

**CLAIM FOR COMPENSATION  
UNDER BALLOT MEASURE 49  
AND METRO CODE CHAPTER 2.21**

**REPORT OF THE METRO CHIEF OPERATING OFFICER**

**In Consideration of Council Order No 08-046  
For the Purpose of Entering an Order  
Relating to the Measure 49 Claim of Velma Pauline Povey**

June 16, 2008

**METRO CLAIM NUMBER:** Claim No. 08-046

**NAME OF CLAIMANT:** Velma Pauline Povey

**MAILING ADDRESS:** c/o William C. Cox, Attorney at Law  
0244 SW California St.  
Portland, OR 97219

**PROPERTY LOCATION:** Damascus, OR 97089

**LEGAL DESCRIPTION:** Township 2S, Range 3E, Section 2  
Tax Lots 1410 and 1412

**DATE OF CLAIM:** May 8, 2008

**I. CLAIM**

Claimant Velma Pauline Povey seeks compensation in the amount of \$1,204,000 for a claimed reduction in fair market value (FMV) of property owned by the Claimant as a result of enforcement of Metro Code Section 3.07.1110 C of Title 11 (Interim Protection of Areas Brought into the Urban Growth Boundary) and Metro Ordinance 02-969B (For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code in Order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022). In lieu of compensation, Claimant seeks a waiver of those regulations so Claimant can apply to the City of Damascus to divide the 7.77-acre subject property into eight (one-acre) single-family residential lots.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on June 16, 2008. The notice indicated that a copy of this report is available upon request and that the report is posted on Metro's website at [www.oregonmetro.gov/measure49](http://www.oregonmetro.gov/measure49).

**II SUMMARY OF COO RECOMMENDATION**

The claim does not meet the basic requirements of Measure 49. The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report.

**III TIMELINESS OF CLAIM**

Findings of Fact

Measure 49, section 10(3) requires that if a claimant has made a Measure 37 claim against Metro before June 28, 2007, but Metro did not make a final decision on the Measure 37 claim before the effective date

of Measure 49, Metro shall send notice to the claimant within 90 days after the effective date of Measure 49, notifying the claimant of their right to seek relief under Measure 49.

The Claimant submitted a Measure 37 claim on November 29, 2006. The claim identified Metro Code section 3.07.1110 C as the basis of the claim. Claimant's Measure 37 claim was made before June 28, 2007.

Metro had not made a final decision on Claimant's Measure 37 claim by December 6, 2007, the effective date of Measure 49.

Metro sent notice to Claimant on February 14, 2008, notifying Claimant of her rights under Measure 49. That notice was timely as it was sent within 90 days of December 6, 2007, the effective date of Measure 49.

Notified claimants have 120 days after the date of that notice to inform Metro, in writing, of their intention to continue the claim and to file the information required under Measure 49. That required information includes, but is not limited to, an appraisal, prepared as described in Sections 9(6) and 9(7) of Measure 49.

On May 8, 2008, Claimant filed an amended claim against Metro under Measure 49. That claim was timely as it was filed within 120 days of the February 14, 2008 notice from Metro.

Metro staff conducted a preliminary completeness review of Claimant's Measure 49 claim and sent a letter of tentative determination to Claimant on May 12, 2008 (ATTACHMENT 2). In that letter, Staff determined that Claimant's claim was incomplete because it lacked an appraisal as required by Measure 49 and Metro Code 2.21.030(c)(6) and that the claimant was not entitled to relief under Section 9 of Measure 49.

Claimant sent a letter of response on May 27, 2008 (ATTACHMENT 3). Claimant did not, however, provide an appraisal as required by Measure 49. As of the date of this report, the claim is incomplete as it lacks an appraisal.

#### Conclusions of Law

The claim does not meet this criterion. By the established deadline for a complete claim, Claimant's claim against Metro was incomplete and, thus, not timely.

### **IV. ANALYSIS OF CLAIM**

#### 1. Ownership

Metro Code Section 2.21.030(b)(1) states that for a claim to be valid, the claimant must be an owner of the property.

#### Findings of Fact

Metro Code section 2.22.020(d) defines "owner" to mean:

- (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or

(3) If the property is owned by the trustee of a revocable trust, the settler of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Claimant acquired an ownership interest in the 7.77-acre subject property through a Contract recorded on September 26, 1972 and has had a continuous ownership interest since that time. The property consists of two tax lots, one of which is 2.65 acres and the other of which is 5.12 acres. Attachment 1 is a site map of the subject property (ATTACHMENT 1). There is a house on the 2.65-acre tax lot. The 5.12-acre tax lot has no improvements.

#### Conclusions of Law

The claim meets this criterion. The Claimant, Velma Pauline Povey, Trustee of the Povey Trust, is the sole owner of the subject property as defined in the Metro Code.

#### 2. Consent of All Owners

Metro Code Section 2.21.030(b)(2) states that for a claim to be valid, all owners must consent in writing to the filing of the claim.

#### Findings of Fact

Claimant Velma Povey is the sole owner of the property and has consented in writing to the filing of the claim.

#### Conclusions of Law

The claim meets this criterion. All owners of the property have consented in writing to the filing of the claim.

#### 3. Location of property within Metro UGB

Metro Code Section 2.21.030(3) ("Filing an Amended Claim") states that in order to qualify for compensation or waiver by Metro, a property must be wholly or partially located within Metro's UGB.

#### Findings of Fact

In 2002, Metro Council expanded the UGB by adopting Ordinance No. 02-969B, including the Claimant's property in the UGB expansion area.

#### Conclusions of Law

The claim meets this criterion. The subject property is wholly within the Metro UGB.

#### 4. Allowed number of single-family dwellings

Metro Code Section 2.21.030(4) states that for a claim to be valid, the claimant, on the claimant's property acquisition date, lawfully must have been permitted to establish at least the number of dwellings on the property that are authorized under Ballot Measure 49. Section 9(2) of Measure 49 states that the number of single-family dwellings that may be established may not exceed the lesser of:

- (a) The number of single-family dwellings described in a waiver issued by Metro, a city or a county before the effective date of Measure 49 (December 6, 2007) or, if a waiver was not issued, the number described in the claim filed with Metro, a city or a county;
- (b) 10, except that if there are existing dwellings on the property, the number of single-family dwellings that may be established is reduced so that the maximum number of dwellings, including existing dwellings located on the property, does not exceed 10; or
- (c) The number of single-family dwellings the total value of which represents just compensation for the reduction in fair market value caused by the enactment or one or more land use regulations that were the basis for the claim

### Findings of Fact

Claimant asserts that the zoning of the subject property at the time of Claimant's acquisition allowed for one-acre lots and requests the ability to divide the 7.77-acre property into 8 lots. Subsequent to the Claimant's acquisition of the property and before its inclusion in the Metro UGB, the property was rezoned by Clackamas County as RRFF-5, with a 5-acre minimum lot size.

Metro has not issued a waiver to the Claimant of the 20-acre minimum lot size requirement found in Section 3.07.1110 C of the Metro Code. On April 16, 2007, the City of Damascus issued a waiver of the RRFF-5 zoning.

One single-family dwelling is presently on the 2.65-acre tax lot.

Claimant has not provided an appraisal as required under Metro Code Section 2.21.030(c)(6) and Measure 49 Section 9(6) and 9(7).

### Conclusions of Law

The claim does not adequately address this criterion. As described in Section 9(2) of Measure 49, the maximum number of allowable single-family dwellings is the lesser of choices a, b, and c (detailed above). In order to make that determination, there must be a quantification of diminished value (if any) that is attributable to the cited Metro regulation. Because Claimant has not provided an appraisal as required by Metro Code and Measure 49, Claimant has not provided adequate information to establish a right under Measure 49 to divide the property into 8 single-family lots. Additionally, the establishment of 8 lots on the 7.77-acre property would result in the creation of at least one lot of less than one acre, which would not have been allowed at the time of claimant's acquisition.

### 5. Residential use

Metro Code Section 2.21.030(5) states that a claimant must establish that the property is zoned for residential use.

### Findings of Fact

The subject property is zoned RRFF-5 (rural residential farm forest, 5-acre minimum).

### Conclusions of Law

The claim meets this criterion. The subject property is zoned for residential use.

### 6. Prohibition of establishing single-family dwellings

Section 9(5)(f) of Measure 49 states that a claimant must establish that one or more land use regulations prohibit the establishment of the single-family dwellings.

