

28.12 LUBA Scope of Review – Effect of Ballot Measure 49 (ORS 195.300 to 195.336). Under the Court of Appeals’ decision in *Pete’s Mountain Homeowners Assn. v. Clackamas Cty.*, 227 Or App 140, 204 P3d 802, *rev den*, 346 Or 589, 214 P3d 821 (2009), where an application for subdivision relies on Ballot Measure 37 waivers, those waivers qualify as “standards and criteria” under the ORS 215.427(3)(a) goal-post statute, and the subdivision application is not subject to subsequently enacted standards and criteria. But Ballot Measure 49, which post-dates Ballot Measure 37 and is inconsistent with the ORS 215.427(3)(a) goal-post statute overrides the goal-post statute and limits the Ballot Measure 37 subdivision applicant to one of the three remedies specified in Ballot Measure 49. *Hoffman v. Jefferson County*, 60 Or LUBA 101 (2009).

28.12 LUBA Scope of Review – Effect of Ballot Measure 49 (ORS 195.300 to 195.336). In an appeal of a subdivision decision that relies on Ballot Measure 37 waivers and a Ballot Measure 49 vested rights decision, LUBA’s scope of review includes resolving questions about the scope of the previously issued Ballot Measure 37 waiver. A decision about the scope of a previously issued Ballot Measure 37 waiver is not a decision about the “nature and extent of [just] compensation” under Measure 49 (ORS 195.305(7)) and is therefore subject to LUBA review. *DLCD v. Clatsop County*, 58 Or LUBA 714 (2009).