

The Influence of Measure 37 Claims on the Shift in Vote Between
Measure 37 and Measure 49

By

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I understand that my essay will become part of the permanent collection of the Oregon State University libraries. My signature below authorizes release of my essay to any reader upon request.

Garrett Chrostek, Author

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Abstract

The passage of Measure 37 in 2004 was met with a great deal of controversy as a number of voters claimed the implications of the Measure did not represent their intentions for supporting the legislation. Namely, significant opposition was aimed towards the Measure 37 claim which offered landowners financial compensation or waivers from land use regulations that reduced the value of their property. As a result, voters subsequently passed Measure 49 which drastically curtailed the size and scope of the Measure 37 claim. Both measures experienced strong support and passed with more than 60% of the vote.

This paper seeks to identify voting patterns by examining those factors which led to the divergent outcomes between the two elections. A review of the literature reveals two primary theories for explaining the differing outcomes. The first is premised on the concept of NIMBY (not in my backyard) in which voters in areas with high concentrations of Measure 37 claims used their vote to resist unfavorable developments associated with Measure 37 claims. A second theory is rooted in traditional regional and partisan differences which characterize the “two states” view of Oregon politics. This paper evaluates these theories by developing testable hypothesis to predict the “shift in vote” at the county and precinct levels of analysis. Results from this study will offer a better understanding of voting behavior on this issue and offer suggestions to policymakers looking to improve voter satisfaction with Oregon’s land use system.

Introduction

The right to private property is a fundamental right enjoyed by U.S. citizens and other legal entities by the 5th and 14th amendments of the Constitution. Yet such a strong emphasis on the rights of the individual often creates conflict when policy makers pursue egalitarian oriented legislation. As a result, there has been a perpetual cycle throughout our history concerning how our society balances individual private property rights with perceptions of the public interest. As conditions in our social, political, and economic environments change, so has our assessment of which of the competing values deserves greater priority. Changes in our values and priorities are manifested in who is placed in political office, outcomes of court cases, and the laws and policies that are enacted. In recent decades, our nation has placed greater importance on individual property rights evidenced by the election of pro-property rights candidates, a number of Supreme Court cases, and the emergence of initiatives strengthening property rights on state ballots.

The strategic practice of using the ballot to determine the balance between these competing values has been a recurring theme in Oregon. In the past ten years, voters have faced three initiatives concerning property rights. Following national trends towards stronger private property rights, Oregonians passed Measures 7 in 2000 and 37 in 2004. Both measures experienced strong support and passed with 53% and 61% of the vote respectively. Yet after passage of 37, Oregonians had a change of heart and subsequently scaled back these rights by passing Measure 49 during a special election in November of 2007. The results of the 2007 election exhibited a near reversal in opinion as Measure 49 also experienced strong support and passed with 62% of the vote. Such a drastic shift might serve as an indication that Oregonians are realigning their emphasis on the balance between property rights and the public interest.

While this balance of values will continue to change in a perpetual cycle, attention needs to be paid to the factors that triggered this change among Oregon voters. To identify these factors one must examine traditional influences on attitudes towards property rights, namely socioeconomic characteristics. Variables of this nature have long been identified and reported in the literature. Thus to further our understanding of this realignment in the voting behavior of Oregonians, this paper will investigate those elements unique to Oregon which have changed between the passage of Measure 37 in 2004 and Measure 49 in 2007. Such an inquiry yields one meaningful result. Oregon property owners (meeting certain qualifications) gained the ability to file Measure 37 claims seeking compensation for economic losses resulting from land use regulations or received a waiver of those regulations on their property.