### Findings of Fact

The above reference to "the single-family dwellings" refers to the number of dwellings that would be allowable under Measure 49. As previously noted, Claimant has not provided an appraisal as required by Measure 49 that demonstrates a loss of value. Consequently, Claimant has not provided adequate information to determine the maximum number of dwellings that would be allowable under Section 9(2) of Measure 49. Because Claimant has not submitted an appraisal, it is not possible to determine whether

Metro Code Section 3.07.1110 C (Interim Protection of Areas Brought into the Urban Growth Boundary) prohibits the number of dwellings to which Claimant would be entitled under section 9(2)(c) of Measure 49. This code section establishes a temporary 20-acre minimum lot size until the effective date of amendments to comprehensive plans and implementing land use regulations comply with Metro Code

Section 3.07.1120 (Planning for Territory Added to the UGB). It does not prohibit single-family dwellings; it would allow a single-family dwelling on the parcel of the Claimant's ownership that does not now have a dwelling. But an appraisal is a pre-requisite to a determination whether Claimant is eligible for the additional dwelling under section 9(2)(c). At the time that that Metro Code Section 3.07.1110C went into effect, the property was zoned RRFF-5 with a 5-acre minimum lot size, which already precluded any further division of the property as doing so would have resulted in lots of less than 5 acres. Consequently, Metro's temporary 20-acre minimum lot size requirement did not have the effect of further restricting the subject property's use for residential purposes.

#### Conclusions of Law

The claim does not meet this criterion. Metro Code Section 3.07.1110C does not prohibit the establishment of single-family dwellings. Furthermore, Claimant, in failing to provide an appraisal, has not provided adequate basis to support their asserted right to divide the property into 8 single-family residential lots.

#### 7. Exemptions under ORS 197.352(3)

Metro Code Section 2.21.030(b)(7) states that land use regulations as described in ORS 197.352(3) that prohibit the establishment of a single-family dwelling are exempt under Measure 49.

#### Findings of Fact

ORS 197.352(3) states that a claim cannot be made under Measure 49 for land use regulations that:

- (a) Restrict or prohibit activities commonly and historically recognized as public nuisances under common law;
- (b) Restrict or prohibit activities for the protection of public health and safety;
- (c) Are required to comply with federal law; or
- (d) Restrict or prohibit the use of a property for the purpose of selling pornography or performing nude dancing.

#### Conclusions of Law

The claim meets this criterion. Section 3.07.1110 C of the Metro Code is not exempt from Measure 49 under ORS 197.352(3).

#### 8. Timing of the Enactment of the Metro Regulation and the Property's Inclusion in the UGB

Metro Code Section 2.21.030(b)(8) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was brought into the UGB.

#### Findings of Fact

Section 2(3) of Measure 49 defines "enacted" as enacted, adopted, or amended.

On December 5, 2002, the Metro Council expanded the UGB by adopting Ordinance No. 02-969B (effective March 5, 2003), thereby including the Claimant's property in the UGB expansion area. That same ordinance simultaneously made Metro Code Section 3.07.1110C, the land use regulation cited by Claimant, applicable to Claimant's property.

#### Conclusions of Law

The claim does not meet this criterion. Section 3.07.1110 C of the Metro Code was applied to the subject property simultaneously with the property's inclusion in the UGB (by the same ordinance). The regulation was not enacted after the date that the property was brought into the UGB.

#### 9. Timing of the Enactment of the Metro Regulation and the Property's Inclusion in Metro's Jurisdictional Boundary

Metro Code Section 2.21.030(b)(9) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was included within the jurisdictional boundary of Metro.

Findings of Fact

The entire subject property has been inside Metro's jurisdictional boundary since the January 1, 1979 establishment of the boundary. Metro Code Section 3.07.1110C was applied to the property on March 5, 2003.

Conclusions of Law

The claim meets this criterion. Metro Code Section 3.07.1110C was applied to the property after its inclusion in Metro's jurisdictional boundary.

10. Effect of the Land Use Regulation on Fair Market Value

Section 2.21.030(b)(10) of the Metro Code states that for a claim to be valid, the enactment of a land use regulation must have caused a reduction in the fair market value of the property. In order to demonstrate a reduction in value, Metro Code Section 2.21.030(c)(6) states that the Claimant must provide an appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted. Sections 9(6) and 9(7) of Measure 49 provide further details regarding how diminished value is to be determined.

Findings of Fact

Claimant has not provided an appraisal or any sales data to substantiate the asserted \$1,204,000 claim. Claimant has also not distinguished between any possible effects on value that are the result of Metro's actions versus the County's zoning of the property as RRFF-5. Claimant states in a May 8, 2008, letter to Metro that they have been unable to find an appraiser who is willing to conduct an appraisal according to the standards set forth in Sections 9(6) and 9(7) of Measure 49.

Metro's temporary 20-acre minimum lot size requirement does not further restrict claimant's ability to subdivide the property beyond the property's zoning restrictions in place at the time of Metro's action (5-acre minimum lot size). Given the 7.77-acre size of the property (one lot at 2.65 acres and one lot at 5.12 acres), no further subdivision would be allowed under either the pre-existing RRFF-5 zoning or under Metro's temporary 20-acre minimum lot size as any subdivision would necessarily result in at least one lot of less than five acres. Consequently, it appears unlikely that any reduction in value could be attributed to Metro Code Section 3.07.1110C.

Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that Metro Code Section 3.07.1110C had the effect of reducing the fair market value of the subject property.

11. Highest and Best Use

Metro Code Section 2.21.030(b)(11) states that for a claim to be valid, at the time the land use regulation was enacted, the highest and best use of the property must have been residential use. Section 9(7)(c) of Measure 49 states that the appraisal to be provided by the Claimant must expressly determine the highest and best use of the property at the time that the land use regulation was enacted.

Findings of Fact

Claimant did not provide an appraisal, which would have established the property's highest and best use at the time that Metro Code Section 3.07.1110C was applied to the property. Consequently, Claimant has provided no evidence that the highest and best use of the property is residential use.

Report of the Chief Operating Officer

Resolution No. 08-3957

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### Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that, at the time that the regulation was applied to the property, the highest and best use was residential.

### 12. Relief for Claimant

#### Findings of Fact

Waiver of Metro Code Section 3.07.1110 C would allow the Claimant to apply to the City of Damascus to divide the subject property into one-acre lots and to develop a single-family dwelling on each lot that does not already contain a dwelling. The effect of development as proposed by the Claimant would be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated. Finally, it would undermine the planning now underway by the City of Damascus to create a complete and livable community.

#### Conclusions of Law

Based on the record, the Claimant has not established that she is entitled to relief in the form of compensation or waiver of the interim 20-acre minimum lot size requirement under Metro Code Section 3.07.1110 C.

#### Recommendation of the Chief Operating Officer

The Metro Council should deny the Povey claim for the following reasons:

At the stated deadline, the Claimant had not provided an appraisal. The claim is incomplete and the deadline for a complete claim has passed. Therefore, the claim is not timely.

Metro Code Section 3.07.1110C (Interim Protection of Areas Brought into the Urban Growth Boundary) does not prohibit single-family residential uses.

The cited regulation does not have the effect of further limiting the Claimant's use of the property beyond what was allowable under the RRFF-5 zoning in place at the time that the Metro regulation was applied. Under the RRFF-5 zoning, no further divisions were allowable.

The cited regulations were enacted against the property simultaneously (same ordinance) with the property's inclusion in the UGB, not after its inclusion.

