

26.10 LUBA Jurisdiction – Effect of Ballot Measure 37 (ORS 197.352 (2005)). Under Measure 37, specifically under ORS 197.352(9) (2005), public entity decisions to modify or to waive land use laws in response to Measure 37 claims were not land use decisions and were therefore not reviewable by LUBA. Public entity decisions that were issued following those modification or waiver decisions, which applied modified land use laws or land use laws that were not waived under Measure 37 were land use decisions and were reviewable by LUBA. *DLCD v. Clatsop County*, 58 Or LUBA 714 (2009).

26.10 LUBA Jurisdiction – Effect of Ballot Measure 37 (ORS 197.352 (2005)). LUBA has jurisdiction to review decisions that post-date and rely on Ballot Measure 37 waivers, if those decisions apply land use laws that were not waived under Ballot Measure 37. However, in those appeals LUBA’s scope of review does not include challenges to the underlying Ballot Measure 37 waiver. *DLCD v. Clatsop County*, 58 Or LUBA 714 (2009).

26.10 LUBA Jurisdiction – Effect of Ballot Measure 37 (ORS 197.352 (2005)). Decisions under ORS 197.352(8) about whether land use laws should be or can be waived under Ballot Measure 37 are not land use decisions and are not reviewable by LUBA. But where questions arise about the scope of previously issued Ballot Measure 37 waivers in subsequent land use decisions that rely on those Ballot Measure 37 waivers, LUBA’s scope of review includes resolving any ambiguities about the scope of a previously issued Ballot Measure 37 waiver. *DLCD v. Clatsop County*, 58 Or LUBA 714 (2009).

26.10 LUBA Jurisdiction – Effect of Ballot Measure 37 (ORS 197.352). Where the state specifically waives only Goal 3 and related statutes and administrative rules, an argument that the state should also have waived Goals 7, 11 and 14 is beyond LUBA’s scope of review and must be asserted in a different forum. The only question LUBA may decide is which goals and regulations the state actually waived. *DLCD v. Jefferson County*, 55 Or LUBA 625 (2008).

26.10 LUBA Jurisdiction – Effect of Ballot Measure 37 (ORS 197.352). A local government’s decision determining that a subdivision application complies with all applicable land use regulations is not a decision under ORS 197.352(9) that is exempt from LUBA’s jurisdiction; rather, the decision is a land use decision subject to LUBA’s jurisdiction. *Welch v. Yamhill County*, 55 Or LUBA 697 (2007).