acre tax lot 700 into approximately 5-acre parcels or to his development of a dwelling on each parcel: applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, enacted or adopted after September 15, 1978. These land use regulations will not apply to the claimant only to the extent necessary to allow him to use the subject property for the use described in this report, and only to the extent that use was permitted when he acquired the property on September 15, 1978.
2. The action by the State of Oregon provides the state's authorization to the claimant to use 17.58-acre tax lot 700 for the use described in this report, subject to the standards in effect on September 15, 1978. On that date, the property was subject to applicable provisions of Goal 3 and ORS 215 then in effect.

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<sup>1</sup> At the time the claim was filed, tax lot 700 consisted of 22.65 acres. Since that time, tax lot 700 has been reduced by 5.07 acres through the creation of tax lot 702 and the claimant's conveyance of that 5.07-acre parcel to another party. Linn County confirms that tax lot 702 has been created, and a warranty deed dated March 7, 2006, transferred parcel 2 of partition plat 2006-2009 (the 5.07-acre parcel that is now tax lot 702) to Kenneth and Cynthia Devine. The claimant is not an owner of tax lot 702. To the extent that what is now tax lot 702 was part of tax lot 700 when the claim was submitted, this report addresses that tax lot as well.

3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license or other form of authorization or consent, the order will not authorize the use of the property unless the claimant 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 215.402 or 227.160, other permits or authorizations from local, state or federal agencies and restrictions on the use of the subject property imposed by private parties.

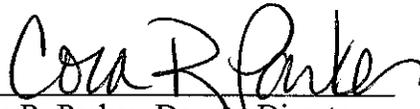
4. Any use of the subject property by the claimant under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

5. Without limiting the generality of the foregoing terms and conditions, in order for the claimant to use the subject property, it may be necessary for him to obtain a decision under ORS 197.352 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 claimant from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the subject property by the claimant.

This Order is entered by the Deputy Director of the DLCD as a final order of DLCD and the Land Conservation and Development Commission under ORS 197.352, OAR 660-002-0010(8), and OAR 125, division 145, and by the Administrator for the State Services Division of the DAS as a final order of DAS under ORS 197.352, OAR 125, division 145, and ORS 293.

FOR DLCD AND THE LAND CONSERVATION  
AND DEVELOPMENT COMMISSION:

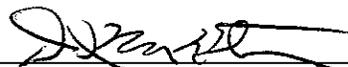
Lane Shetterly, Director



Cora R. Parker, Deputy Director  
DLCD

Dated this 10<sup>th</sup> day of July, 2006.

FOR the DEPARTMENT OF ADMINISTRATIVE  
SERVICES:



David Hartwig, Administrator  
DAS, State Services Division

Dated this 10<sup>th</sup> day of July, 2006.

## 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 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 or the Circuit Court in the county in which you reside.
2. A cause of action under ORS 197.352 (Measure 37 (2004)): If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under ORS 197.352<sup>2</sup>, the present owner of the property, or any interest therein, shall have a cause of action in the circuit court in which the real property is located.

(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.”

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<sup>2</sup> By order of the Marion County Circuit Court, “all time lines under Measure 37 [were] suspended indefinitely” on October 25, 2005. This suspension was lifted on March 13, 2006 by the court. As a result, a period of 139 days (the number of days the time lines were suspended) has been added to the 180-day time period under ORS 197.352(6) for claims that were pending with the state on October 25, 2005.

**ORS 197.352 (BALLOT MEASURE 37) CLAIM FOR COMPENSATION**

**OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
Final Staff Report and Recommendation**

July 10, 2006

**STATE CLAIM NUMBER:** M122149

**NAME OF CLAIMANT:** Urban Van Handel

**MAILING ADDRESS:** 120 North Holly Avenue  
Stayton, Oregon 97383

**PROPERTY IDENTIFICATION:** Township 9S, Range 1E, Section 20  
Tax lot 700<sup>1</sup>  
Linn County

**OTHER CONTACT INFORMATION:** Cynthia Devine  
499 Northeast Cherry Street  
Sublimity, Oregon 97385

**OTHER INTEREST IN PROPERTY:** Nestor Van Handel  
Gladys Shankle  
Urban and Linda Van Handel  
Mary Van Handel  
Peter Van Handel<sup>2</sup>

