

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Amending)
Ordinance 749 to Require Notice to)
Surrounding Property Owners When a) ORDINANCE 762
Measure 37/Ordinance 749 Claim is Filed)
with the Planning Director; Declaring an)
Emergency; Effective Immediately)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on March 2, 2005, commissioners Mary P. Stern, Leslie Lewis and Kathy George being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On December 2, 2004 the Board adopted Ordinance 749 to implement the provisions of Ballot Measure 37. Measure 37, which became effective December 2, 2004, added provisions to Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment of just compensation to landowners if a government land use regulation reduces property value. In lieu of payment of just compensation, Ballot Measure 37 authorized the governing body of a local government to modify, remove or not apply the land use regulation.

B. Ordinance 749 did not require notice to surrounding property owners when a claimant filed an application for just compensation or modification, removal or non-application of land use regulations. The Board has determined such a provision is appropriate. The purpose of this ordinance is to amend Ordinance 749 to require such a provision. NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:

Section 1. Amendment of Section 2 of Ordinance 749. Section 2 of Ordinance 749 is hereby deleted in its entirety and replaced with the following language:

Section 2. Application for Claim; Notice to Surrounding Property Owners.

(1) An applicant seeking to file a claim under this ordinance shall be the present owner of the property that is the subject of the claim at the time the claim is submitted. An applicant shall submit an application to the Planning Director consisting of all of the items set out in this section. The Planning Director may waive the submission of any materials if not deemed applicable to the evaluation of the specific claim. Within 20 working days of the date the application is first submitted, the Planning Director may require additional information beyond that listed in this section where necessary to address approval criteria for the claim. The applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation.

Unless specifically waived by the Planning Director, the following must be submitted:

- (a) A completed application form with an application fee to at least partially cover the County costs of processing the application. The fee shall be set by Board Order.
 - (b) The name, mailing address, and phone number of the property owner filing the application, and of 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;
 - (c) A legal description and tax lot number of the subject property as well as a street address for the property (if any);
 - (d) A title report or information report issued by a title company licensed to do business in Oregon 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 certified copy of the latest deed(s) granting all existing ownership interests to the owner(s) of the subject property signing the application;
 - (e) A statement specifically identifying the section of any Yamhill County 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;
 - (f) A statement of the relief sought by the owner, such as a monetary payment in a specific amount, removal of the applicable regulation, modification of the applicable regulation, or a decision to not apply the regulation to the subject property. If a modification is sought, a description of the desired modification must be included.
 - (g) A statement 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 application of the challenged regulation. If determined necessary by the Planning Director in the Director's sole discretion, the written statement must include 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);
 - (h) A written statement addressing the criteria listed in Section 4 of this ordinance;
 - (i) Copies of any leases or covenants, conditions and restrictions applicable to the subject property if any exist that impose restrictions on the use of the property.
- (2) The Planning Director shall exercise best efforts to cause written notice of the claim to be mailed to owners of property whose property lines abut those of the claimant ("surrounding property owners"). For those claims filed on or after March 3, 2005, notice shall be mailed within

ten business days of a claim being deemed complete under this section. For those other claims previously filed but awaiting final Board determination as of March 2, 2005, notice shall be mailed as soon as reasonably practicable. The failure of a surrounding property owner to receive notice required by this subsection shall not effect the validity of any determination on a claim by the Board. The notice required by this subsection shall include at least the following information:

- (a) The name of the claimant.
- (b) The street address or easily understood geographical reference to the subject property.
- (c) The nature of the claim, including the relief or compensation sought.
- (d) Criteria from Ordinance 749 that the Planning Director and Board are required to consider when acting on a claim.

Section 2. Applicability. This ordinance shall apply to any Ordinance 749/Measure 37 claim for which no final decision by Board Order had been made by the Board as of March 3, 2005.

Section 3. Severability. All sections, subsections, and paragraphs of this ordinance are severable. If any section, subsection, or paragraph is ruled invalid for any reason by the court of last resort, the other parties of this ordinance shall be unaffected.

Section 4. Effective Date; Emergency Clause. The first and second readings of this ordinance were made March 2, 2005. To carry out the intent of this ordinance an emergency is hereby declared to exist. In accordance with ORS 203.045(4) this ordinance shall take effect immediately.

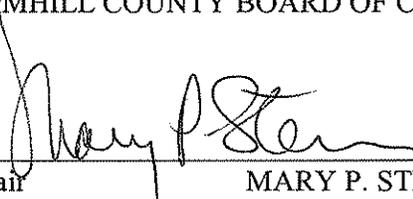
AYES: Commissioners Stern, Lewis and George.

DONE at McMinnville, Oregon on March 2, 2005.

ATTEST

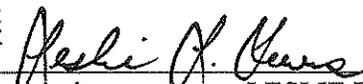
YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN COLEMAN
County Clerk


Chair
MARY P. STERN

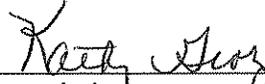
By: 
Deputy ANNE BRITTON




Commissioner
LESLIE LEWIS

FORM APPROVED BY:


JOHN M. GRAY, JR.
Yamhill County Legal Counsel


Commissioner
KATHY GEORGE