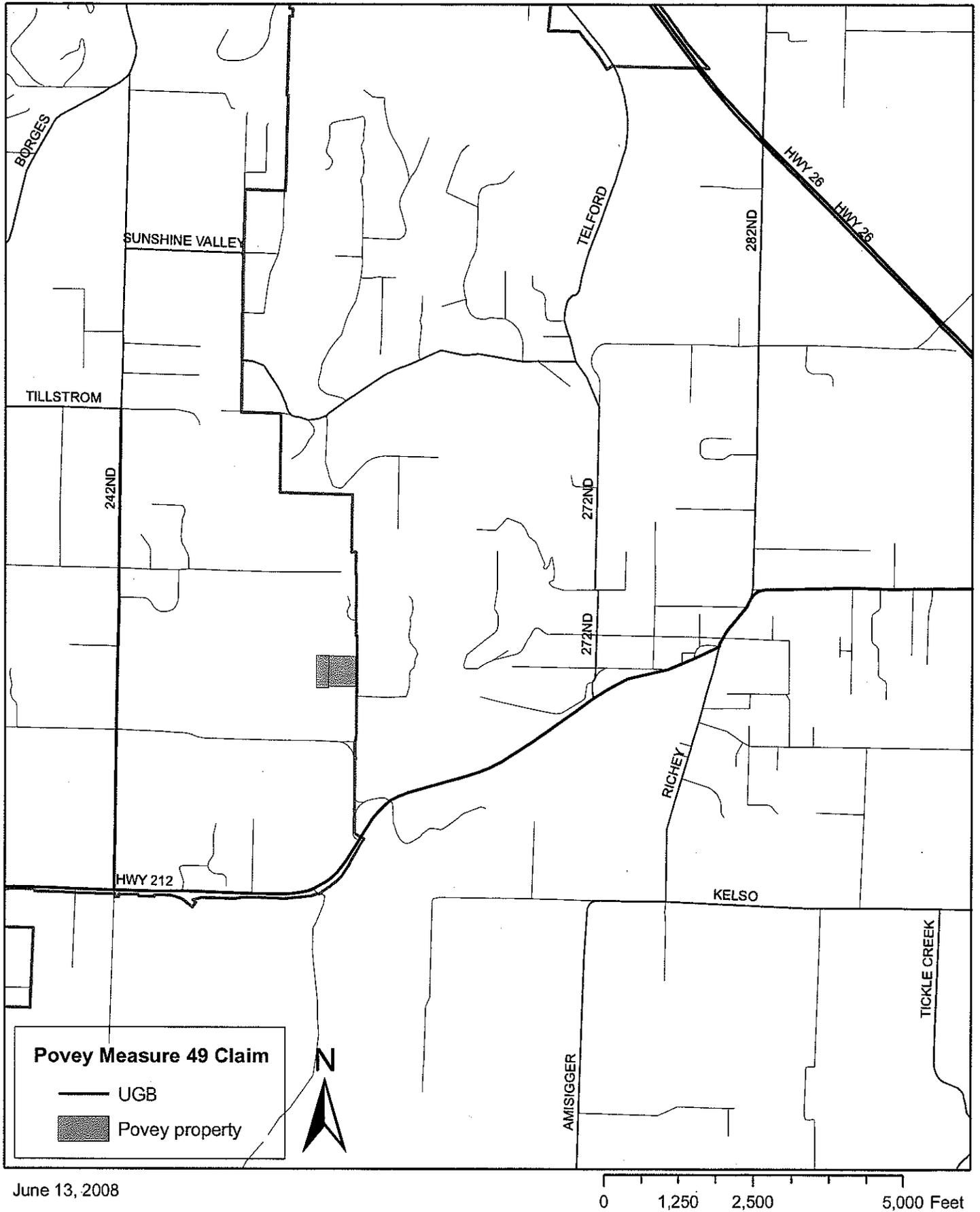
Claimant has failed to provide an appraisal that establishes residential use as the property's highest and best use.

Claimant has failed to provide an appraisal that demonstrates that Metro Code Section 3.07.1110 C and Metro Council's Ordinance No. 02-969B had the effect of reducing the value of the subject property.

### **ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER**

- Attachment 1: Site Map of the Velma Pauline Povey property
- Attachment 2: May 12, 2008 letter of tentative determination from Metro to Claimant
- Attachment 3: May 27, 2008 Claimant response to Metro's tentative determination
- Attachment 4: Velma Pauline Povey Measure 49 claim

# Attachment 1: Site map of the Velma Pauline Povey Property



June 13, 2008

0 1,250 2,500 5,000 Feet



**METRO**

May 12, 2008

William C. Cox, Attorney at Law  
0244 SW California St.  
Portland, OR 97219

**RE: Velma Povey Measure 49 claim with Metro**  
**Property Location: Damascus, OR**  
**Legal Description: Township 2S, Range 3E, Section 2, Tax Lots 1410 and 1412**

Dear Mr. Cox:

We are in receipt of your client, Velma Povey's, Measure 49 claim against Metro. Pursuant to Section 10(4) of Measure 49, we have conducted a tentative review of the claim and have determined that the claimant does not qualify for relief under Section 9 of Measure 49. Pursuant to Section 10(4) of Measure 49, your client has fifteen (15) days from the date of this notice to submit additional evidence to support the claim, after which date the Metro Council will make a final determination on the claim.

Metro's tentative review of the claim identified the following deficiencies:

Measure 49 Section 9(5)(h)

The cited land use regulation must have been enacted after the date the property, or any portion of the property, was brought into the urban growth boundary. The claim identifies Metro Code Section 3.07.1110 C (Interim Protection of Areas Brought into the Urban Growth Boundary) as the basis of the claim. The Metro Council applied this regulation to the claimant's property on December 5, 2002 (effective March 5, 2003), by Ordinance No. 02-969B, the same ordinance that brought the subject property into the urban growth boundary.

The claim does not meet the requirement that the regulation be enacted after the property was brought into the urban growth boundary.

Measure 49 Sections 9(5)(k), Section 9(6) and Section 9(7)

A claimant must provide an appraisal, performed according to the standards set forth in Measure 49 Sections 9(6) and 9(7) and section 2.21.050(b)(6), that demonstrates a decrease in fair market value attributable to the cited regulation.

The claimant has not provided an appraisal. Therefore, the claim does not meet this requirement.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to be 'TR', written in a cursive style.

Ted Reid  
Long Range Policy and Planning  
(503) 797-1768

cc: City of Damascus  
Department of Land Conservation and Development

**William C. Cox** attorney at law

*Land Use, Real Estate and Development Consultation*

*Gary P. Shepherd  
Of Counsel  
(503) 233-1985*

May 27, 2008

Metro Council  
c/o Ted Reid  
Long Range Policy and Planning  
600 NE Grand Ave.  
Portland, Oregon 97232

RE: Measure 49 Claim  
Velma Pauline Povey Claimant  
T2S, R3E, S2, TL 1410-1412  
Damascus, Oregon  
Your Letter 5-12-08

Dear Mr. Reid,

In response to your above identified letter of May 12, 2008 the claimant asserts:

**Measure 49 Section 9(5)(h)**

Metro's position that the moratorium/regulation imposed on the subject property by Ordinance 02-969B preceded the adoption of the UGB modification is without legal merit. A regulation or moratorium can not, as a matter of law, take effect until the property that regulation or moratorium regulates has been brought into the UGB. The subject property had to have been brought into the UGB before the Code provision which regulates it would have any effect. If it were the other way around the subject land would not have had an urban designation upon which the regulation could be imposed.

**Measure 49 Sections 9(5)(k), Section 9(6) and Section 9(7)**

The standards imposed by the above referenced sections are void and without legal authority since they are arbitrary and capricious and do not further the stated purpose of the statute (Measure 49).

Measure 49, Section 3 (2) states:

"The purpose of sections 5 to 22 of this 2007 act and the amendments to Ballot Measure 37 (2004) is to modify Ballot Measure 37 (2004) to ensure that Oregon law provides just compensation for unfair burdens while retaining Oregon's protections for farm and forest uses and the state's water resources."

Measure 49, Section 4(2), states:

"Just compensation under sections 12 and 14 of this 2007 act shall be based on the reduction in the fair market value of the property resulting from the land use regulation" Emphasis Added

The key word in that provision is 'property'. However, Section 9(5)(k) makes it impossible to establish a loss for which just compensation will be paid. Section 9(5)(k) requires that an appraisal be undertaken pursuant to terms which effectively render the stated purpose of Measure 49 to pay just compensation unattainable. That provision mandates that the value of a vacant parcel of property be compared to the value of that property improved with a single-family dwelling thereon. As it states in pertinent part:

"...that the basis for the claim caused a reduction in the fair market value of the property, as determined under section 6 of this section, that is equal to or greater than the fair market value of the single family dwellings that may be established on the property under subsection 2 of this section. Emphasis Added

The definition of property found in Section 2 (17) makes no reference to single family dwellings, nor are single family dwellings defined in Measure 49.

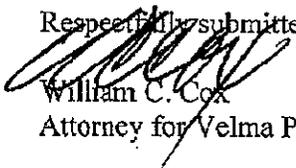
Furthermore Section 9 (7)(a) and (b) require that the appraisal be "prepared by a person certified under ORS Chapter 674 ... or...ORS Chapter 308 and "comply with the Uniform Standards of Professional Appraisal Practice as authorized by the Financial Institutions Reform, Recovery and Enforcement Act of 1989".

The claimant has been unable to locate anyone that meets the express and implied standards set forth in Section 9 (7) (a) and (b) because there is no ethical manner that an appraiser could accept the challenge of Section 9 (5) with any expectation that the claimant can ever show a reduction in fair market value of vacant property when it is compared to improved property containing a single family dwelling.

