



Bend City Council  
May 2, 2007 Council Meeting

## Issue Summary

Department: Community Development  
Staff Member: Chris Schmoyer

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**A Public Hearing on a Measure 37 Claim submitted by Robert Hartford on behalf of Country Sunset, LLC. City of Bend File #06-823. The subject site has two property addresses; 61435 and 61445 SE 27<sup>th</sup> Street. The claimant seeks a waiver from the regulations under City of Bend Code Section 7.260, Mobile Home Park Closures. Absent the waiver, the claimant demands compensation in the amount of \$10,826,250 for alleged reduction in fair market value of their property. The applicant claims that the Mobile Home Park Closure Ordinance restricts the use and development of the subject property, thereby reducing the value of the property.**

**Staff Review and Recommendation to Council:** Staff has reviewed the claim as outlined in the attached staff report. Staff recommends that the City Council conduct a public hearing on this claim and consider any additional testimony received during the hearing. Based on the record currently before the City and the findings stated in the staff report, Staff recommends that the claim be denied. The 180-day time limit, based on the applicant's claim, expires on May 30, 2007. The last regular City Council Meeting before the end of the 180 day time limit is May 16, 2007.

**History:** Claim Filed: December 1, 2006  
Presented for Public Hearing: May 2, 2007

**Background:** Measure 37 was approved by the voters and became effective on December 4, 2004. Measure 37 generally provides that, if certain land use regulations reduce the value of real property, after the current owners assume ownership, the owner is entitled to compensation for the reduction in value. Instead of paying compensation, the governing body that enacted the regulation may elect to waive the regulation or regulations that are alleged to have reduced property value. On December 1, 2004, the City Council adopted procedures for processing claims made under Measure 37. This claim was filed with the City on December 1, 2006.

**Discussion of the Issue and Alternatives Explored:** Staff has reviewed the claim as outlined in the attached staff report. Based on the findings as detailed in the attached staff report, staff finds that this claim can be denied for the following

reasons: 1) The claimants have not shown that the property has been devalued by land use regulations in place today and that such regulations restrict the use of the claimants' property more than the regulations that were in effect at the time that the current owner acquired the property. 2) LUBA ruled in Case Nos. 2006-114 and 2006-115 that the City of Bend's Mobile Home Park Closure Ordinance (Section 7.260 of the Bend Code) is not a land use regulation. Ballot Measure 37 applies only to land use regulations, therefore, the submitted claim does not apply to the Mobile Home Park Closure Ordinance and should be denied.

**Secondary Issues:** None known.

**Committee Review and Recommendation to Council:** Staff is unaware of any necessary committee involvement regarding this claim.

**Budgetary Considerations:** None at this time. The adopted procedures ordinance for processing Measure 37 claims allows the City to recover costs associated with processing the claim above what is covered by the initial application fee of \$50. The City's Legal Counsel advises, however, that defending a Measure 37 claim in court carries with it the possibility of paying the attorney's fees for the claimant, if the claimant is successful.