



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Measure 49 Development Services Division

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December 18, 2009

Kenneth J. and Wilma J. Payne  
2100 NW Moores Valley Road  
Yamhill, OR 97148



Dear Kenneth J and Wilma J. Payne:

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 130263 under section 6 of Measure 49.

Based upon a May 9, 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. 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 Final Order for claim E 130263 issued on April 29, 2009 and you are no longer entitled to the relief described in the Final Order for claim E 130263.

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 Yamhill 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](mailto:measure49.info@state.or.us).

This correspondence concerning claim M 130263 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: Walter W. Gowell, Haugeberg, Rueter, Gowell et al., PC  
Yamhill County