The terms of Section 7, Measure 49 are inequitable, arbitrary and capricious and fail to implement the stated purpose of the Measure.

To deny claimant's claim based upon such a standard is in violation of the rights set forth in the 5<sup>th</sup> and 14<sup>th</sup> amendments to the US Constitution and Article I, Section 18 of the Oregon Constitution. Claimant's property value has been taken without just compensation.

Respectfully submitted,

  
William C. Cox  
Attorney for Velma Povey

**William C. Cox** attorney at law

*Land Use, Real Estate and Development Consultation*

*Gary P. Shepherd  
Of Counsel  
(503) 233-1985*

RECEIVED

MAY 08 2008

OFFICE OF METRO ATTORNEY

May 7, 2008

Supplemental Measure 49 Claim Review  
Department of Land Conservation and Development  
635 Capital Street NE, Suite 150  
Salem, OR 97301-2540

Metro  
600 NE Grand Ave.  
Portland, Oregon 97232

City of Damascus  
19920 SE Highway 212  
Damascus, OR 97015

RE: Velma Pauline Povey, Trustee, Velma Pauline Povey Trust - Claimant  
STATE CLAIM NO. M131749  
CITY OF DAMASCUS CLAIM NO. ZC577-06  
METRO CLAIM NO. 07-020

Dear Administrators:

This office represents Velma Pauline Povey, Trustee, Velma Pauline Povey Trust (claimant). Attached you will find her Measure 49 Election Form and supplemental information. By reference, we hereby incorporate into this Measure 49 claim process, as if set forth in full, claimant's entire Measure 37 claim file in STATE CLAIM NO. M131749, CITY OF DAMASCUS CLAIM NO. ZC577-06, and METRO CLAIM NO. 07-020.

The subject property, Tax Map/Lot T2SR3E, Section 2A, Lots 1410 (5.12 acres) and 1412 (2.65 acres), is within the City of Damascus city limits and the UGB, however, to date the property has not been rezoned by the County and the City has no adopted Comprehensive Plan, thereby prohibiting division and residential development. A house currently exists on lot 1412 and lot 1410 is vacant.

Claimant elects to amend her Measure 37 claim. Claimant seeks relief pursuant to Measure 49, Sections 9 and 10. Claimant seeks the right to permit, without limitation, the creation, division, development, and/or subsequent sale of 8 (one acre) legal lots of record that can support a single family dwelling on each lot.

Claimant acquired the property on September 15, 1972 and has had continuous ownership since that date. These facts are confirmed by public records submitted with claimant's Measure 37 claims. When the property was acquired, it was zoned RA-1 and has since been rezoned RRFF-5, thereby prohibiting and/or restricting division, development, and residential uses that were permitted on September 15, 1972. Furthermore, Metro code (Title 11, Section 3.07, adopted by Ordinance 98-772B and Metro Ordinance 02-969B) prohibit the creation of lots less than 20 acres in size in the RRFF-5 zone. When zoned RA-1, land division would have been subject to a minimum lot size standard of one acre and single family dwellings were a primary and outright permitted use.

M37 proceedings and a final order issued by the City of Damascus confirmed that the inability to divide the property to create additional building lots resulted in a loss in fair market property value. The City of Damascus final order concluded: "The current RRFF-5 zoning has resulted in a reduction in land value as compared to the zoning in effect when the claimant acquired the property."

At this time, claimant has been frustrated in her ability to supply an appraisal to support the City's value reduction findings pursuant to Measure 49, Section 9. Claimant's attorney, William C. Cox, contacted both the State DLCD and Metro to clarify the standards and determine how an appraisal consistent with the requirements of Measure 49 is to be done. Neither the State nor Metro was able to provide needed clarification or direction as to how to complete the appraisal. To date, claimant has been unable to retain a certified appraiser who is willing to perform and provide an appraisal given the uncertainty with Measure 49 appraisal requirements and standards, and the liability that attaches with such uncertainty.

Claimant requests and reserves the right to submit additional information related to this Measure 49 claim proceeding.

The record already includes a power of attorney form authorizing William C. Cox, Attorney to sign documents and provide information related to this claim proceeding. If you have any questions, please promptly call.

Sincerely,



William C. Cox

CC: client  
Enclosures  
Sent certified mail/return receipt

# Metro Measure 49 Claim Form

Claimants are also required to submit the items listed on the back of this form

CLAIM NO. 07-020

Claimant name: VELMA POVEY, TRUSTEE

Claimant mailing address: VELMA PAULINE POVEY TRUST

25529 SE HOFFMEISTER RD.

DAMASCUS, OR 97089 \*

Claimant phone number: \* PLEASE CONTACT ATTORNEY - WILLIAM C. COX  
(503) 246-5499

- 1) Are you an owner of the property? YES
- 2) Are there other owners of the property? NO
- 3) If there are other owners, do they all consent to the filing of this claim? N/A  
Please have all owners sign the attached consent form.
- 4) On what date did you acquire the property? 9/15/72
- 5) Have you had continuous ownership of the property since you acquired it? YES
- 6) Is the property located, in whole or in part, inside the Metro urban growth boundary?  
YES
- 7) On the date of your acquisition of the property, how many dwelling units were you lawfully permitted to establish on the property? 8
- 8) Is the property currently zoned for residential use? NO
- 9) Does a Metro land use regulation prohibit the establishment of a single-family dwelling on the property? YES
- 10) Is there currently a dwelling unit on the property? YES  
If so, how many dwelling units are there? 1
- 11) Have you provided Metro with all of the additional items listed on the back of this form?  
YES - INFORMATION IS ATTACHED AND/OR INCLUDED BY REFERENCE AND/OR INCORPORATION

In addition to completing the Metro Measure 49 Claim Form, Measure 49 and Metro Code section 2.21 require that you submit the following:

- 1) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the location and street address and township, range, section and tax lot number(s) of the property, and the date on which the owner acquired the property interest. *MEASURE 37 LOT BOOK REPORT PROVIDED W/ M37 CLAIM AND INCORPORATED BY REFERENCE.*
- 2) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim; *POWER OF ATTORNEY FORM INCLUDED W/ M37 CLAIM AND INCORPORATED BY REFERENCE.*
- 3) A reference to any and all specific, existing Metro land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property. *SEE MEASURE 37 CLAIM INCORPORATED BY REFERENCE. SEE ATTACHMENTS.*
- 4) A copy of the city or county land use regulations that applied to the property at the time the challenged Metro land use regulations became applicable to, or were enforced against, the property. *SEE MEASURE 37 CLAIM INCORPORATED BY REFERENCE. SEE ATTACHMENTS.*
- 5) An appraisal showing the fair market value of the property one year before the enactment of the Metro land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted. An "appraisal" means a written statement prepared by a person certified under ORS chapter 308 that complies with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institution Reform, Recovery and Enforcement Act of 1989. If the claim is based on the enactment of more than one Metro land use regulation enacted on different dates, the reduction in the fair market value of the property caused by each regulation shall be determined separately and the values added together to calculate the total reduction in fair market value. *SEE ATTACHMENTS, MEASURE 37 CLAIMS + FINAL ORDERS INCORPORATED BY REFERENCE*
- 6) A description of the claimant's proposed use of the property if the Metro Council chooses to waive the land use regulation instead of paying compensation. *SEE ATTACHMENTS.*
- 7) If the property is or has been enrolled in one or more of the special assessment programs listed below, information regarding taxes not paid as a result of the program or programs:  

Any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.754 or 321.805 to 321.855      *N/A*
- 8) A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim. *SEE ATTACHMENTS*





Department of Land Conservation and Development  
 Attachment 4: Velma Pauline Povey Measure 49 claim  
 635 Capitol Street NE, Ste. 150  
 Salem, Oregon 97301-2540  
 (503) 373-0050  
 www.oregon.gov/LCD

# Measure 49 Election Form

CLAIM NUMBER

## M131749

Mail form and attachments to:  
**Supplemental Measure 49 Claim Review**  
 at the above address.