**DATE RECEIVED BY DAS:** September 1, 2005

**180-DAY DEADLINE:** July 17, 2006<sup>3</sup>

**I. SUMMARY OF CLAIM**

The claimant, Urban Van Handel, seeks compensation in the amount of \$305,000 for the reduction in fair market value as a result of land use regulations that are alleged to restrict the use

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<sup>1</sup> At the time the claim was filed, tax lot 700 consisted of 22.65 acres. Since that time, tax lot 700 has been reduced by 5.07 acres through the creation of tax lot 702 and the claimant's conveyance of that 5.07-acre parcel to another party. Linn County confirms that tax lot 702 has been created, and a warranty deed dated March 7, 2006, transferred parcel 2 of partition plat 2006-2009 (the 5.07-acre parcel that is now tax lot 702) to Kenneth and Cynthia Devine. The claimant is not an owner of tax lot 702. To the extent that what is now tax lot 702 was part of tax lot 700 when the claim was submitted, this report addresses that tax lot as well.

<sup>2</sup> The claim indicates that these individuals may have ownership interests in the subject property. However, they are not identified as claimants, and the claim materials provide insufficient documentation to substantiate their ownership.

<sup>3</sup> This date reflects 180 days from the date the claim was submitted, as extended by the 139 days that all timelines under Measure 37 were suspended during the pendency of *MacPherson v. Dept. of Admin. Svcs.*, 340 Or 117 (2006).

of certain private real property. The claimant desires compensation or the right to divide the subject property into approximately five-acre parcels and to develop a dwelling on each parcel. The subject property is located on Kingston-Lyons Drive, near Scio, in Linn County. (See claim.)

## II. SUMMARY OF STAFF RECOMMENDATION

Based on the findings and conclusions set forth below, the Department of Land Conservation and Development (the department) has determined that the claim is valid in part. Department staff recommends that, in lieu of compensation, the requirements of the following state laws enforced by the Land Conservation and Development Commission (the Commission) or the department not apply to Urban Van Handel's partition of 17.58-acre tax lot 700 into approximately 5-acre parcels and to his development of a dwelling on each parcel: applicable provisions of Statewide Planning Goal 3 (Agricultural Lands), ORS 215 and Oregon Administrative Rules (OAR) 660, division 33, enacted or adopted after September 15, 1978. These laws will not apply to the claimant only to the extent necessary to allow him to use the 17.58 acres of tax lot 700 for the use described in this report, and only to the extent that use was permitted when he acquired the property on September 15, 1978. (See the complete recommendation in Section VI. of this report.)

The department has further determined that this claim is not valid for the 5.07-acre parcel currently identified as tax lot 702, which was formerly part of tax lot 700, because the claimant is no longer an owner of what is now tax lot 702. (See the complete recommendation in Section VI of this report.)

## III. COMMENTS ON THE CLAIM

### Comments Received

On October 6, 2005, pursuant to OAR 125-145-0080, the Oregon Department of Administrative Services (DAS) provided written notice to the owners of surrounding properties. According to DAS, no written comments were received in response to the 10-day notice.

## IV. TIMELINESS OF CLAIM

### Requirement

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from land use regulations enacted prior to the effective date of Measure 37 (December 2, 2004), within two years of that effective date, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner, whichever is later; or
2. For claims arising from land use regulations enacted after the effective date of Measure 37 (December 2, 2004), within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

## **Findings of Fact**

This claim was submitted to DAS on September 1, 2005, for processing under OAR 125, division 145. The claim identifies provisions of Linn County's Exclusive Farm Use (EFU) zoning and House Bill 3661 (1993) as the basis for the claim. Only laws that were enacted or adopted prior to December 2, 2004, are the basis for this claim.

## **Conclusions**

The claim has been submitted within two years of the effective date of Measure 37 (December 2, 2004), based on land use regulations enacted or adopted prior to December 2, 2004, and is therefore timely filed.

## **V. ANALYSIS OF CLAIM**

### **1. Ownership**

ORS 197.352 provides for payment of compensation or relief from specific laws for "owners" as that term is defined in ORS 197.352. ORS 197.352(11)(C) defines "owner" as "the present owner of the property, or any interest therein."

