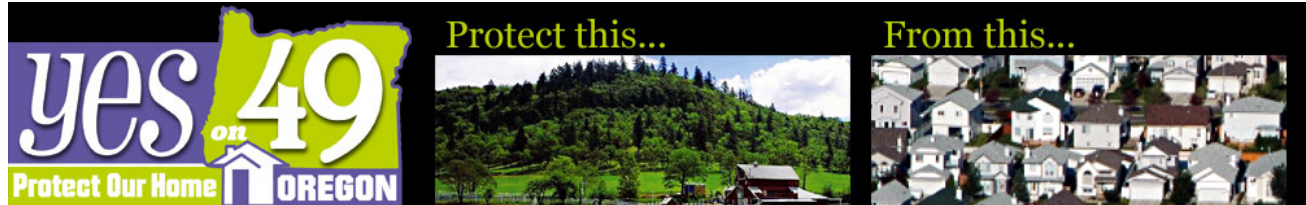


The Homestead

Fall 2007



Governor Kitzhaber: Measure 49 strikes a balance for Oregon

Adapted from remarks by former Governor John Kitzhaber at Ecotrust, September 18, 2007

To me, Measure 49 is one of the most critical votes put before Oregonians in recent years. Ballot Measure 49 represents an effort to correct a number of serious problems which resulted from the passage of another ballot measure — Measure 37 — which was passed by the voters in 2004. Measure 37 was advertised as an effort to compensate or give development rights to individuals whose property value had been reduced by zoning laws or who wanted to build an additional house or two on their land — if the law allowed them to do so when they purchased the property. That sounded reasonable to a majority of Oregonians and the measure passed by a substantial margin. The problem with the measure — a problem not uncommon to many ballot measures advanced through the initiative process — is that it contained many loopholes, and went far beyond what most Oregonians thought they were voting on. Instead of ensuring that small individual landowners could build a few additional houses on their property, the measure opened the door for massive development and land speculation which put in jeopardy many of the values that we cherish as a state.

The Facts on Ballot Measure 49

- Measure 49 protects the property rights of small individual landowners by immediately allowing up to 3 houses on their property, if the law allowed it when they bought their land. And it will pass those rights on to a surviving spouse or to someone who purchases the property from the current owner — something that Measure 37 did not. Measure 49 does not require claims to be refiled, they'll simply continue through the process.
- Additionally, property owners can build up to 10 houses if they can document a financial loss equal to the value of the additional houses — as voters intended with passing Measure 37.
- If property is high-value farmland, forests or places with limited water supplies — as defined in the act, then only up to 3 homesites may be added.
- Measure 49 closes loopholes and protects the places that make Oregon special, stopping the siting of housing subdivisions, strip malls and industrial development where they simply don't belong. Following passage of Measure 49, commercial and industrial development, as well as large subdivisions, must proceed through the existing land-use planning and development processes, which ensure that adequate infrastructure is available, and that public health and safety are considered adequately.

2006-2007 Board Activities

Your board members have been very busy over the last two years working on Measure 37 claims and resulting land-use applications in Polk County. Below is a brief summary of these activities and some of their outcomes.

Monitoring M37 Claims – We have monitored the claims and compiled a dataset from County records, Oregon Department of Administrative Services (DAS), Department of Land Conservation and Development, and the Portland State University web page. Thanks to these efforts, we have the most complete compilation of Polk County claims and we have been sharing this information with neighboring property owners, newspaper reporters, and other groups and agencies. This information has been an important resource, especially considering that Polk County was the only county in the Willamette Valley that did not submit the requested information to the Oregon Department of Agriculture. To date there are approximately 350 claims in Polk County, which affect 23,000 acres, and 2000-3000 new dwellings have been proposed (some applications propose a range of new dwellings).

Local Appeals – We have appealed or participated in appeals for 19 land partitions (some with dwellings) based on M37 claims. Each of these subdivisions (done as serial partitions) are in portions of Polk County that were zoned for farm use when acquired, or are located in rural areas where subdivisions cannot be supported by current water availability, roads and other necessary infrastructure.

Applicant	Acres Affected	Proposed Dwellings	Land-Use Applications	Status
Ratzlaff	426	85	17	4 appeals, 1 denied; 12 on hold
Simmons	267	37	11	11 appeals, on hold
Jones	104	25	2	1 appeal, approved
Meyer	73	36	3	1 appeal pending
Miles	40	18	1	1 appeal pending
Fisher	60	2	2	1 appeal, approved
Totals	970	203	21	

Circuit Court Petitions – Following the lead of several other counties, we have been submitting bundled petitions (against multiple M37 claims) to Circuit Court. These petitions are to the Department of Land Conservation and Development, with the principal argument that subdivisions are not a land-use personal to the current owner of the property (as required by Measure 37).

