

Measure 49 Examined

Fix, flub or repeal of Measure 37 sprawl?

Will Measure 49, the supposed "fix" to the urban sprawl of Measure 37, end up actually allowing more development?

The reasoning for the question some environmentalists have asked goes like this: Measure 37 may be stopped in the courts over the issue of transferring development rights, so it won't allow scenic Oregon to be destroyed with sprawl. If it does, the developers will generate a backlash sufficient for an outright repeal of Measure 37. Measure 49, on the other hand, will solve Measure 37's legal problems with transferability, albeit by allowing only smaller, residential developments. Measure 49 will also co-opt any hopes of an outright repeal of Measure 37.

The concerns by some environmentalists about Measure 49 have been voiced quietly in the past and more publicly in a recent op-ed by Land Watch Lane County Director Robert Emmons and Goal One Coalition director Jim Just. Supporters of Measure 49, including most environmental groups and the Democratic establishment, and many moderates, strongly disagree with the environmental critics' analysis. And, in perhaps one of the few things they agree with proponents on, big timber companies hoping to cash in their land for development, agree that Measure 49 will mean less development and have put big money against it.

The Oregon attorney general, city attorneys and environmental group attorneys have all argued that 2004's Measure 37 doesn't allow development rights to be transferred. That argument has won some lower court victories, but is challenged by developers and hasn't yet been firmly decided by the Oregon Supreme Court.

If the courts decide that Measure 37 isn't transferable, that could mean that a landowner could develop a rural subdivision or shopping mall but couldn't sell it — the whole point of the exercise. Amid the uncertainty surrounding transferability, banks have been reluctant to lend money to developers, stymieing many big projects.

But Measure 49 supporters say that many big developers will likely be able to evade the transferability restriction. Big developers may be able to get around the banks and transferability by self-financing their projects, leasing land and selling houses, using property purchase options and by selling long-term leases of houses and commercial developments, supporters say. "I don't think this is very speculative," said Shelly Strom, Yes on 49 spokesperson.

But that threat of transferability is contradicted in materials from the Measure 49 campaign which repeatedly state that transferring property is "not allowed by Measure 37."

Measure 49 does specifically allow transfer of development rights, but only for developing up to three homes. Commercial and industrial development claims aren't allowed at all. Developing and transferring up to 10 homes is allowed if an appraisal can demonstrate a loss of value from regulation that justifies the number of new homes requested.

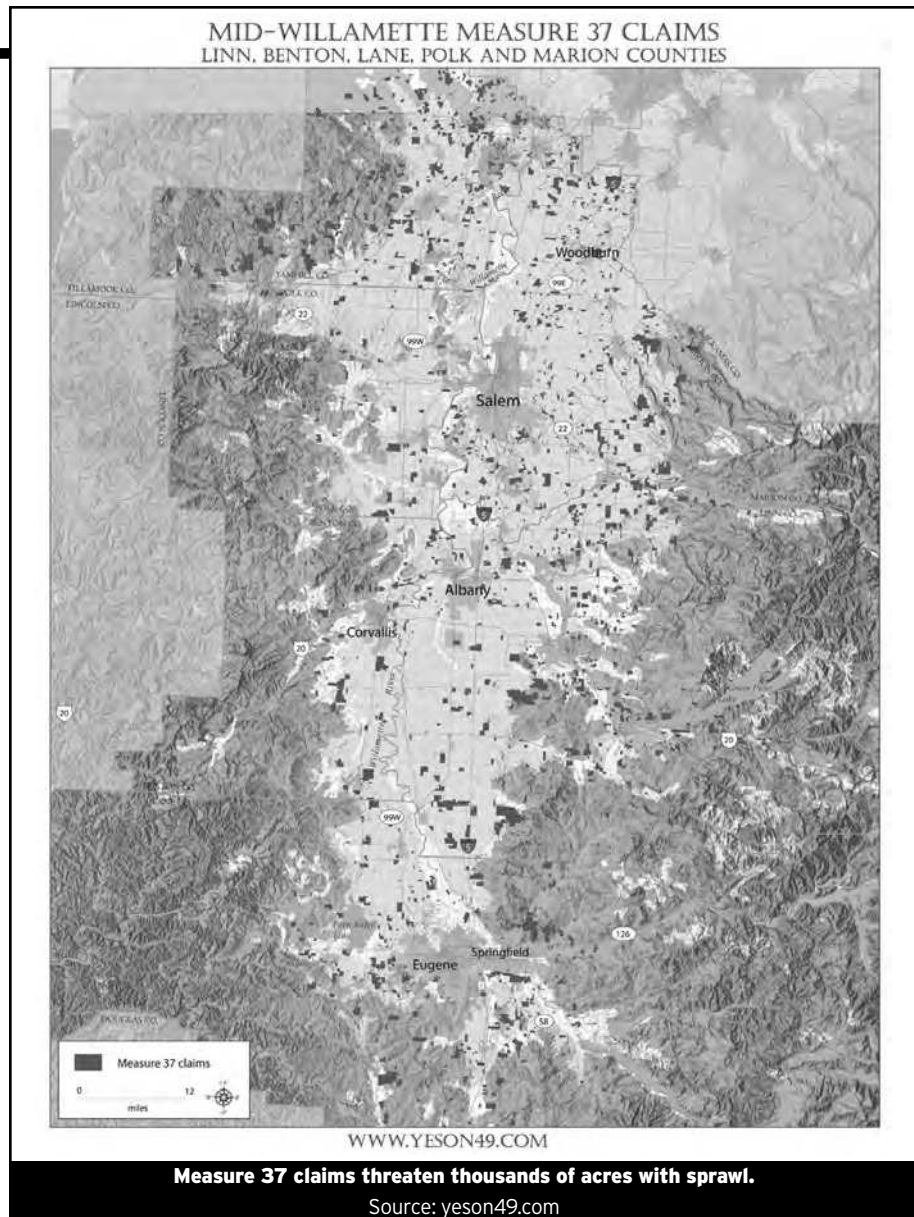
Environmental critics are concerned that Measure 49 will co-opt any present or future attempt at outright repealing Measure 37. But Measure 49 proponents say that polling showed that an outright repeal was unlikely to pass. Oregon voters have a long record of being angered when they are asked to vote twice on something. Measure 37 itself passed by a 60 percent vote after a similar, earlier Measure 7 passed by 54 percent but was derailed by the courts.

