

November 2, 2004 General Election

Ballot Measure 37

Explanatory Statement:

Ballot Measure 37 adds a new statute to ORS chapter 197. As specified in the measure, the owner of private real property is entitled to receive just compensation when a land use regulation is enacted after the owner or a family member became the owner of the property if the regulation restricts the use of the property and reduces its fair market value.

If a property owner proves that a land use regulation restricts the use of the owner's property, and reduces its value then the government responsible for the regulation will have a choice: pay the owner of the property an amount equal to the reduction in value or modify, change or not apply the regulation to the owner's property.

The measure allows the state, county, city or metropolitan service district to adopt procedures for processing claims for compensation, but prohibits those procedures from being treated as a prerequisite to the filing of a claim in circuit court.

The measure does not apply to commonly and historically recognized public nuisances, public health and safety regulations, regulations required to comply with federal law, and regulations restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing.

The measure specifies that compensation is due if the regulation remains in force 180 days after the owner makes written demand for compensation. After that time, the present owner may file an action in the circuit court in the county in which the property is located. The measure also specifies that the present owner is entitled to reasonable attorney fees, expenses, costs and other disbursements reasonably incurred to collect compensation.

The measure provides no new revenue source for payments, if any, required under this measure.

The measure defines several terms that are used in the statute including "family member" which is defined as wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.