Measure 37 claims and their implications for exurban sprawl, agricultural land loss, and neighboring property owners became the center of intense public debate. In attempts to resolve differences in interpretations of the Measure, Governor Kulongoski appointed land use experts to the Big Look Task Force to elicit public comment on Measure 37. Testimony presented to the Big Look Task Force, revealed that many people did not understand what they were voting for when they voted yes on 37. Specifically, people testified that they did not understand Measure 37 would facilitate residential and commercial development on certain agricultural and other land types that had previously been restricted by the State's land use system (See Appendix I). A similar message was portrayed in advertising promoting Measure 49. Television spots, mailers, and opinion pieces followed a general pattern of describing the confusion over Measure 37 and expressing dissatisfaction with a specific local Measure 37 claim. Yet the question remains, did the concentration of Measure 37 claims within certain political boundaries influence the divergent outcomes between Measure 37 and Measure 49? Did this influence have a positive or

negative relationship with voting results? Can the magnitude of this influence be measured at the precinct and county levels? Or is this voting outcome simply a product of traditional partisan and regional politics? To investigate these questions, this paper recounts the history of the private property rights debate in Oregon, reviews the literature on attitudes towards land use, develops testable hypotheses, and conducts a quantitative investigation of the data to predict voting patterns for counties and precincts. Results from this study help explain the deviating outcomes of the Measure 37 and Measure 49 elections, provides insight for policy makers seeking to improve voter satisfaction with Oregon's land use system, and evaluates the current status of the balance between property rights and the public interest.

Land Use Policy in Oregon

During the 1960s and 1970s, the United States was in a period of strong emphasis on the public interest. Large demand for environmental protection inspired the passage of the nation's most significant environmental legislation, including the Clean Air Act (1963), the Endangered Species Act (1973), and the Clean Water Act (1977). These pieces of legislation significantly restricting the economic activities of private property owners in exchange for gains to the public good from a safer and healthier environment. The emphasis on the public interest was also evident in Oregon as several pieces of public interest oriented legislation passed, including the Oregon Beach Bill (1967) and Senate Bill 100 (1973). Senate Bill 100 became the basis of Oregon's land use system and was the first statewide comprehensive land use planning system in the United States. The system sought to attribute zoning designations to individual properties and assign restrictions regarding permissible land uses within these zones. Through these regulations the State aimed to serve the general welfare by protecting the State's agricultural

economy and promote the health of citizens by separating harmful industrial activities from residential areas. The legislation also aimed to curb urban sprawl and its associated environmental problems by concentrating development within urban growth boundaries. However to realize the benefits of this legislation, private property owners had to accept significant limitations on the uses of their property.

Despite the curtailment of some individual private property rights, Senate Bill 100 was met with a great deal of support by the State's citizens and powerful interests in the agriculturally based economy. Oregon had experienced rapid suburban development during the 1960s, which posed a threat to the profitability of agriculture and citizens' enjoyment of the State's open spaces. However as Oregon's population continued to climb and its economy became more service oriented, conflict grew between private property owners and the land use system. As a result, private property interests mobilized and engaged in a number of legal challenges to Senate Bill 100 based on the protections found in the 5th and 14th Amendments of the U.S. Constitution. Most of these challenges were dismissed as the legislation was found to support a legitimate public purpose and meet other legal tests of takings law.

The Constitution, and cases decided by federal courts interpreting the Constitution, merely set the floor for the minimum amount of protections afforded to private property rights. States, by virtue of the 10th Amendment, have the authority to increase the level of protection and in a number of instances they have. An initial effort to increase the level of property rights protection occurred in Oregon when voters passed Measure 7 in 2000. Measure 7 was a state constitutional amendment seeking to compensate landowners when certain land use regulations reduced the fair market value of their properties. After Measure 7 passed, it was struck down by the Oregon Supreme Court in *League of Oregon Cities et al. v. State of Oregon et al.* (2002)

because it addressed two separate state constitutional issues (adjusting the threshold for just compensation and regulating free speech by prohibiting compensation for regulations pertaining to pornography), which the Court found to be unconstitutional. Measure 7 was revived as a statutory initiative under Measure 37 to achieve the same goals but avoid the constitutional challenges to its provisions (statutes can address multiple issues but are more easily amendable by legislatures and ballot initiatives). Measure 37 passed in the 2004 election with 61% of the vote. After passage, the constitutionality of the Measure was challenged by pro-land use interests in Marion County and the Circuit Court subsequently struck it down because it so severely infringed upon the State's police powers. An appeal was expedited to the State Supreme Court (*Macpherson et al. v. State of Oregon et al.*, 2006) where the decision of the lower court was overturned.

