

Measure 37 Sample Information Letter to Clients

Oregon voters passed Ballot Measure 37. The law, which becomes part of Oregon's land use statutes, will become effective December 2, 2004. There is no consensus in the legal community regarding the operation or effect of Measure 37 on the use or value of land in Oregon.

Measure 37 creates a "just compensation" right in Oregon property owners if a public entity enacts or enforces a land use regulation that restricts the use of private property and has the effect of reducing the value of the property. The Measure allows, but does not require, governing bodies to modify, remove, or not apply land use regulations in lieu of paying compensation. The ability to seek compensation, and therefore the potential to benefit from modification, removal or non-application of land use laws, is contingent on, among other things, the date on which the owner purchased the property or the date on which it was purchased by a family member of the owner, whichever occurred first.

The passage of Measure 37 creates considerable uncertainty in the real estate market. The use of land, and therefore its value, is now less predictable. Property that has been in single ownership or held in a family over a long period of time may have more development potential and, therefore, value than has a neighboring property purchased more recently. The potential is, however, uncertain. At the same time, some property may be less valuable because of the potential for property specific uses on neighboring property under Measure 37.

The analysis of Measures 37, and prediction of property value in the face of the Measure, is beyond the scope of a real estate licensee's expertise. Real estate licensees are not trained to predict the contingent and uncertain potential effects of complex laws like Measure 37 when assisting clients in developing the asking or offering price for property. Nor can agents advise real estate clients on how to make claims under the Measure or what, if any, development rights the client might be able to gain by making such claims. Real estate licensees do not have the training or means to assess the potential impact on the value or desirability of property abutting or near properties which may qualify for compensation under Measure 37.

Clients who believe their decision to sell or purchase Oregon real estate may be affected by the passage of Measure 37 are advised to seek the counsel of appraisers, attorneys or other land use professionals.