The delay in waiting for a signature gathering effort for a repeal measure also could also mean that many Measure 37 claims go through with construction projects and vested development rights, said Ashley Miller, the Lane County coordinator for Yes on 49. "We don't have the time."

But the distinction of whether Measure 49 is a fix or a repeal of Measure 37 may be lost on voters who are being bombarded with timber-industry financed ads. The misleading ads, many featuring little old ladies, depict the measure as a straight repeal of the earlier vote if not an outright government seizure of private property without compensation. In reality, both the Oregon and U.S. Constitution prevent government from taking property without compensation.

Although Measure 49 proponents have about twice the money as opponents (about \$4 million vs. about \$2 million), it remains to be seen whether they will effectively use the money. Measure 37 opponents had a similar funding edge, but still lost handily. Some blamed the ballot title. But others said the campaign was incompetent, focusing on preserving logging and industrial farming, disliked by most Oregonians, while not focusing on scenic areas threatened by developers.

This campaign appears to continue some of the focus on protecting logging and industrial farming. Measure 49 itself continues a Measure 37 provision that might effectively



ban new regulations against unpopular activities like streamside clearcuts and field burning.

But this time around, the campaign is also focusing on ugly urban sprawl devouring the state's natural beauty. The campaign has a lot of ammunition. Developers have filed more than 7,500 claims under Measure 37 seeking either \$15 billion in taxpayer compensation or the rights to develop more than 750,000 acres of scenic rural Oregon (see map).

Most of the acreage would be developed by big land speculators and timber companies ogling thousands of new rural subdivisions. The claims include some of the state's most scenic areas. Just outside Eugene, Wildish Sand and Gravel has filed a claim for a swath of riverfront land around Mount Pisgah and has given \$10,000 to defeat Measure 49. Another developer wants a subdivision on the steep hillside above Sea Lion Caves. Another major development would go in along a pristine estuary at Cape Blanco on the Oregon Coast. Other commercial and industrial claims are for big box stores, strip malls, mines and dumps.

These big rural developments would not only hurt scenery but would cost taxpayers millions of dollars to extend roads, sewers, fire protection and other services. They would also increase driving, congestion, smog and global warming.

While some environmentalists are debating whether Measure 49 or Measure 37 will actually cause more sprawl, the timber companies and land speculators that stand to cash in on Measure 37 have already made up their minds. Here's a list of the top dozen contributors so far to the anti-49 campaign:

Stimson Lumber	\$375,000
Greg Austin (Republican mega-donor)	\$263,500
Seneca Jones Timber Co.	\$168,500
Swanson Group, Inc.	\$163,500
Wes Lematta (helicopter logger)	\$163,500
Freres Lumber Co., Inc.	\$75,000
Cascade Timber Consulting, Inc.	\$50,000
Rosboro Lumber	\$50,000
C & D Lumber Co.	\$25,000
Murphy Hardwood Plywood Division	\$25,000
RSG Forest Products, Inc.	\$25,000
South Coast Lumber Co.	\$25,000

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