Measure 37 accomplished two things for private property owners. First it lowered the threshold for making claims for regulatory takings and secondly it developed a new avenue for administrative relief. However, Measure 37 did not apply to all landowners and could not provide relief from certain regulations. In particular, Measure 37 only applied to landowners who had owned the property within their family before the regulation which reduced the property's value was instituted (§3(E)). Landowners could not seek compensation from federal regulations (§3(C)), regulations to provide for the health and safety of the population (§3(B)), from public nuisances identified in common law (§3(A)), or from restrictions on businesses associated with adult entertainment (§3(D)). The avenue for administrative relief, commonly referred to as a "Measure 37 claim," is established in sections 4 and 5 of the legislation. After passage of the Measure, landowners had two years to file their claim for reduction in market value of their property from past regulations (§5). These claims were to be submitted to the

government entity that had imposed the regulation resulting in reduction of fair market value (§4). Claimants were also permitted to appeal the decision of their claim to the circuit court of the county in which the property is located (§6). During the two year period, 7,717 claims were filed, accounting for nearly 800,000 acres. The preponderance of these claims were subdivisions or partitions of high value farm and forest lands. In addition, a majority of the claims were located in the Willamette Valley where the bulk of the state's population resides (Portland State University, 2007).

Immediately after passage of Measure 37, Democrats in the State Legislature indicated that they would attempt to amend Measure 37. After failing to pass legislation amending the Measure during the 2005 and 2007 sessions, the legislature put a proposed amendment to the Measure on the ballot, which became Measure 49 (See Appendix II). Measure 49 was intended to significantly curtail the size and scope of Measure 37 claims and ultimately passed with 61% of the vote in the 2007 special election.

The major differences between Measure 37 and Measure 49 include the scope of application, available forms of compensation, and transferability of a successful claim. Measure 49 does not permit compensation for industrial or commercial development on high value farm or forest lands (§5(4)), development on land designated as critical ground water areas, requests for subdivisions for more than 10 houses (§7), or regulations that *restrict* development (§4(1)). There is an important distinction between “prohibit” and “restrict,” which greatly affects the landowner's ability to file a claim. *Prohibit* effectively means prevents while *restrict* effectively means limits. Many of Oregon's land use regulations simply restrict industrial, commercial, or residential development by attaching certain conditions under which development is permissible. One example is the regulation commonly referred to as the “farm income test.” Under the “farm

income test” a property zoned for exclusive farm use of less than 80 acres is not restricted from developing a new lot on the property, but eligibility for this development is limited to farms that generate \$80,000 or more in gross income from agricultural activities. For many properties it is difficult to achieve such an income given the current agricultural market rendering them effectively restricted. However since the regulation does not explicitly prohibit the establishment of a new lot, a landowner can not seek compensation from this regulation. Landowners also can not seek compensation from regulations on critical groundwater areas (§7(1)). Under Oregon law, landowners can withdraw up to 15,000 gallons a day for residential uses regardless of its availability. To protect critical groundwater areas from being overdrawn due to increased residential expansion, Measure 49 prohibits landowners from seeking compensation for restrictions on development within these areas. Lastly, Measure 37 did not address the issue of transferability of successful claims. If a claim was successful, it was not clear under 37 whether the landowner could transfer the property with the newly granted rights to a developer, another individual, or even to a family member. As a result many Measure 37 claims were not acted upon because of this uncertainty. Under Measure 49, a property with a successful claim is transferable to any party provided the new party act upon the claim within ten years (§11(6)). Thus Measure 49 did not nullify Measure 37, but it did significantly gut the previous Measure by limiting the amount of potential compensation and vastly reducing the number of eligible claimants.

During the three years between Measure 37 and Measure 49, governments reviewed Measure 37 claims which resulted in a number being approved. However, no comprehensive data exists to determine how many successful claims have moved forward with development. Due to a lack of funding by the state, counties, and cities, only one Measure 37 property owner

to date has received monetary compensation for their claim. When filing a Measure 37 claim, landowners were required to determine the loss of economic value to their property as a result of regulations and describe their intended use with a successful claim. This information became part of the public record, and successful claims (particularly large claims) were often written about in local newspapers including the various Stimson Lumber Company claims which totaled over 57,000 acres (Sarasohn, 2007).