Petition Date	Number of Claims	Acres Affected	Proposed Dwellings	Status
January 2006	5	993	178	submitted, on hold
June 2007	14	1045	173	submitted, on hold
August 2007	7	522	114	submitted, on hold
October 2007	8	1289	265	on hold
Totals	34	3849	730	

Through the local appeals and the Circuit Court petitions with the financial help of neighboring property owners, legal assistance from Crag Law Center (a non-profit law firm) and Goal One Coalition (a non-profit corporation), and your support, we are challenging claims and land-use applications affecting 4,819 acres of farm and timber land, and the development of 933 new dwellings in rural areas. Thanks to all for volunteer efforts and financial support. Our challenge to protect Polk County's farm and forest lands would be greatly facilitated by passage of Measure 49, which would modify Measure 37 to facilitate 1-3 homes, limit larger developments on high-value farm land and in water-limited areas, and eliminate commercial and industrial uses on farm and forest land.

YES on 49 Fundraiser – In August we sponsored a Yes on 49 fundraiser at Airlie Winery. Over 50 people attended for a beautiful afternoon event. Dave Sherman and Claudia Prevost provided the music, and Mary Olson, owner of Airlie Winery donated all sales of wine at the event to Yes on 49. Collectively, we raised a total of \$2,200 for Yes on 49. Thanks to all who attended and supported the campaign.

Friends of Polk County Needs Your Continued Support & Expanded Membership

Friends of Polk County (FOPC) is a grassroots organization that serves as a clearinghouse for information on land-use planning and environmental issues, thus supporting and facilitating efforts to sustain and improve the quality of life in the county. It serves as a watchdog group to ensure that the county is appropriately applying zoning and planning laws affecting forest and farmland, especially with regard to water conservation, land preservation and transportation. There has been growing public interest and debate over land-use issues since the implementation of Measure 37 and the proposed reform offered by Measure 49, and we're here to help interpret what it all means and help you influence outcomes.

Board members, officers and members of FOPC participate on a volunteer basis. The group works with citizens' advisory committees in Polk County, who advise the county commissioners on issues related to land use. Members of FOPC work closely with *1000 Friends of Oregon*, prepare written appeals of land-use decisions, and testify before the Polk County Board of Commissioners, the Oregon Land-Use Board of Appeals (LUBA), and the Oregon legislature. The Board meets on the third Thursday of every month, usually in the Independence Library at 7 p.m. You are welcome to join us at one of our monthly meetings. Board members are glad to answer any questions you might have concerning the group, its activities, or how to participate effectively in influencing land-use decisions.

There is an annual membership meeting in February/March. Board members are elected by the membership at this meeting, or by proxy. In addition, we have one or more guest speakers at the annual meeting. This year the group sponsored a talk by Dr. Todd Jarvis, an OSU hydrologist with the Institute for Water and Watersheds. Current officers are: Pat Wheeler, *president*; Tim Wallin, *vice president/treasurer*; Jim Brown, *secretary*. Board members include: Penny Cox, Christopher Dobson, Sarah Deumling, Kelly Gordon, Karen Lippsmeyer, and Thron Riley.

The Board of *Friends of Polk County* has been very pleased with the interest and support that the Polk County community has shown in recent years. We need your continued help to support the efforts of FOPC. If you're not already a member, please consider becoming a member today. Your membership will contribute directly to the protection of farmland and forests in Polk County. Annual dues are \$25 to pay for printing and mailing of the quarterly newsletter and support appeals of certain land-use decisions. We welcome larger contributions to support the legal costs associated with filing appeals and securing the services of cooperating attorneys.

Please join/renew by sending a check to FOPC, PO Box 75, Rickreall, OR 97371. Thanks in advance for your support of *Friends of Polk County*, and for helping shape the future of Polk County.

Measure 49 – Failure is NOT an Option!

By the time you read this, you will have received your 2007 Oregon ballot, and with it the opportunity to trade the indiscriminate sprawl of M 37 for fair compensation to landowners AND protection of our farm and forest land, green spaces and water resources. Measure 49 provides a “fast track” remedy for claimants wanting up to three home sites. For those landowners who believe they have lost even more value, M 49 provides a standardized formula to demonstrate loss of value in order to claim up to 10 home sites. The right to all claims under M 49 can be transferred to a surviving spouse, children or a non-related purchaser. Commercial or industrial development will not be allowed on land zoned for farming and forestry.

Friends of Polk County (FOPC) has worked with groups in Marion and Yamhill counties in support of the “Yes on 49” campaign. Two FOPC members hosted events to spread the word and raise money for the campaign. Members have canvassed in the urban areas of the County, and will also be telephoning with reminders to vote. FOPC urges you to share information about M 49 with all your acquaintances, and to urge their support on this most important issue. M 49 will rein in the excesses of M 37, which serve primarily large developers and timber companies, while fairly compensating more modest claims. Contrary to the propaganda contained in some recent mailings, no one will lose a home, and no one will lose his or her property or their right to farm!

