



Oregon

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October 23, 2009

TO: Land Conservation and Development Commission
FROM: Carmel Bender Charland, Conservation & Compensation Ombudsman
SUBJECT: **Agenda Item 3b, November 5-6, 2009, LCDC Meeting**

OMBUDSMAN UPDATE

I. HB 3225 REPORTS

Through House Bill 3225, the legislature directed the department to investigate and report on two groups of Measure 37 claimants that are currently not eligible for relief under Measure 49, as described below.

NO APPRAISAL FILED

The draft report on claims where claimants filed Measure 49 elections under section 7, but failed to submit an appraisal or elect down to section 6 prior to the 180-day deadline, has been forwarded to the director for review.

The report indicates that 109 claims are no longer eligible for M49 relief due to this issue. Of these, 32 claimants submitted written comments in response to the department's Preliminary Evaluation denying the claims. These were analyzed and are the basis of the report.

The report finds that in most cases, claimants did not understand the requirements and consequences of this type of Measure 49 election. Few were represented by an attorney or consultant at the time of their filing. Some had requested additional information from the department to clarify the requirements before hiring an appraiser. Several indicated difficulty in finding an appraiser to do the work or prohibitive costs associated with it. Twenty two percent believed the regular appraisal or market analysis they submitted with their M37 claim satisfied the requirement. None seemed to understand that they would be foreclosed from review if they did not either submit an appraisal or change their election to section 6 of Measure 49 (1-3 homes) within 180 days.

NO STATE CLAIM FILED

The research for the report on claims filed only with counties is in process. We have reviewed written comments and spoken to several claimants. The remaining interviews will be conducted October 21 through October 28. Preliminarily, there appear to be four main categories of reasons claimants failed to file claims with the state:

- No state regulations restricted the claimants' use of the property.
- A county advised the claimant not to file with state, or told the claimant they only needed to file with the county.
- The claim was filed, but refused, by the state during the period when Measure 37 was declared invalid.
- Other general confusion or misunderstanding about Measure 37.

A copy of the questionnaire used to conduct the interviews is attached. The draft report will be available by November 16th.

Measure 49 “No State Claim” Questionnaire

Claimant Name: _____ Contact: _____

County: _____ Acquisition Date: _____ Size: _____

- 1. When did you file your Measure 37 claim with the county?

- 2. What is the zoning of your property?

- 3. Did you also file a claim with the state? If not, why?
 - a. If “didn’t know I had to,”
 - 1. What was your understanding of the M37 process?

 - 2. Where did you get information about the M37 process?

 - b. If “I was told not to,”
 - 1. By whom?

Notes: _____