Literature Review

The underlying themes associated with the Measure 37 debate are attitudes towards land use, growth, development, private property rights, and partisanship. Many of these attitudes are associated with socio-economic characteristics which are commonly used to explain voting outcomes. One particular attitude, commonly referred to as NIMBYism, is central to investigating the research questions and requires particular attention.

NIMBY(not in my backyard) is an acronym used to describe an attitude of resistance to locating undesirable facilities in proximity to an individual's or group's residence, community, place of work, or any other area with which that person or group holds a favorable connection. It is a concept with deep roots in the literature for explaining hostility toward development of polluting industries and other nuisance producing facilities. Specifically, the literature has concentrated on nuclear power plants, landfills, prisons, and mental health institutions (Gameson and Modigliani, 1989; Nadel, 1995; Furuseth and O'Callaghan; 1991; Gordon and Gordon, 1990). While it is understandable that people do not want these sorts of developments near their place of residence, such attitudes have been documented to produce social costs when allowed to steer public policy. Regardless of preferences for such facilities, citizens nonetheless require their

services. Preventing undesirable firms to locate in proximity to a community because of aesthetic or social preferences can increase the costs of delivering these services by increasing transportation costs or permitting demand to go unfulfilled. Unfulfilled demand forces community members to utilize inferior or less efficient substitutes for these goods and services. Such substitutes can be associated with their own set of externalities. Although NIMBYism has been used to explain a variety of policy decisions and voting outcomes, it has not been applied to the preservation of natural amenities from residential development in a voting context.

Individuals or groups exhibit NIMBYistic characteristics when they perceive development of the undesirable facility as a threat to their security, economic position, or quality of life (Gordon and Gordon, 1990; Gameson and Modigliani, 1989). This is the core of the Measure 37 debate and is exemplified by testimony to the Big Look Task Force from Measure 37 opponents who described their unwillingness to allow farm and forest lands to be converted to residential developments whether it be on neighboring property or in general. People of this opinion attribute the quality of life in Oregon to the state's land use system and view Measure 37 as a threat. In contrast, critics of Oregon's land use system describe the policies as an elitist institution that unjustly restricts economic activity while contributing to housing problems by artificially inflating prices.

The claims of elitism espoused by proponents of Measure 37 can be supported by the literature as income and education tend to be the dominant predictors for estimating attitudes towards land use, growth, and development. In models run by Green et al. (1996), income and education were the best predictors of support for land use regulations, both of which exhibited positive relationships. Yet all elites do not demonstrate similar patterns of support. Further results from their study suggest that high income seasonal residents are more supportive of land

use laws because they are not connected to the economic benefits of growth and want to preserve their “special places.” Upper class permanent residents are less supportive of land use laws because they are more connected to the economic benefits of growth. Similar results were found by Inman and McLeod (2002) whose survey of rural Wyoming residents found higher levels of education and seasonal residency were associated with higher levels of support for public management of private lands.

Income and education are also highly associated with partisanship which would help to explain partisan differences in attitudes towards land use regulations. Chapin and Connerly (2004) noted distinct differences in support for land use regulations in Florida between Republicans and Democrats. Republicans are much less accepting of government intervention in the economy and thus were found to be less supportive of Florida’s growth management policies. In contrast, Democrats tend to place greater faith in government to solve social problems and are more supportive of policies to protect the environment which is one of the primary goals of Oregon’s land use system (Van Liere and Dunlap, 1980).

Also important to the discussion of attitudes towards land use and analysis of voting patterns are the effects of rurality. As politics in Oregon are frequently premised on the “two states” theory, it is important to investigate the differences in voting patterns between these two groups. The “two states” view of Oregon politics describes political and cultural differences between the more urbanized Willamette Valley and the more rural rest of the state which is frequently a source of conflict in state politics. Rural voters have long been associated with support for strong property rights and opposition to government intervention in the economy. Jackson-Smith and Krannich (2005) found rural residents, who held strong economic ties to their land, demonstrated higher levels of resistance to land use regulation. However, recent increases

in amenity migration have attributed to changes in traditional views on land use by rural residents. Smith and Krannich (2000) found long term residents in high amenity Rocky Mountain West locales to be more supportive of land use laws to protect the traditional economic base. Long term residents were found to view tourism related growth as only bringing seasonal employment and more expensive real estate. Short term seasonal residents exhibited greater preference for growth to provide additional services and shopping opportunities. Yet when faced with declining prosperity in traditional economic activities, rural residents have been documented to revert to their traditional attitudes towards land use (Chapin and Connerly, 2004).

