

## Oregon Rethinks Easing Land-Use Limits

Trying to Untie Property Owners' Hands, Voters Also Ended Some Checks on Sprawl

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SALEM, Ore. -- Cities in Oregon have suburbs that come to a sudden and seemingly arbitrary stop. They slammed into an "urban growth boundary," which for decades prevented townhouses and strip malls from invading the state's farmland and forests.

It was the nation's strictest statewide regime for strangling sprawl -- and a famous example of Oregon's populist pride in creating laws that cut against the grain. This, after all, is a state where you can lawfully kill yourself with a physician's assistance, but you cannot lawfully pump your own gas without the assistance of some guy at a filling station.

A voter initiative in 2004, however, undermined the state's land-use law. With the overwhelming approval of Measure 37, which has been upheld in the courts and is shredding the anti-sprawl status quo, Oregonians unwittingly replaced land-use quirkiness with land-use chaos.

Many here are now suffering from voter's remorse and want the law fixed, according to opinion polls, newspaper pundits and a number of powerful state politicians.

"If we continue down this path, we will lose our quality of life and we will lose our ability to plan," Gov. Ted Kulongoski said in interview here. "It will end up hurting us economically by limiting Oregon as a place to do business. As every day goes by, more and more people are saying, 'This isn't what we thought we were voting for.'"

Kulongoski, a Democrat who is urging the state legislature to change the law or at least delay its enforcement, said the measure is harming the economy, setting back state efforts to fight global warming and paralyzing Oregon's long-term push for mass transit.

Measure 37 was sold to voters as a common-sense tool that Ma and Pa could use to cut through red tape. It would, proponents argued, allow property owners to build homes for their children and grandchildren on their rural land. But timber companies and developers, which largely bankrolled the campaign for Measure 37, are also using it, proposing large subdivisions and commercial construction.

The law compels the government to pay cash to longtime landowners when land-use rules reduce the value of their property -- or, if the government cannot pay, to allow owners to develop their land as they see fit.

The Oregon Department of Agriculture has warned that claims filed under the law threaten 132,000 acres of prime farmland in the Willamette Valley. If Measure 37 stands -- and most land-development claims under it are likely to be granted to owners, because the state cannot afford to compensate for lost value -- Oregon could quickly lose 2 1/2 times as much farmland as it lost to development between 1982 and 1997, according to state estimates.

Most of the other claims are on the periphery of the suburbs that surround Portland and in booming southern Oregon, where there is pent-up demand for new construction and where even small landowners stand to make handsome profits.

Oregon's widely publicized land-use controversy helped persuade voters in Washington, California and Idaho to reject ballot measures in November that would have similarly scrambled zoning and planning laws in their states.

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In recent weeks, Oregonians have been especially riled up about the law, packing legislative hearings in the State Capitol here. Unless the legislature moves to change the law, a 180-day deadline for county and state action on many of the 7,428 claims will expire this spring. After that, many claimants may be able to move ahead with development plans.

Champions of Measure 37 are worried, too. Oregonians in Action, the property-rights group that sponsored the initiative, recently described the threat to the law as "greater than ever."

But David J. Hunnicutt, president of the group, said critics of the law, including the governor, are being deceptive when they say that timber companies and big developers are its primary beneficiaries.

Hunnicutt points to a partial analysis of Measure 37 claims by Portland State University, which shows that 72 percent of claimants want to subdivide their land into nine or fewer lots. The analysis, which is based on an examination of 40 percent of claims, also shows that about 4 in 10 claimants are asking for three or fewer lots. About 60 percent of all claims are for parcels of land that are smaller than 50 acres.

"This law is not being used by big, greedy multinational corporations," Hunnicutt said, adding that Measure 37 claims so far amount to 500,000 acres, less than 1 percent of Oregon's total land.

Hunnicutt did suggest that perhaps the legislature should step in and limit the minority of claims in which landowners and big companies are trying to use the law for major projects.

It is the middling land deals under Measure 37 that seem to generate the greatest amount of raw emotion. It happens when a property owner infuriates neighbors by trying to turn a once-protected patch of farmland or forest into a subdivision. In many parts of Oregon, Measure 37 has come to be known as the "Hate Your Neighbor Act."

Brian and Laurel Hines live south of Salem in a housing cluster with limited groundwater. Even under the best conditions, they say, home wells in the neighborhood are at risk of running low. Their neighbor, a farmer with 217 acres, recently proposed building more than 40 houses, each with its own well, on nearby land in the same watershed. The increased demand could tap out the groundwater.

The Hineses and their neighbors have pressured county officials to scale down the proposed subdivision to fewer than 30 houses. But they say it has cost them \$20,000 in fees for lawyers and water experts -- and months of work, worry and short nights.

"It is neighbor against neighbor out here," Brian Hines said. "I'd like to think it isn't personal, but it is."

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