



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Measure 49 Development Services Division

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February 4, 2010

Olaf and Jannis Bolken
9721 Hwy 97N
Terrebonne, OR 97760



Dear Olaf and Jannis Bolken:

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 E 129491 under section 6 of Measure 49.

Based upon a December 21, 2009 Deschutes 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. Accordingly, under House Bill 3225 you are not entitled to implement relief under both a common law vested right and under the Measure 49 Home Site Authorizations previously issued. As a result, this Final Order supersedes the Measure 49 Preliminary Evaluation for claim E 129491 issued on September 9, 2009 and you are no longer entitled to the relief described in the Final Order for claim E 129491.

Although you are no longer entitled to relief under Section 6 of Measure 49, this Final Order has no affect on the vested rights determination you received from Deschutes County. If the department's information is not correct and you have not received a final vested rights determination, 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 129491 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: Edward P. Fitch, Bryant, Emerson & Fitch, LLP
Deschutes County