**DO NOT LOSE THIS FORM** – This form is not available on the Internet.

**I. NAMES OF ALL CLAIMANTS** – List each claimant separately. Attach additional sheet if more than three claimants

1	Claimant Name (individual or business) and Mailing Address	VELMA PAULINE POVEY, TRUSTEE VELMA PAULINE POVEY TRUST, 25529 SE HOFFMEISTER RD., DAMASCUS, OR
2	Claimant Name (individual or business) and Mailing Address	97089
3	Claimant Name (individual or business) and Mailing Address	

**II. NAME AND CONTACT INFORMATION OF PRIMARY CONTACT/AGENT**

Name William C. Cox, Attorney		Business Name	
Mailing Address 0244 SW CALIFORNIA ST.			
City PORTLAND		State OR	Zip 97219
Telephone Number 503-246-5499	Fax Number 503-244-8750	E-Mail Address	

**III. MEASURE 49 ELECTION** – Choose only one of the following. Check the box next to your election. Please review the enclosed Measure 49 Election Instructions before completing this section.

<input type="checkbox"/> EXPRESS	<input type="checkbox"/> CONDITIONAL	<input type="checkbox"/> VESTED	<input type="checkbox"/> WITHDRAWAL	<input checked="" type="checkbox"/> UGB/CITY WITHDRAWAL
----------------------------------	--------------------------------------	---------------------------------	-------------------------------------	---

**IV. SIGNATURE OF ALL CLAIMANTS OR THE AGENT**

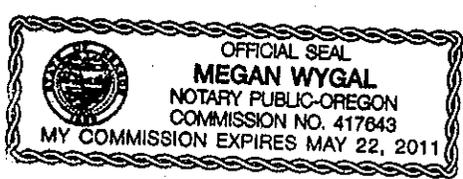
I/WE HEREBY DECLARE UNDER PENALTIES OF FALSE SWEARING (ORS 162.075 AND ORS 162.085) THAT THE ABOVE INFORMATION AND ALL OF THE STATEMENTS, DOCUMENTS AND ATTACHMENTS SUBMITTED WITH THIS CLAIM ARE TRUE AND CORRECT.

1	Print Name William C. Cox	Signature <i>W. Cox</i>	Date 5/07/08
2	Print Name	Signature	Date
3	Print Name	Signature	Date

**Notarization**

STATE OF Oregon COUNTY OF Multnomah  
 Signed or attested before me on May 7, 2008, by William C. Cox

*Megan Wygal*  
 Notary Public – State of Oregon  
 My commission expires: May 22, 2011





Department of Land Conservation and Development  
 635 Capitol Street NE, Suite 150  
 Salem, Oregon 97301-2540  
 (503) 373-0050  
 www.oregon.gov/LCD

Attachment 4: Velma Pauline Povey Measure 37 Claim

# Measure 49 Supplemental Review Information Form

**SUPPLEMENTAL REVIEW INFORMATION** - Please provide the following information if you elected either the Express or Conditional option. Attach additional sheets as necessary.

<b>1</b>	Please provide your state Measure 37 claim number: M <u>131749</u>			
<b>2</b>	Please identify the property that was subject to your state Measure 37 claim:			
	Township <u>2S</u>	Range <u>3E</u>	Section <u>2</u>	Tax Lot <u>1410</u>
	Township <u>2S</u>	Range <u>3E</u>	Section <u>2</u>	Tax Lot <u>1412</u>
	Township	Range	Section	Tax Lot
	Township	Range	Section	Tax Lot
	Township	Range	Section	Tax Lot
<b>3</b>	Do any of the claimants own any property that is contiguous to the property that was subject to your state Measure 37 claim? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, please provide the information below.			
	Claimant Name	Township	Range	Section
	Claimant Name	Township	Range	Section
	Claimant Name	Township	Range	Section
	Claimant Name	Township	Range	Section
	Claimant Name	Township	Range	Section
<b>4</b>	Do any of the claimants own any other property for which another state Measure 37 claim was filed? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, please provide the other claim number(s) below.			
	M _____	M _____	M _____	M _____
<b>5</b>	Does the property, including any contiguous property in the same ownership, currently contain one or more dwellings? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If yes, how many? <u>1</u>			
<b>6</b>	Please provide a copy of a county tax assessor's map indicating the boundaries of the subject property and all contiguous properties owned by a claimant. Mark the approximate location(s) of any dwelling(s) currently existing on the subject property and on all contiguous properties. <u>ATTACHED</u>			
<b>7</b>	How many lots or parcels are you requesting under Measure 49? <u>8</u>			
<b>8</b>	How many dwellings are you requesting under Measure 49? <u>8</u>			

9	Was the property, including any contiguous property in the same ownership, in farm use when the claimant(s) acquired it? <input type="checkbox"/> YES <input type="checkbox"/> NO <b>UNKNOWN</b>		
10	Was the property, including any contiguous property in the same ownership, in forest use when the claimant(s) acquired it? <input type="checkbox"/> YES <input type="checkbox"/> NO <b>UNKNOWN</b>		
11	Was the property, including any contiguous property in the same ownership, in a farm- or forestland property tax-deferral program when the claimant(s) acquired it? <input type="checkbox"/> YES <input type="checkbox"/> NO <b>UNKNOWN</b>		
12	Is the property, including any contiguous property in the same ownership, located within an irrigation district, drainage district, water improvement district or water control district or within the boundaries of a corporation organized under ORS chapter 554? <input type="checkbox"/> YES <input type="checkbox"/> NO <b>DAMASCUS CITY</b>		
13	Is your state Measure 37 claim currently in litigation? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
	Case Number	Case Name	Where Filed (LUBA, circuit court or court of appeals)

**II. OTHER RELEVANT INFORMATION** - If you have relevant information that you did not submit with your state Measure 37 claim, or if information has changed, please include that information with your election form. Such information, together with the information submitted with your state Measure 37 claim, will be used in determining your eligibility for relief under Measure 49.

Relevant information includes, but is not limited to:

- Recorded deeds or land sale contracts showing when the claimant(s) acquired the property
- Death and/or marriage certificates establishing when the claimant(s) acquired the property for purposes of Measure 49
- Trust information if the property is held in a trust
- Deed cards or plat cards verifying current ownership and when the claimant(s) acquired the property
- Property tax records verifying current ownership of the property
- Property tax records verifying property use at time of acquisition
- Documentation of any prior land use decisions involving the property
- Evidence helping to establish that the number of home sites requested would be approved

**III. SIGNATURE OF ALL CLAIMANTS OR THE AGENT**  
 I/WE HEREBY DECLARE UNDER PENALTIES OF FALSE SWEARING (ORS 162.075 AND ORS 162.085) THAT THE ABOVE INFORMATION AND ALL OF THE STATEMENTS, DOCUMENTS AND ATTACHMENTS SUBMITTED WITH THIS CLAIM ARE TRUE AND CORRECT.

1	Print Name <b>William C. Cox</b>	Signature 	Date <b>5/07/08</b>
2	Print Name	Signature	Date
3	Print Name	Signature	Date



Department of Land Conservation and Development  
 635 Capitol Street NE, Suite 150  
 Salem, Oregon 97301-2540  
 (503) 373-0050  
 www.oregon.gov/LCD

Attachment 4: Velma Pauline Povey Measure 49 Claim

# Measure 49 Supplemental Review Consent Form

Claimants who elect either the Express or Conditional option must obtain consent from each owner of the subject property who is not a claimant. Each non-claimant owner must complete this form separately. Please photocopy this form as necessary.

**I. STATE MEASURE 37 CLAIM NUMBER AND NAMES OF CLAIMANTS – Attach additional sheet if necessary.**

State Measure 37 Claim Number: M <u>131749</u>		1	Claimant Name (Individual or business) <u>VELMA POVEY, TRUSTEE</u>
2	Claimant Name (individual or business)	3	Claimant Name (individual or business)

**II. NAME AND CONTACT INFORMATION OF NON-CLAIMANT OWNER**

Non-Claimant Owner Name (individual or business) <u>N/A</u>		If Business, Name of Representative	
Mailing Address			Telephone Number
City		State	Zip

**III. SUBJECT PROPERTY (as identified in State Measure 37 claim) – Attach additional sheet if necessary.**

	Township	Range	Section	Tax Lot
1	<u>N/A</u>			
2				
3				
4				
5				

**IV. ACKNOWLEDGMENT OF CONSENT**

I AM AN OWNER OF THE SUBJECT PROPERTY IDENTIFIED ABOVE. I HAVE REVIEWED THE STATE MEASURE 37 CLAIM RELATING TO THE PROPERTY IDENTIFIED ABOVE AS WELL AS THE SUPPLEMENTAL INFORMATION REQUIRED UNDER MEASURE 49 AS PREPARED BY THE ABOVE NAMED CLAIMANT(S). I HEREBY CONSENT TO THE SUPPLEMENTAL REVIEW OF THIS STATE MEASURE 37 CLAIM UNDER MEASURE 49.