Opponents of M 49 seem reluctant to discuss the substance of the measure, choosing rather to spread misinformation. The intent of Measure 49 is fair compromise. The authors recognized shortcomings in our original land-use laws, and have corrected them while maintaining adequate protections to keep Oregon the beautiful place we all love. If M 49 doesn’t pass, we are stuck with the disastrous, “gold-rush” consequences of M 37. Make no mistake about it, if Measure 49 fails, within a decade the Willamette Valley will look much like developed areas in southern California. Please join us in voting yes on M 49. Future generations of Oregonians will be grateful.

What If Measure 49 Fails?

- No limits on industrial and commercial development on farmland, forests or places where water supplies are limited. That means claims in progress, including rock blasting and quarrying operations, riverfront landfills and shopping malls, can proceed.
- No relief to the mess facing taxpayers — billions of dollars in compensation demands on the one hand, or the huge cost of infrastructure for sprawling development on the other.
- No limit on the size of housing subdivisions, even in places where roads, water supplies and other infrastructure simply cannot handle such large-scale development.
- No requirement for claimants to actually prove they have suffered the losses that would trigger the right the build.
- No ability for landowners to transfer development rights. This will hurt individuals and families who just want to provide a home or two for their children.
- Oregon says goodbye to its farmland, forests and natural resources at an unprecedented rate, just like other parts of the world where land is haphazardly “developed” without the benefit of land-use regulations. This isn’t just about quality of life: These resources are critical to both ecosystem function and a strong economy for our children and grandchildren.



Guest column submitted to local and state newspapers: Lane Shetterly

Protecting our rights as well as our values

As the former director of the Department of Land Conservation and Development during the first years of Measure 37, it was my responsibility to try to make the measure work. The Department defended the measure against constitutional attack. When our authority to waive state statutes for claimants was challenged, we defended the validity of our waivers. We did our best to implement the measure fairly. But after overseeing more than 3000 claim decisions at the department, I am convinced that Measure 37 is a failure.

It has failed claimants. Of the thousands of waivers granted, barely a handful are moving forward with any kind of development - and most of those are proceeding uncertainly - principally because the defects in the measure have left claimants unsure of what they have or how to implement it. And if Measure 37 ever should be implemented to its full potential, the negative impacts on our landscape, water supply and quality of life would be more drastic than well-intentioned supporters of the measure ever contemplated. Polls taken since Measure 37 passed still show strong support for protecting farm and forestland.

Measure 37 has pitted neighbor against neighbor. The state's waiver decisions have been challenged in more than 250 lawsuits, both by disappointed claimants and by neighbors of successful claimants who thought we had granted too much. That is why I support Measure 49. Measure 49 fixes the most serious problems in Measure 37 - such as the ability to transfer waivers - which will allow claimants to realize on their claims. At the same time, it limits development for claims filed under Measure 37 to residential use - up to three homesites as a matter of right or up to ten based on a proven loss of value. (Claims on high-value farm or forest land or in groundwater-limited areas are limited to three homesites.)

Measure 49 is a well-balanced law that recognizes the rights of property owners who may have suffered some loss because of our land use laws, but still upholds Oregonians' fundamental values toward protecting farm and forest lands. Opponents of Measure 49 have used misleading arguments. They say it is "complex." It is only as complex as it needs to be to work. Measure 37 was not simple; it was simplistic. That's why it failed to deliver. Because of its careful drafting, Measure 49 will provide more certain relief to claimants than has Measure 37.

Contrary to opponents' arguments, Measure 49 will not require Measure 37 claimants to file new claims. It will not authorize government to take up to 95 percent of property value. In fact, for future regulations affecting residential use, and farming and forest practices, Measure 49 allows relief for property owners who suffer any reduction in value to their property. So check the facts. Don't rely on sound bites. Vote carefully. For those who respect property rights and value our land use program, Measure 49 is the right choice for Oregon's future.

Shetterly is a Dallas attorney and former state representative for District 23.

Calendar

- Nov 6 Election Day
Nov 15 FoPC Board Meeting, 7 pm
Independence Public Library
Dec 20 FoPC Board Meeting, 7 pm
Independence Public Library

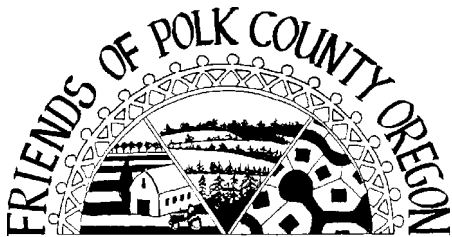
Write Your Newspaper in Support of Measure 49

Salem Statesman Journal - 200 Word Limit
PO Box 13009, Salem, OR 97309
FAX: (503) 399-6706
Email: letters@StatesmanJournal.com

Capital Press Agriculture Weekly
PO Box 2048, Salem, OR 97308
FAX: (503) 370-4383
Email: newsroom@capitalpress.com

Polk County Itemizer-Observer
PO Box 108, Dallas, OR 97338
FAX: (503) 623-2395

The Oregonian - 150 Word Limit
1320 S.W. Broadway, Portland, OR 97201
FAX: (503) 294-4193
Email: letters@news.oregonian.com



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