



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

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May 16, 2007

*RE: Ballot Measure 37 Update*

Dear Local Government Partner:

I wanted to write to bring you up to date on recent developments relating to Ballot Measure 37 (ORS 197.352) that should be of interest to you.

Governor signs bill extending time for processing Measure 37 claims.

On May 10, 2007, the Governor signed House Bill 3546 into law. The bill extends by an additional 360 days the time for state and local governments to make final decisions on claims filed under Ballot Measure 37 on or after November 1, 2006. For claims filed after that date, the government entity with which the claims are filed will have a total of 540 days (180 days originally provided under the measure, plus the 360-day extension under House Bill 3546) to issue a final order before being subject to an action under the measure for damages, attorney fees and costs.

This extension of time was necessitated by the significant number of claims filed between late October and early December, 2006, which overwhelmed the capacity of the state and several local governments to properly evaluate and resolve claims within the time provided under the measure.

The Department of Land Conservation and Development will process claims to final order during the extension on an ongoing basis. Even with the extension of time, the department will still have to issue an average of approximately 300 final decisions each month in order to process all of the pending claims within the time provided.

House Bill 3546 also includes a "hold-harmless" provision for claimants during the extension period. Since Measure 37 extinguishes the rights of claimants who die before their claims are filed or completed, House Bill 3546 guarantees that the heirs of any claimant who dies during its extension period will have the right to continue to pursue the decedent's claim.

LCDC adopts rules regarding Measure 37 claims, including notice to DLCD of permits or other authorizations.

On January 25, 2007, the Oregon Land Conservation and Development Commission (LCDC) adopted new administrative rules regarding Measure 37 claims. The new rules ([Oregon Administrative Rules 660-041](#)), which were adopted after a public hearing, do three things:

- (1) Make permanent the temporary Measure 37 rules that LCDC adopted in November, 2006. The rules clarify requirements in Measure 37 itself regarding the submittal of Measure 37 claims to the State after December 4, 2006, where the claim is based on existing or new Department of Land Conservation and Development (DLCD) land use regulations.
- (2) Require local governments to **notify DLCD of pending and adopted permits or other authorizations** to allow a use based on a Measure 37 waiver.
- (3) Clarify that both the local government and the state must modify, remove, or not apply (“waive”) applicable local and state land use regulations before a land owner may lawfully obtain a local permit or other authorization to proceed with a use authorized under a Measure 37 waiver, for claims based on existing statewide land use planning statutes, goals and rules.

I hope this information is helpful to you in understanding the measure. More information is available on our department Measure 37 website at <http://www.lcd.state.or.us/LCD/MEASURE37/index.shtml>. The website is regularly updated with new developments, so please check it frequently for the latest news and information about Measure 37.

For more information on the Measure 37 claims process, feel free to contact Michael Morrissey, DLCD Measure 37 Division Manager, at 503-373-0050 x324, or by email at: [michael.morrissey@state.or.us](mailto:michael.morrissey@state.or.us).

Thank you for your courtesies.

Best regards.

Yours very truly,



LANE SHETTERLY  
Director