Sentiments for strong property rights have also been associated with areas dominated by public ownership of lands (Mussacchio et al., 2003). Oregon is a public lands state with approximately 57% of the land area in public ownership. Public lands within the state are concentrated in counties containing mountain ranges (Curry County 69%) and/or high desert rangeland (Harney County 75%). Counties with lower proportions of public land are those situated within the Willamette Valley (Polk County 12%) and in the grain producing region of Gilliam (11%), Sherman (9%), and Morrow (22%) counties. Lower levels of public land within a county reflect a larger quantity of land suitable for agriculture which was more desirable during early settlement of the area. Mussacchio et al. note that areas with less public land face greater pressure for open space and recreation opportunities and thus are more supportive of policies to obtain or preserve such properties.

While such studies offer important insight into individual characteristics of attitudes towards land use regulations, the literature offers very little in regards to voting trends on land use related issues at higher levels of analysis. Further, no comprehensive exit polling was conducted with the purpose of examining the relationship between Measure 37 claims and voting

patterns between Measure 37 and Measure 49. Therefore, to investigate the influence of Measure 37 claims on the “shift in vote” between Measure 37 and Measure 49, hypotheses discussed in the following section were formed on the assumptions that individuals vote in a manner consistent with the attitudes and characteristics documented in the literature and that voting results at the county and precinct level are aggregations of individual attitudes and characteristics.

Methods, Data Sources, and Hypotheses

The intent of this study is to examine those factors which contributed to the differences in outcomes between the Measure 37 and Measure 49 votes. It seeks to determine spatial patterns of voting and investigate a number of socioeconomic control variables. To accomplish these objectives, this paper explores relationships at two levels of analyses; counties and voting precincts. Investigations at two levels of analysis were made to provide greater robustness to results drawn from datasets with limited observations. Another benefit of examining both counties and precincts is greater specification for evaluating the concentration of Measure 37 claims can be achieved. County observations include all 36 counties in the state of Oregon. Observations at the precinct level include all of the precincts from three counties that represent the three different combinations of voting results exhibited from Measure 37 and Measure 49 (yes-yes, yes-no, and no-yes, no county voted no-no). Data limitations weighed more heavily in selecting these counties than procuring a representative sample. Most counties in Oregon do not have GIS data for precincts or Measure 37 claims, which are essential to this analysis. Precincts in Oregon also present data limitation problems as the state’s mail in ballot system has rendered them effectively irrelevant. While redistricting occurs for the various elected offices, there is no

need to redraw precinct boundaries to keep them relatively proportional. As a result, census tracts do not follow precinct boundaries making it difficult to attribute socioeconomic data to individual precincts. To overcome this limitation, areal interpolation will be used to fit socioeconomic data from census tracts to voting precincts via GIS software. In this process, precinct maps are overlaid on census tract boundaries to determine which tracts fall in which boundaries. Socioeconomic data values for that precinct are then computed using averages. Similar methods have been utilized by the U.S. Census Bureau to fit demographic data to precincts in other states.

Before detailing hypotheses, data sources, and statistical techniques, it is important to discuss the dependent variable. This paper seeks to explain why Oregonians changed their support, that is voted in two different directions, on two ballot measures concerning the same underlying values (balance of property rights versus public interest). Therefore, the statistic of interest is the shift in support for either the public interest or pro-property rights point of view between the two votes for a particular political boundary. Thus, “shift in vote” is the dependent variable for this study and is measured as the difference between the percentage of yes votes for Measure 49 and no votes for Measure 37. For further clarification, if County X voted 60% yes for 49 (pro-public interest) and 30% no for Measure 37 (pro-public interest), then County X experienced a 30% “shift in vote.” While “shift in vote” could be measured in a number of ways, this method was selected because it represents the percentage change in support for one of the two competing values. By evaluating “shift in vote” via the method described above, the level of the shift in support for the pro-public interest voting position can be isolated and used to investigate the independent variables and make comparisons among political boundaries.

