



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>

January 19, 2010

Daniel and Cynthia Palmer
7301 74th Ave NE
Salem, OR 97305



Dear Daniel and Cynthia Palmer:

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 130223 under section 6 of Measure 49.

Based upon a December 19, 2007 Marion 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 HB 3225 you are not entitled to supplemental review of your Measure 37 claim under Measure 49. As a result, your Measure 49 Election will not be further processed. Claim M 130223 will be closed and the department will take no further action regarding the review of the claim.

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.

The October 27, 2009 letter from the department that indicated you could change your "vested" election to an election for supplemental review for a \$175 fee was issued in error. You are not eligible for additional review under HB 3225 because our records indicate that you originally elected "express" and not "vested" under Measure 49. The \$175 fee you sent to DLCD will be refunded as soon as possible. We apologize for any inconvenience this error may have caused.

This correspondence concerning claim M 130223 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: Alan M. Sorem, Saalfeld Griggs PC
Marion County