PHOTO ILLUSTRATION BY ALAN PITTMAN

There Goes the Neighborhood

Measure 37 forces taxpayers to pay developers or throw out the rules.

Imagine you have a lovely house on a quiet tree-lined street. You've spent thousands of dollars and countless weekends improving your home, the biggest investment your family owns. A nice grandmother lives next door who likes to bake your children cookies. Sadly, she dies and a greedy nephew inherits her historic house. To cash in, he quickly tears it down and builds a McDonald's. The drive through is right next to your bedroom window.

Ridiculous, you say, Oregon's zoning and land use laws would never allow that to happen. Not if Measure 37 passes. In the name of property rights, the measure could throw out much of the regulations governing how property is developed in this state.

"Ballot Measure 37 is institutionalized anarchy," Eugene City Councilor Bonny Bettman said at a 7-1 vote last week against the measure. "If it passes it will destroy the desirability of the state of Oregon as a place to live, do business and recreate."

If you think such a radical measure would never pass, think again. It already has. Despite opposition from nearly every top elected official and newspaper editorial board in the state, Measure 7 passed by a 54 percent margin in 2000. The courts threw out Measure 7 on a technicality. Measure 37 is very similar, except for changes to make it immune from a similar legal challenge.

Here's how Measure 37 works. Basically, landowners who don't like a regulation could invoke the measure to force the government to drop the rule or pay them compensation. The measure targets most environmental, zoning and land-use rules that keep Oregon livable, beautiful and clean. There are a few exemptions including regulations regarding public nuisances, health and safety, federal requirements and pornography. The measure also exempts regulations in place before owners, or their extended family going back two generations, acquired the property.

Working out exactly what Measure 37 means will require legions of lawyers if it passes. Vague but key parts of the measure have left the state Attorney General's Office scratching heads. In a July 19 memo, DOJ says the public health and safety exemption is open to "significant dispute and uncertainty" in its application. Whether it will be cities or the state that will get to decide to pay or waive state regulations and with state or city money is another "extremely significant internal ambiguity" in the measure, the memo says.

The city of Eugene's attorney Glen Klein points to other legal uncertainties such as a property owner suing a neighboring property owner for using Measure 37 to build an eyesore next door that decreases neighboring property values. Another question is whether cities could require Measure 37 users to submit independent assessments of property values and details of which regulations have effected them.

All the uncertainty makes one thing certain — lawyers will cash in. The city had three of its high-priced private attorneys in the room when the council voted to oppose the measure.

The state estimates that the measure will cost state government up to $44 million and local governments up to $300 million per year to implement. And that's before lawsuit costs and paying any claims. The state Administrative Services Department says it can't estimate how much paying the claims would cost.

The state Department of Land Conservation and Development, the main target of Measure 37, did take a stab at a claims cost estimate in a July memo. If laws protecting Oregon's people and nature from unlivable, ugly and destructive urban sprawl and traffic snarl weren't waived, DLCD estimated the state's taxpayers would have to pay landowners and developers $2.2 billion through 2007 with about another $700 million a year after that.

The bill could come from a huge tax increase or from radically cutting the state budget. For example, cutting state school funding almost in half could pay the $2.2 billion bill to developers.

'BALLOT MEASURE 37 IS INSTITUTIONALIZED ANARCHY.'
– EUGENE CITY COUNCILOR BONNY BETTMAN

And that's only the state's tab. Local government taxpayers could have to pay even more. The League of Oregon Cities estimates that Measure 37 could cost local government taxpayers $3.8 billion per year. Administering the flood of Measure 37 claims could cost up to an additional $830 million per year. If local governments waived claims to save money, they could still have to pay for extending expensive roads and other infrastructure to serve otherwise unpermitted edge development, according to the League.

If Eugene's share of that bill is proportionate to its population, local taxpayers here could end up with an annual bill of $185 million a year in claims and administrative costs. That's the equivalent of about two years worth of city property tax revenues.

SPECULATORS CASH IN

While taxpayers are left holding the bag, developers, land speculators and timber barons stand to make millions. Measure 37 could make cheap farm and timber land outside urban growth boundaries explode in value if subdivisions, strip malls and big box stores are allowed. Big land owners could also extort millions by threatening ugly or environmentally damaging development.

With so much money up for grabs, the timber barons and land speculators have pumped big bucks into the pro Measure 37 campaign. The pro-37 PAC reported a half million dollars in contributions by Sept. 23 — mostly in big checks from timber and development interests. Local Timber Baron Aaron Jones's timber company gave $65,000, the single largest contribution. Local land speculator John Musumeci's Arlie company gave $25,000. Timber baron and land speculator Donna Woolley gave $25,000. Veneta land speculator Greg Demers gave $15,000. The Gonyea and Giustina families also have major local land speculation and development interests and gave $10,000 and $20,000 respectively.

But David Hunnicutt, leader of the pro-37 campaign, says support for the measure goes far beyond wealthy special interests. The state's land use system "has had devastating impacts on thousands of property owners in this state." Threats of McDonald's built on residential streets are "bogeymen" that the free market wouldn't support, Hunnicutt says.

Supporters say the measure is a matter of basic fairness. "If it's for the public benefit, then the entire taxpaying public should pay for it," says Eugene City Councilor Jennifer Solomon, a 37 supporter and granddaughter of local timber baron Stub Stewart.

Opponents say 37 is unfair and strikes at the basic rules that have allowed people to live with each other for the common good since civilization first started.

"At base, this is breaking the agreement of a