Print Name <u>N/A</u>	Signature	Date
--------------------------	-----------	------

**Notarization**

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

Signed or attested before me on \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_

\_\_\_\_\_  
Notary Public – State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

**CITY OF DAMASCUS  
RESOLUTION NO. 07-143**

**RESOLUTION OF THE CITY OF DAMASCUS IN THE MATTER OF THE  
CLAIM OF VELMA PAULINE POVEY PURSUANT TO BALLOT MEASURE 37 (2004)**

**WHEREAS**, pursuant to Ballot Measure 37, Velma Pauline Povey ("Claimant") filed Claim ZC577-06 (attached as Exhibit A) on November 29, 2006, regarding property located in Clackamas County (the "Property"), described as:

T2S-R3E Section 2A-Tax Lots 1410 and 1412.

**WHEREAS**, pursuant to City procedures to implement Measure 37, the claim was investigated by staff and a report dated April 6, 2007, was submitted regarding the claim. The Staff Report is attached hereto as Exhibit B and incorporated herein by reference.

**WHEREAS**, pursuant to City procedures, a hearing was held on the Exhibit A claim on April 16, 2007, for which appropriate notice was provided.

**NOW THEREFORE, THE DAMASCUS CITY COUNCIL RESOLVES AS  
FOLLOWS:**

Section 1. The Property described in the Exhibit A claim is owned by the Claimant. Claimant acquired an interest in the Property on September 15, 1972, and has had a continuous ownership interest in all properties since those dates.

Section 2. Subsequent to Claimant's acquisition of the Property, land use regulations have been imposed on the Property, which, pursuant to Ballot Measure 37, may have reduced the value of the Property.

Section 3. Compensation may be owed under Ballot Measure 37 as a result of land use regulations adopted and enforced since Claimant's acquisition, but that the City Council finds it to be in the best interest of the City not to apply such regulations in lieu of compensation.

Section 4. Compensation shall not be paid on the claim, but in lieu thereof, the City shall not apply those land use regulations that restricted the use of, and caused devaluation of the Property, and that were imposed on the Property by the City after the date of acquisition of the Claimant described in Paragraph 1, as provided in the attached Staff Report, Exhibit B.

Section 5. This Resolution and Order does not affect lot size or other regulations applicable to the Property adopted by Metro or the Oregon Land Conservation and Development Commission (LCDC) or other agency of the State of Oregon or other regulations excluded from Ballot Measure 37 by Section 3 thereof.

# CITY OF DAMASCUS

19920 SE Hwy 212  
Damascus Oregon, 97089  
(503) 658-8545  
[www.ci.damascus.or.us](http://www.ci.damascus.or.us)

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**PLANNING DIVISION STAFF REPORT  
TO THE DAMASCUS CITY COUNCIL  
ON A CLAIM FILED UNDER ORS 197.352 (BALLOT MEASURE 37)**

File Number: ZC577-06  
Report Author: Jennifer Hughes, Senior Planner  
Hearing Date: April 16, 2007  
Report Date: April 6, 2007

Claimant: Velma Pauline Povey

Date Filed: November 29, 2006

180-Day Processing Deadline: May 28, 2007

Legal Description: T2S-R3E-Section 2A-Tax Lots 1410 and 1412

Site Address: 25529 SE Hoffmeister Rd, Damascus

**Proposal/ Relief Requested:** The claimant requests compensation in the amount of \$1,204,000 for a reduction in fair market land value due to the enforcement of land use regulations that restrict the use of the subject property. In the alternative, the claimant requests to divide the subject property into lots with a minimum size of one acre and develop a single-family dwelling on each lot not already containing a dwelling.

**Ownership History/Date Acquired by Claimant:** The claimant acquired an ownership interest in the subject property on September 15, 1972 and has had a continuous ownership interest since that date.

**Zoning History:** The first zoning of the property was RA-1, applied on December 14, 1967. The property was rezoned RRF-5 on June 19, 1980.

Approved  
Date 04/16/07  
Initials JPH

- Subsection 309.08.B of the ZDO (minimum lot size standard in the RRFF-5 zone)
  - Subsection 902.01.B of the ZDO (minimum lot size restrictions and exceptions)
  - Subsection 1013.06.A.3 of the ZDO (minimum lot size restrictions for planned unit developments)
  - Subsection 1014.04.B of the ZDO (minimum lot size restrictions for flexible-lot-size developments)
  - In review of a specific proposal for development, any comprehensive plan provisions or other land use regulations, except those exempted by ORS 197.352(3), which have the effect of reducing the number of lots or dwellings otherwise allowed by this order
- Approval of a land division or property line adjustment shall be subject to the minimum lot size standards of the RA-1 zone in effect on September 15, 1972.
- Notwithstanding any of the specific removals and modifications stated above, this decision at most authorizes the division of the subject property into lots with a minimum size of one acre and development of a single-family dwelling on each lot not already containing a dwelling.

**Additional Comments:**

1. Metro will have to evaluate a claim for this property. The Metro Code includes specific standards regulating development in the Portland Metropolitan Urban Growth Boundary.
2. City approval of a partition (two or three lots) or a subdivision (four or more lots) to divide the property must be secured.
3. Approval of a domestic water source, on-site sewage disposal and construction permits (e.g. building, plumbing and electrical) will be required for any new dwelling. A driveway permit may also be required. (Several of these issues will be addressed during partition or subdivision review.)
4. The recommended action does not resolve several questions about the application of Measure 37, including the question of whether the rights granted to the claimant by this decision can be transferred to an owner who subsequently acquires the property.

**METRO MEASURE 37 CLAIM**

**VELMA PAULINE POVEY REVOCABLE TRUST**

**WHAT IS PROPOSED:** DIVISION OF 7.77 ACRES INTO 1 ACRE LOTS AS ALLOWED AT DATE OF ACQUISITION.

AT THE TIME OF ACQUISITION THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE . THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.

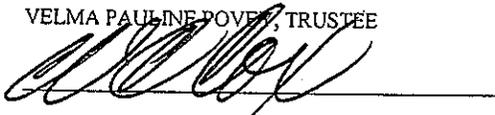
**LEGAL DESCRIPTION:**

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	LOT 1410 5.12 ACRES LOT 1412 2.65 ACRES	23E02A 01410 23E02A 01412	ACCOUNT # 00601637 ACCOUNT # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

**NAME OF CONTACT PERSON:** WILLIAM C. COX, ATTORNEY AT LAW  
**MAILING ADDRESS:** 0244 SW CALIFORNIA STREET  
**CITY, STATE, ZIP:** PORTLAND, OREGON 97219

**OFFICE PHONE:** 503-246-5499  
**CELL PHONE:** 503-475-5475

**PROPERTY OWNER:** VELMA PAULINE POVEY, TRUSTEE

**OWNER SIGNATURE:**  SEE ATTACHED POWER OF  
**ATTORNEY**  
 BY WILLIAM C. COX, ATTORNEY IN FACT

**1. OTHER PERSONS WITH AN INTEREST IN THE PROPERTY:** SEE ATTACHED MEASURE 37 LOT BOOK  
**SERVICE DOCUMENTS:**

**2. EXACT DATE THE CURRENT OWNER ACQUIRED THE PROPERTY?** SEPTEMBER 15, 1972

**3. FAMILY HISTORY OF OWNERSHIP:** THE APPLICANT ACQUIRED THE PROPERTY IN 1972  
**NO PRIOR FAMILY OWNERSHIP.**

**4. OFFENDING REGULATIONS:**

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020;	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION

	660-23-0000 to 0250 Attachment 4: Velma Pauline Povey Measure 49 claim	
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES, AND CODES ADOPTED AND/OR ENFORCEABLE SINCE ACQUISITION OF PROPERTY BY CLAIMANT	CLAIMANT HEREBY ASSERTS A CLAIM AGAINST EACH AND EVERY LAND USE REGULATION THAT RESTRICTS THE USE OF CLAIMANT'S PROPERTY AND HAS THE EFFECT OF REDUCING THE FAIR MARKET VALUE OF THE PROPERTY. THE LIST IS NOT INTENDED TO BE LIMITING OR OTHERWISE PRECLUDE CLAIMANT FROM SEEKING RELIEF FROM OTHER, NOT SPECIFICALLY IDENTIFIED, RESTRICTIVE REGULATIONS. CLAIMANT REQUESTS THAT THE COUNTY IDENTIFY OTHER REGULATIONS THAT RESTRICT THE DIVISION AND DEVELOPMENT OF CLAIMANT'S PROPERTY AS SOUGHT PURSUANT TO THIS CLAIM.  IT IS NOT POSSIBLE TO KNOW AT THIS TIME WHETHER OR TO WHAT DEGREE ADDITIONAL REGULATIONS WILL BE ADOPTED THAT WILL RESTRICT THE DEVELOPMENT OF THE PROPERTY. CLAIMANT REQUESTS AND RESERVES THE RIGHT TO RESUBMIT TO THE COUNTY/BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION UNDER MEASURE 37 ANY LAND USE REGULATION THAT MAY, DURING THE DEVELOPMENT PROCESS, RESTRICT THE USE OF PROPERTY AND ACT TO REDUCE THE FAIR MARKET VALUE OF THE PROPERTY.
LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

