



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development Measure 49 Development Services Division

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<http://www.oregon.gov/LCD/MEASURE49>

November 23, 2009

Matthew and Mollie Dunckel
19010 Baker Creek Road
McMinnville, OR 97128



Dear Matthew and Mollie Dunckel:

During the 2009 legislative session, the Oregon State Legislature amended Measure 49 through the passage of House Bill 3225. Section 7 of House Bill 3225 states that "a claimant is not entitled to implement relief under the theory of common law vested right and under sections 5 to 11, chapter 424, Oregon law 2007 [Measure 49]."

The Department of Land Conservation and Development (the department) records indicate that you submitted a Measure 49 Election, requesting supplemental review of claim M 118399 under section 6 of Measure 49. Claim M 118399 has been split into two claims, E118399A and E118399B, because the Measure 37 claim sought relief for two non-contiguous properties. Claim E 118399A addresses your eligibility for Measure 49 relief on tax lots 1300, 1301, and 1302 and E 118399B addresses your eligibility for relief on tax lots 1800, 1801, and 1802.

Based upon an April 23, 2008 Yamhill County vested rights determination, it appears that you have been determined to have a common law vested right to complete and continue a use described in your Measure 37 waiver on tax lots 1800, 1801, and 1802. Accordingly, under HB 3225 you are not entitled to supplemental review of your Measure 37 claim under Measure 49 for these tax lots. As a result, your Measure 49 Election will not be further processed. Claim E 118399B will be closed and the department will take no further action regarding the review of the claim. Because there is no evidence of a final vesting determination relating to tax lots 1300, 1301, and 1302, the Department will continue processing claim E 118399A.

If the department's information is not correct and you have not received a final vested rights determination relating to tax lots 1800, 1801, and 1802, or if you have any questions regarding your entitlement to relief under Measure 49, please contact this office at 503 373-0050 ext 324 or via e-mail at measure49.info@state.or.us.

This correspondence concerning claim E 118399B is a Final Order from the department in other than a contested case. Please note that you have the right to petition the agency for reconsideration or judicial review of this Final Order under ORS 183.484.

Sincerely,

Judith Moore
Division Manager

cc: Yamhill County