## **Findings of Fact**

The claimant, Urban Van Handel, acquired an ownership interest in the subject property, tax lot 700, on September 15, 1978, as reflected by a probate order approving the disposition of his mother's estate included with the claim. The claimant's mother acquired the subject property on December 8, 1924, as reflected by a quitclaim deed recorded in Linn County's records. On February 18, 2000, the claimant transferred the subject property to a revocable trust with himself and his wife as trustees. On March 7, 2006, the claimant conveyed a 5.07-acre portion of tax lot 700 to another party. That 5.07-acre parcel is now identified as tax lot 702. The claimant has no ownership interest in the 5.07-acre parcel. The Linn County Assessor's Office confirms the claimant's current ownership of 17.58-acre tax lot 700.

## **Conclusions**

The claimant, Urban Van Handel, is an "owner" of 17.58-acre tax lot 700, as that term is defined by ORS 197.352(11)(C), as of September 15, 1978. The claimant is not an owner of the 5.07-acre tax lot 702, which was a part of tax lot 700 when the claim was filed. The claimant's mother is a "family member," as defined by ORS 197.352(11)(A.), and acquired the subject property on December 8, 1924.

### **2. The Laws That are the Basis for This Claim**

In order to establish a valid claim, ORS 197.352(1) requires, in part, that a law must restrict the claimant's use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimant acquired the property.

## **Findings of Fact**

The claim indicates that the claimant desires to divide the subject property into approximately five-acre parcels and to develop a dwelling on each parcel. It identifies state and local land use regulations as not allowing the desired use.

The claim is based generally on Linn County's current EFU zone and the applicable provisions of state law that require such zoning. The claimant's property is zoned EFU as required by Goal 3, in accordance with ORS 215 and OAR 660, division 33, because the claimant's property is "agricultural land" as defined by Goal 3.<sup>4</sup> Goal 3 became effective on January 25, 1975, and required that agricultural lands as defined by the Goal be zoned EFU pursuant to ORS 215.

Current land use regulations, particularly ORS 215.263, 215.284 and 215.780 and OAR 660, division 33, enacted or adopted pursuant to Goal 3, prohibit the division of EFU-zoned land into parcels less than 80 acres and establish standards for the development of dwellings on existing or proposed parcels on that land.

ORS 215.780 establishes an 80-acre minimum size for the creation of new lots or parcels in EFU zones and became effective on November 4, 1993 (Chapter 792, Oregon Laws 1993). ORS 215.263 (2005 edition) establishes standards for the creation of new parcels for non-farm uses and dwellings allowed in an EFU zone.

OAR 660-033-0135 (applicable to farm dwellings) became effective on March 1, 1994, and interprets the statutory standard for a primary dwelling in an EFU zone under ORS 215.283(1)(f). OAR 660-033-0130(4) (applicable to non-farm dwellings) became effective on August 7, 1993, and was amended to comply with ORS 215.284(4) on March 1, 1994. The Commission subsequently adopted amendments to comply with House Bill 3326 (Chapter 704, Oregon Laws 2001, effective on January 1, 2002), which were effective on May 22, 2002. (See administrative rule history for OAR 660-033-0100, -0130 and -0135.)

The claimant's family acquired the subject property in 1924, prior to the adoption of the statewide planning goals and their implementing statutes and regulations.

## **Conclusions**

The current zoning requirements, minimum lot size and dwelling standards established by Goal 3, ORS 215 and OAR 660, division 33, do not allow the claimant's desired division or development of the subject property. These laws restrict the use of the subject property relative to the uses allowed when the claimant's family acquired the property.

### **3. Effect of Regulations on Fair Market Value**

In order to establish a valid claim, ORS 197.352(1) requires that the land use regulation(s) (described in Section V.(2) of this report) must have "the effect of reducing the fair market value of the property, or any interest therein."

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<sup>4</sup> The claimant's property is "agricultural land" because it contains Natural Resources Conservation Service Class I-IV soils.

## **Findings of Fact**

The claim includes an estimate of \$305,000 as the reduction in the subject property's fair market value due to the regulations. This amount is based on a comparative analysis provided by the claimant.

## **Conclusions**

As explained in Section V.(1) of this report, the claimant is Urban Van Handel whose family acquired the subject property in 1924. Under ORS 197.352, the claimant is due compensation for land use regulations that restrict the use of the property and have the effect of reducing its fair market value. Based on the findings and conclusions in Section V.(2) of this report, laws enacted or adopted since the claimant's family acquired the subject property restrict the claimant's desired use of the property. The claimant estimates that the effect of the regulations on the fair market value of the subject property is a reduction of \$305,000.