5. DATE OF EFFECT

LAW OR RULE:	OAR 660-14-0040	OCTOBER, 2000
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	AFTER PURCHASE WHICH OCCURRED IN 1972 EXACT DATES UNKNOWN; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	AFTER PURCHASE WHICH OCCURRED IN 1972; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	THE METRO COUNCIL ADOPTED THE REGULATION THAT GIVES RISE TO THIS CLAIM ON SEPTEMBER 10TH, 1998, BY ORDINANCE 98-772B. METRO COUNCIL APPLIED THE REGULATION TO A PORTION OF THE CLAIMANTS' PROPERTY FOLLOWING THAT DATE. EXACT DATE UNCERTAIN.

6. AMOUNT OF PROPERTY VALUE REDUCTION

FAIR MARKET VALUE REDUCTION AMOUNT  APPROXIMATELY \$1,204,000.	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES AND LOCAL SPECIAL DISTRICT CODES ADOPTED AND ENFORCED BY THE GOVERNING AUTHORITIES SINCE PURCHASE OF	BASIS OF EVALUATION: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN
--	---	--

	PROPERTY BY CLAIMANT Attachment 4: Virginia Pauline Povey Measure 49 claim	PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
LAW OR RULE:	OAR 660-14-0040	SEE ABOVE
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	SEE ABOVE
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	SEE ABOVE
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	SEE ABOVE

7. **CLAIM:** THIS IS THE FIRST CLAIM MADE FOR COMPENSATION UNDER THE TERMS OF BALLOT MEASURE 37. IT IS CLAIMANT'S DESIRED RESOLUTION THAT SHE BE ALLOWED TO DEVELOP THE PROPERTY AT THE DENSITY ALLOWED ON THE DATE OF ACQUISITION ON 9/15/72 WHEN THE PROPERTY CONTAINED NO ZONING OR OVERLAY DESIGNATIONS. THE DESIRED DENSITY SHOULD BE ALLOWED WITHOUT REGARD TO ANY RESTRICTIONS. IN THE ALTERNATIVE CLAIMANT REQUESTS THAT HE BE REIMBURSED THE ABOVE EXPRESSED \$1,204,000
8. **BASIS OF LOSS ESTIMATE:** AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
9. **ADDITIONAL MATERIALS REQUESTED:**
- A. **REAL PROPERTY APPRAISAL:** THE VALUES USED HEREIN ARE CONSISTENT WITH SALES OF RURAL VIEW ACREAGE PROPERTIES IN THE COUNTY. IT IS APPLICANT'S OPINION THAT AN APPRAISAL IS ONLY RELEVANT IF THE COUNTY AND/OR STATE DECIDE TO ENFORCE THE CURRENT USE RESTRICTIONS. A CURRENT APPRAISAL WILL BE SUBMITTED WHEN NOTIFIED THAT THE COUNTY WILL PURCHASE THE PROPERTY. AN APPRAISAL SUBMITTED BEFORE KNOWING OF COUNTY'S DECISION WOULD LIKELY BE OUT OF DATE UNDER THE MEASURE 37 PROCESSING OBLIGATION OF 180 DAYS.
- B. **A TITLE REPORT:** SEE ATTACHED.
- C. **COPIES OF ANY LEASES OR COVENANTS.** NONE
- D. **CLAIMS PROCESSING FEE.** SUCH A FEE WILL BE SUBMITTED UPON PROOF THAT A GOVERNING AUTHORITY HAS AUTHORITY TO DEMAND A PROCESSING FEE UNDER THE TERMS OF MEASURE 37.

RESPECTFULLY SUBMITTED,

  
WILLIAM C. COX  
ATTORNEY FOR APPLICANT

Attachment 4: Velma Pauline Povey Measure 49 claim  
**MEASURE 37 CLAIM WITH CITY OF DAMASCUS AND CLACKAMAS COUNTY**

CLACKAMAS COUNTY PLANNING DIVISION  
 9101 SE SUNNYBROOK BLVD., CLACKAMAS, OREGON 97015  
 PHONE (503)-353-4500, FAX (503)-353-4550

FILE NUMBER: \_\_\_\_\_  
 DATE RECEIVED: \_\_\_\_\_  
 STAFF MEMBER: \_\_\_\_\_  
 CPO: \_\_\_\_\_

**NOTE: THIS CLAIM IS COMBINED FOR SUBMITTAL ON THE UNDERSTANDING THAT CLACKAMAS COUNTY IS ADMINISTERING ALL CLAIMS FOR DAMASCUS. IF THAT IS INCORRECT PLEASE LET THE REPRESENTATIVE IDENTIFIED BELOW KNOW.**

**WHAT IS PROPOSED:** DIVISION OF 7.77 ACRES INTO 1 ACRE LOTS AS ALLOWED AT DATE OF ACQUISITION.

AT THE TIME OF ACQUISITION THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPARABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.

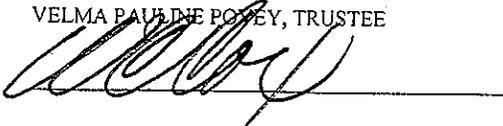
**LEGAL DESCRIPTION:**

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	LOT 1410 5.12 ACRES LOT 1412 2.65 ACRES	23E02A 01410 23E02A 01412	ACCOUNT # 00601637 ACCOUNT # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

NAME OF CONTACT PERSON: WILLIAM C. COX, ATTORNEY AT LAW  
 MAILING ADDRESS: 0244 SW CALIFORNIA STREET  
 CITY, STATE, ZIP: PORTLAND, OREGON 97219

OFFICE PHONE: 503-246-5499  
 CELL PHONE: 503-475-5475

PROPERTY OWNER: VELMA PAULINE POVEY, TRUSTEE

OWNER SIGNATURE:  SEE ATTACHED POWER OF ATTORNEY

BY WILLIAM C. COX, ATTORNEY IN FACT

**MEASURE 37 CLAIM SUPPLEMENTAL INFORMATION**

1. OTHER PERSONS WITH AN INTEREST IN THE PROPERTY: SEE ATTACHED MEASURE 37 LOT BOOK  
 SERVICE DOCUMENTS:
2. EXACT DATE THE CURRENT OWNER ACQUIRED THE PROPERTY? SEPTEMBER 15, 1972

3. FAMILY HISTORY OF OWNERSHIP: Attachment A Applicant Required Poney Measure 49 claim PRIOR FAMILY OWNERSHIP.

4. OFFENDING REGULATIONS:

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES, AND CODES ADOPTED AND/OR ENFORCEABLE SINCE ACQUISITION OF PROPERTY BY CLAIMANT	CLAIMANT HEREBY ASSERTS A CLAIM AGAINST EACH AND EVERY LAND USE REGULATION THAT RESTRICTS THE USE OF CLAIMANT'S PROPERTY AND HAS THE EFFECT OF REDUCING THE FAIR MARKET VALUE OF THE PROPERTY. THE LIST IS NOT INTENDED TO BE LIMITING OR OTHERWISE PRECLUDE CLAIMANT FROM SEEKING RELIEF FROM OTHER, NOT SPECIFICALLY IDENTIFIED, RESTRICTIVE REGULATIONS. CLAIMANT REQUESTS THAT THE COUNTY IDENTIFY OTHER REGULATIONS THAT RESTRICT THE DIVISION AND DEVELOPMENT OF CLAIMANT'S PROPERTY AS SOUGHT PURSUANT TO THIS CLAIM.  IT IS NOT POSSIBLE TO KNOW AT THIS TIME WHETHER OR TO WHAT DEGREE ADDITIONAL REGULATIONS WILL BE ADOPTED THAT WILL RESTRICT THE DEVELOPMENT OF THE PROPERTY. CLAIMANT REQUESTS AND RESERVES THE RIGHT TO RESUBMIT TO THE COUNTY/BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION UNDER MEASURE 37 ANY LAND USE REGULATION THAT MAY, DURING THE DEVELOPMENT PROCESS, RESTRICT THE USE OF PROPERTY AND ACT TO REDUCE THE FAIR MARKET VALUE OF THE PROPERTY.
LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

5. DATE OF EFFECT

LAW OR RULE:	OAR 660-14-0040	OCTOBER, 2000
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	AFTER PURCHASE WHICH OCCURRED IN 1972 EXACT DATES UNKNOWN; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	AFTER PURCHASE WHICH OCCURRED IN 1972; AT DATE OF CLACKAMS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	THE METRO COUNCIL ADOPTED THE REGULATION THAT GIVES RISE TO THIS CLAIM ON SEPTEMBER 10TH, 1998, BY ORDINANCE 98-772B. METRO COUNCIL APPLIED THE REGULATION TO A PORTION OF THE CLAIMANTS' PROPERTY FOLLOWING THAT DATE. EXACT DATE UNCERTAIN.

