

Measure 49 Sample Information Letter to Clients

Oregon voters have passed Ballot Measure 49. The law, which becomes part of Oregon's land use statutes, is effective on **December 6, 2007**. Measure 49 replaces Measure 37, which was passed by the voters in 2004.

Measure 49 allows some landowners who have already filed Measure 37 claims to qualify for "just compensation." Just compensation is defined in Measure 49 as allowing for some limited home site development to occur on a property where it had been previously prohibited.

Some landowners who have already filed a Measure 37 claim will be eligible to convert their Measure 37 claim to a Measure 49 claim. Others will not. A very small number of Measure 37 claimants may be entitled to pursue their original development plans if they can prove that they have a "vested right."

Measure 49 contains several different "tracks" that a claimant can choose to follow in order to receive home site development approval. Different tracks are available to different claimants depending on a variety of factors.

Choosing one track may foreclose any opportunity for a landowner to choose another track later in the process. In addition, it is unclear how long the Measure 49 approval process will take, since the strict timelines for government action that were contained in Measure 37 no longer apply.

The passage of Measure 49 creates considerable uncertainty in the real estate market. Measure 37 claimants who thought they had rights to develop their property may no longer have those rights. In the alternative, they may have different rights that require a new application process. In addition, Measure 49 may allow for other parties to bring court action to prevent development, even if a landowner has already received approval.

The analysis of Measure 49 is beyond the scope of a real estate licensee's expertise. Real estate licensees are not trained to predict the contingent and uncertain effects of complex laws like Measure 49 when assisting clients in developing the asking or offering price for property.

Nor can real estate licensees advise their clients on how to convert existing Measure 37 claims to Measure 49 claims, or what, if any, development rights clients might be able to obtain under one or more of the different tracks. Real estate licensees do not have the training or means to assess the potential impact on the desirability of property abutting or near properties which may qualify for just compensation under Measure 49.

Clients who believe their decision to sell or purchase Oregon real estate may be affected by the passage of Measure 49 are advised to seek the counsel of appraisers, attorneys or other land use professionals.