Without an appraisal or other relevant evidence, it is not possible to substantiate the specific dollar amount by which the land use regulations have reduced the fair market value of the subject property. Nevertheless, based on the evidence in the record for this claim, the department determines that the fair market value of the subject property has been reduced to some extent as a result of land use regulations enforced by the Commission or the department.

## **4. Exemptions Under ORS 197.352(3)**

ORS 197.352 does not apply to certain land use regulations. In addition, under ORS 197.352(3), certain types of laws are exempt from ORS 197.352.

## **Findings of Fact**

The claim is based on state land use regulations that restrict the use of the subject property, including applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, which Linn County has implemented through its current EFU zone. These land use regulations were enacted or adopted after the claimant's family acquired the subject property.

## **Conclusions**

It appears that none of the general statutory, goal and rule restrictions on division and development of the claimant's property were in effect when the claimant's family acquired the subject property in 1924. As a result, these laws are not exempt under ORS 197.352(3)(E). Laws in effect when the claimant's family acquired the subject property are exempt under ORS 197.352(3)(E) and do not provide a basis for compensation. In addition, other land use laws enacted or adopted for a purpose set forth in ORS 197.352(3)(A) to (D) are also exempt and would not provide a basis for compensation.

## **VI. FORM OF RELIEF**

ORS 197.352(1) provides for payment of compensation to an owner of private real property if the Commission or the department has enforced one or more laws that restrict the use of the

property in a manner that reduces its fair market value. In lieu of compensation, the department may choose to not apply the law in order to allow the present owner to carry out a use of the property permitted at the time the present owner acquired the property. The Commission, by rule, has directed that if the department determines a claim is valid, the Director of the department must provide only non-monetary relief unless and until funds are appropriated by the legislature to pay claims.

### **Findings of Fact**

Based on the findings and conclusions set forth in this report, laws enforced by the Commission or the department restrict the claimant's desired use of the subject property. The claim asserts that existing state land use regulations enforced by the Commission or the department have the effect of reducing the fair market value of the subject property by \$305,000. However, because the claim does not provide an appraisal or other relevant evidence demonstrating that the land use regulations described in Section V.(2) reduce the fair market value of the subject property, a specific amount of compensation cannot be determined. In order to determine a specific amount of compensation due for this claim, it would also be necessary to verify whether or the extent to which the claimant's desired use of the property was allowed under the standards in effect when the claimant's family acquired the property. Nevertheless, based on the record for this claim, the department has determined that the laws on which the claim is based have reduced the fair market value of the subject property to some extent.

No funds have been appropriated at this time for the payment of claims. In lieu of payment of compensation, ORS 197.352 authorizes the department to modify, remove or not apply all or parts of certain land use regulations to allow Urban Van Handel to use 17.58-acre tax lot 700 for a use permitted at the time he acquired the property on September 15, 1978.

The claimant acquired the subject property after the adoption of the statewide planning goals, but before the Commission acknowledged Linn County's land use regulations to be in compliance with the statewide planning goals pursuant to ORS 197.250 and 197.251. Because the Commission had not acknowledged the county's plan and land use regulations when the claimant acquired the subject property on September 15, 1978, the statewide planning goals, and Goal 3 in particular, applied directly to the claimant's property when he acquired it.<sup>5</sup>

As adopted on January 25, 1975, Goal 3 required that agricultural land be preserved and zoned for EFU pursuant to ORS 215. The Goal 3 standard for land divisions involving property where the local zoning was not acknowledged required that the resulting parcels must be of a size that is "appropriate for the continuation of the existing commercial agricultural enterprise within the

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<sup>5</sup> The statewide planning goals became effective on January 25, 1975, and were applicable to legislative land use decisions and some quasi-judicial land use decisions prior to the Commission's acknowledgment of each county's comprehensive plan and implementing regulations. *Perkins v. City of Rajneeshpuram*, 300 Or 1 (1985); *Alexanderson v. Polk County*, 289 Or 427, rev. den 290 Or 137 (1980); *Sunnyside Neighborhood Assn. v. Clackamas County*, 280 Or 3 (1977); *Jurgenson v. Union County*, 42 Or App 505 (1979); and *1000 Friends of Oregon v. Benton County*, 32 Or App 413 (1978). After the county's plan and land use regulations were acknowledged by the Commission, the statewide planning goals and implementing rules no longer applied directly to such local land use decisions. *Byrd v. Stringer*, 295 Or 311 (1983). However, statutory requirements continue to apply, and insofar as the state and local provisions are materially the same, the local provisions must be interpreted consistent with the substance of the goals and implementing rules. *Forster v. Polk County*, 115 Or App 475 (1992) and *Kenagy v. Benton County*, 115 Or App 131 (1992).