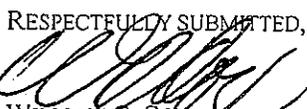
6. AMOUNT OF PROPERTY VALUE REDUCTION

FAIR MARKET VALUE REDUCTION AMOUNT	ALL STATE WIDE PLANNING GOALS AND	BASIS OF EVALUATION: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN
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APPROXIMATELY \$1,204,000.	ADMINISTRATIVE RULES, STATUTE AND LOCAL SPECIAL DISTRICT CODES ADOPTED AND ENFORCED BY THE GOVERNING AUTHORITIES SINCE PURCHASE OF PROPERTY BY CLAIMANT	DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPARABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
LAW OR RULE:	OAR 660-14-0040	SEE ABOVE
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	SEE ABOVE
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	SEE ABOVE
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	SEE ABOVE

7. **CLAIM:** THIS IS THE FIRST CLAIM MADE FOR COMPENSATION UNDER THE TERMS OF BALLOT MEASURE 37. IT IS CLAIMANT'S DESIRED RESOLUTION THAT SHE BE ALLOWED TO DEVELOP THE PROPERTY AT THE DENSITY ALLOWED ON THE DATE OF ACQUISITION ON 9/15/72 WHEN THE PROPERTY CONTAINED NO ZONING OR OVERLAY DESIGNATIONS. THE DESIRED DENSITY SHOULD BE ALLOWED WITHOUT REGARD TO ANY RESTRICTIONS. IN THE ALTERNATIVE CLAIMANT REQUESTS THAT HE BE REIMBURSED THE ABOVE EXPRESSED \$1,204,000
8. **BASIS OF LOSS ESTIMATE:** AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPARABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
9. **ADDITIONAL MATERIALS REQUESTED:**
- A. **REAL PROPERTY APPRAISAL:** THE VALUES USED HEREIN ARE CONSISTENT WITH SALES OF RURAL VIEW ACREAGE PROPERTIES IN THE COUNTY. IT IS APPLICANT'S OPINION THAT AN APPRAISAL IS ONLY RELEVANT IF THE COUNTY AND/OR STATE DECIDE TO ENFORCE THE CURRENT USE RESTRICTIONS. A CURRENT APPRAISAL WILL BE SUBMITTED WHEN NOTIFIED THAT THE COUNTY WILL PURCHASE THE PROPERTY. AN APPRAISAL SUBMITTED BEFORE KNOWING OF COUNTY'S DECISION WOULD LIKELY BE OUT OF DATE UNDER THE MEASURE 37 PROCESSING OBLIGATION OF 180 DAYS.
  - B. **A TITLE REPORT:** SEE ATTACHED.
  - C. **COPIES OF ANY LEASES OR COVENANTS:** NONE
  - D. **CLAIMS PROCESSING FEE.** SUCH A FEE WILL BE SUBMITTED WHEN THE COUNTY PRESENTS APPLICANT WITH PROOF THAT A COUNTY HAS AUTHORITY TO DEMAND A PROCESSING FEES UNDER THE TERMS OF MEASURE 37.

RESPECTFULLY SUBMITTED,

  
WILLIAM C. COX  
ATTORNEY FOR APPLICANT



# M37 Claim Form

Department of Administrative Services  
**Risk Management - State Services Division**  
 1225 Ferry St. SE U160, Salem, Oregon 97301-4292

Web Site: <http://www.oregon.gov/DAS/Risk/M37.shtml> Phone: 503-373-7475

## SECTION 1 NAME /PROPERTY OWNER

NAME OF CLAIMANT: VELMA PAULINE POVEY, TRUSTEE	DAY TIME PHONE #: CONTACT AGENT IDENTIFIED BELOW
ADDRESS: SEE AGENT ADDRESS	

## SECTION 2 NAME AND CONTACT INFORMATION OF PERSON SUBMITTING CLAIM (AGENT)

NAME OF AGENT: WILLIAM C. COX, ATTY. AT LAW	DAY TIME PHONE #: 503-246-5499	
ADDRESS: 0244 SW CALIFORNIA STREET		
CITY: PORTLAND	STATE: OREGON	97219
MUST ATTACH A WRITTEN NOTARIZED STATEMENT SIGNED BY THE OWNER(S) OR A POWER OF ATTORNEY PROPERLY AUTHORIZING SUBMITTAL OF THIS CLAIM.		
ATTACHMENT: YES X		

## SECTION 3 NAMES AND CONTACT INFORMATION OF OTHERS WITH INTEREST IN THIS PROPERTY: NONE

## SECTION 4 PROPERTY FROM WHICH THE CLAIM DERIVES

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	Lot 1410 5.12 acres Lot 1412. 2.65 acres	23E02A 01410 23E02A 01412	Account # 00601637 Account # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

## SECTION 5 EVIDENCE OF OWNERSHIP

THE FOLLOWING IS ATTACHED AS PROOF OF OWNERSHIP:	FIRST AMERICAN TITLE MEASURE 37 LOT BOOK SERVICE
DATE OF ACQUISITION OF PROPERTY:	JUNE 1972 AND OCTOBER 1972
NATURE & SCOPE OF OWNERSHIP OF PROPERTY:	FEE SIMPLE

**SECTION 6** NATURE AND MANNER OF RESTRICTION

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION
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LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

**SECTION 7** DATE ON WHICH EACH CITED LAND USE REGULATION BEGAN TO APPLY TO SUBJECT PROPERTY

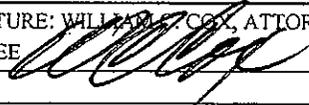
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**SECTION 8** AMOUNT OF PROPERTY VALUE REDUCTION

FAIR MARKET VALUE REDUCTION AMOUNT APPROXIMATELY \$1,204,000.	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES AND LOCAL SPECIAL	BASIS OF EVALUATION: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE . THUS UP TO 7. 77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77
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	DISTRICT 4: Velma Pauline Povey, Measure 49 claim ACRES CURRENTLY ZONED AS R20 WITH 20 ACRE MINIMUM IS ADOPTED AND ENFORCED BY THE GOVERNING AUTHORITIES SINCE PURCHASE OF PROPERTY BY CLAIMANT	APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
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LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	SEE ABOVE
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	SEE ABOVE

**SECTION 9** AUTHORITY TO ENTER PROPERTY

I/WE AFFIX OUR SIGNATURE(S) TO THIS FORM GRANTING ACCESS TO THE SUBJECT PROPERTY IN ANY MANNER OR FORM DEEMED APPROPRIATE BY STATE AGENCY OR AGENCIES FOR THE REVIEW OF THE PROPERTY IN FURTHERANCE OF THE PROCESSING OR HANDLING OF THIS CLAIM:	
PRINTED NAME: VELMA PAULINE POVEY, TRUSTEE	SIGNATURE: WILLIAM F. COX, ATTORNEY FOR VELMA PAULINE POVEY TRUSTEE 

**SECTION 10** ATTACHMENTS

TITLE REPORT: YES X	DEED: YES X	AFFIDAVITS: YES X	TAX MAP(S) YES X
A FEE WILL BE SUBMITTED UPON PROOF THAT A GOVERNING AUTHORITY HAS AUTHORITY TO DEMAND A PROCESSING FEE UNDER THE TERMS OF MEASURE 37.			

**SECTION 11** OTHER CLAIMS FILED

COMPANION CLAIMS HAV BEEN FILED WITH THE METROPOLATIN SERVICE DISTRICT (METRO) AND CLACKAMAS COUNTY, CITY OF DAMASCUS.

