



## **JOINT STATEMENT CONCERNING MEASURE 37 CLAIMS FILED AFTER DECEMBER 4, 2006**

From the date Ballot Measure 37 (2004) was approved by the voters, the State of Oregon, the Association of Oregon Counties, and the League of Oregon Cities have worked together to coordinate implementation of the measure and minimize confusion and conflict. In that spirit, we have issued several joint statements. This is another in that series, intended to help the public understand important aspects of this new law.

Measure 37 states that property owners making claims based on land use regulations enacted before December 2, 2004 are required to file their claims on or before the later of two dates: two years after the effective date of Measure 37 (which is December 4, 2006), or two years after the date the city, county or state applies the regulation as an approval criterion to an application by the owner of the property.

Measure 37 claims based on land use regulations enacted before December 2, 2004 may still be made after December 4, 2006. Each city and county will have to decide how to process such claims, but the State and probably most cities and counties will require that such claims include evidence that the owner has filed a complete land use application for their desired use, and that the appropriate city or county has made a final land use decision on that application within the past two years. The owner will also need to show the land use regulations the Measure 37 claim is based on were applied as approval criteria in the land use decision.

Normally, the State does not review land use applications or apply land use regulations as criteria in approving or denying development proposals. Instead, cities and counties implement state requirements through their own regulations and actions, and in some cases counties apply state land use regulations directly. The State will recognize city and county final land use decisions as sufficient for filing Measure 37 claims with the State. That is, if an owner files a complete land use application with a city or county for a particular use, and state land use regulations are used to deny the application (or the impose conditions), the owner will have two years from the date of the city or county's final land use decision to file a Measure 37 claim with the State. After December 4th, property owners should not file a State Measure 37 claim without evidence that the state land use regulations their claim is based on were used to deny or condition a local land use decision.

Another possible source of uncertainty is whether the deadline to file claims for existing laws is December 4th of this year, or whether that deadline was extended because of litigation over the constitutionality of Measure 37. Although some cities and counties may disagree, the State and most cities and counties believe that December 4th is still the deadline.

This information is intended to assist the public in understanding some of the timelines contained in Measure 37. It is not legal advice. Property owners are encouraged to consult an attorney. They also should contact the planning department in their city or county. Information on the measure is also provided at <http://www.oregon.gov/LCD/MEASURE37/index.shtml>.