area.” Further, ORS 215.263 (1973 edition) only authorized the partition of land subject to EFU zoning, and required that all divisions of land subject to EFU zoning comply with the legislative intent set forth in ORS 215.243 (Agricultural Land Use Policy). Thus, the claimant’s opportunity to divide the subject property when he acquired it in 1978 was limited to land divisions that were consistent with Goal 3, which required that the resulting parcels be (1) appropriate for the continuation of the existing commercial agricultural enterprise in the area and (2) shown to comply with the legislative intent set forth in ORS 215.

Under the Goal 3 standards in effect on September 15, 1978, farm dwellings were allowed if they were determined to be “customarily provided in conjunction with farm use” under ORS 215.213(1)(e) (1973 edition). Non-farm dwellings were subject to compliance with ORS 215.213(3) (1973 edition).

No information has been presented in the claim to establish that the claimant’s desired division of the subject property into approximately five-acre parcels complies with the “commercial” standard for farm parcels under Goal 3 or the standards for non-farm parcels under ORS 215.263 (1973 edition), nor is there any information to establish that the claimant’s desired development of additional dwellings on the subject property satisfies the standards for farm or non-farm dwellings under ORS 215.213 (1973 edition).

In addition to the applicable provisions of Goal 3 and ORS 215 in effect when the claimant acquired the property on September 15, 1978, other laws in effect when the claimant acquired an interest in the subject property are also exempt under ORS 197.352(3)(E) and will continue to apply to the claimant’s use of the property. There may be other laws that continue to apply to the claimant’s use of the subject property that have not been identified in the claim. In some cases, it will not be possible to know which laws apply to a use of property until there is a specific proposal for that use. When the claimant seeks a building or development permit to carry out a specific use, it may become evident that other state laws apply to that use. In some cases, some of these laws may be exempt under ORS 197.352(3)(A) to (D).

This report addresses only those state laws that are identified in the claim, or that the department is certain apply to the subject property based on the use that the claimant has identified. Similarly, this report only addresses the exemptions provided for under ORS 197.352(3) that are clearly applicable, given the information provided to the department in the claim. The claimant should be aware that the less information he has provided to the department in the claim, the greater the possibility that there may be additional laws that will later be determined to continue to apply to his use of the subject property.

### **Conclusions**

Based on the record, the department recommends that the claim be denied as to the 5.07-acre portion of the property now identified as tax lot 702 because the claimant is not an owner of that parcel. The department further recommends that the claim otherwise be approved as to 17.58-acre tax lot 700, subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Urban Van Handel’s partition of 17.58-acre tax lot 700 into approximately 5-acre parcels or to his development of a dwelling on each parcel: applicable provisions of Goal 3, ORS 215

and OAR 660, division 33, enacted or adopted after September 15, 1978. These land use regulations will not apply to the claimant only to the extent necessary to allow him to use the subject property for the use described in this report, and only to the extent that use was permitted when he acquired the property on September 15, 1978.

2. The action by the State of Oregon provides the state's authorization to the claimant to use 17.58-acre tax lot 700 for the use described in this report, subject to the standards in effect on September 15, 1978. On that date, the property was subject to applicable provisions of Goal 3 and ORS 215 then in effect.

3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license or other form of authorization or consent, the order will not authorize the use of the property unless the claimant 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 215.402 or 227.160, other permits or authorizations from local, state or federal agencies and restrictions on the use of the subject property imposed by private parties.

4. Any use of the subject property by the claimant under the terms of the order will remain 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 the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

5. Without limiting the generality of the foregoing terms and conditions, in order for the claimant to use the subject property, it may be necessary for him to obtain a decision under ORS 197.352 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 claimant from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the subject property by the claimant.

## **VII. COMMENTS ON THE DRAFT STAFF REPORT**

The department issued its draft staff report on this claim on June 26, 2006. OAR 125-145-0100(3), provided an opportunity for the claimant or the claimant's authorized agent and any third parties who submitted comments under OAR 125-145-0080 to submit written comments, evidence and information in response to the draft staff report and recommendation. Comments received have been taken into account by the department in the issuance of this final report.