



CIRCUIT COURT OF OREGON  
THIRD JUDICIAL DISTRICT  
MARION COUNTY COURTHOUSE  
100 HIGH STREET NE  
P.O. BOX 12869  
SALEM, OREGON 97309-0869

RECEIVED  
SEP 28 2005

Don A. Dickey  
Circuit Court Judge  
(503) 373-4445  
Fax: (503) 588-7928

September 23, 2005

Wallace W. Lien  
Attorney at Law  
1775 32<sup>nd</sup> Place NE  
Salem, OR 97303

Scott Norris  
Attorney at Law  
P.O. Box 14500  
Salem, OR 97309

Re: Marckx v. Marion County  
Marion County Circuit Court Case No. 05C16356

Dear Mr. Lien and Mr. Norris:

This matter is before the Court on Defendant Marion County's motion to strike the claims for relief under writ of review. The Plaintiffs appeared by and through Wally Lien, their attorney and the Defendant appeared by and through Scott Norris attorney for Marion County.

The County contends that Measure 37 should be read as an exclusive remedy for landowners who wish to proceed under its provisions. The County contends that the language in paragraph 6 of the act should be read to give effect to an exclusive remedy, despite the lack of any such express language there. Indeed it appears that provision allows for a cause of action under certain conditions, and allows for costs and fees in addition to compensation.

The County would have this Court overlook the language of paragraph 12 which provides:

"The remedy created by this act is in addition to any other remedy under the Oregon or United States Constitution, and is not intended to modify or replace any other remedy."

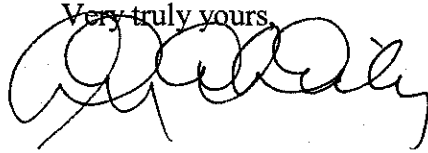
The Court refuses to do so.

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Defendant's Motion to Strike is denied, Mr. Lien to prepare the appropriate form of Order within 20 days.

Very truly yours,

A handwritten signature in black ink, appearing to read "Don A. Dickey", written in a cursive style.

Don A. Dickey  
Circuit Court Judge

DAD:kat  
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