Based on a review of the literature, local media, and a conceptual understanding of the social and political environment in Oregon, two competing theories emerge for explaining the divergent outcomes of the Measure 37 and Measure 49 votes. The first is based on the testimony from the Big Look Task Force and the results of the Measure 49 vote. Such evidence would suggest that Oregon voters used their votes in a NIMBYistic fashion to reduce the threat of Measure 37 claims. This theory is premised on the assumption that measures of Measure 37 claim activity are the primary predictors of “shift in vote” and are relatively universal among Oregon voters. A rival theory is drawn from the experiences of Florida where Chapin and Connerly (2004) documented distinct differences in support for statewide growth management policies between the major political parties and urban and rural populations (rural strongly correlated with Republicans and urban with Democrats). This theory would suggest that after voters became better educated on the Measure 37 debate, they voted in patterns more consistent with traditional regional and partisan factions which exemplify the “two states” view of Oregon politics. A number of hypotheses based on these competing theories have been developed to investigate the “shift in vote.” These hypotheses and their independent variables of interest have been grouped into the following categories; Measure 37 claims, socioeconomic, partisanship, land ownership, and rurality. The Measure 37 claim variables are associated with the NIMBY theory while the partisanship, land ownership, and rurality variables are linked with the “two states” theory.

Hypotheses for Measure 37 claims:

- 1.) The greater the number of claims in the political boundary, the greater the “shift in vote.”
- 2.) The greater the number of acres under claims in the political boundary, the greater the “shift in vote.”

- 3.) The higher the ratio between eligible voters and the number of claims in the political boundary, the lower the “shift in vote.”
- 4.) The greater the number of acres under claims as a proportion of the total area of the political boundary, the greater the “shift in vote.”
- 5.) The greater the number of “large claims,” the greater the “shift in vote.”

Operating on the assumption that Oregonians do not like Measure 37 claims (NIMBY theory based on testimony to the Big Look Task Force, local media, and the outcome of the Measure 49 election), the more claims within a particular political boundary the more likely citizens are to use their vote to disrupt realization of rights granted through Measure 37 claims. It could also be assumed that the more claims present within a political boundary, the more likely a citizen is to be aware of them and the greater the opportunity to develop an unfavorable opinion towards Measure 37. The number of claims variable is the total number of claims within the political boundary. Data sources for this variable include the Portland State Measure 37 Database for county level statistics while precinct level statistics are provided by county planning and GIS offices. Precinct level datasets come as GIS shape files and are transposed on country voting precinct maps to determine in which precinct a claim is located.

The ratio of registered voters to claims follows much of the same logic behind the number of claims per political boundary hypothesis. However, it can be assumed that a non-linear relationship exists with this variable. If there is a one to one ratio then there shouldn't be a change in vote as presumably the one eligible voter is the holder of the Measure 37 claim and would thus not vote to restrict their rights. The higher the ratio, the lower the expected “shift in vote,” as there is a greater likelihood the eligible voters are associated with the Measure 37 claim(s). At the opposite end of the spectrum a lower ratio of voters to claims might also be associated with a lower “shift in vote” as there is a greater possibility that the voters are unaware of the claim and thus have less of an opinion. Therefore it is hypothesized that the middle range

of ratios will exhibit the greater “shift in vote” as this segment will be less likely to be associated with the claim yet more likely to be aware of the claim. This variable is measured as the number of registered voters divided by the number of claims in the political boundary. Figures for registered voters at the county level came from the Secretary of State’s Elections Office and precinct levels were provided by the county election offices of the counties included in this study.

Similar to investigating the number of claims within a political boundary, the number of acres under claim within the boundary also helps capture the level of Measure 37 claim activity within that area. It therefore follows the same logic that the greater the level of Measure 37 claim activity, via the number of acres under claim, the greater the “shift in vote.” This variable is also investigated as a percentage of the political boundary area under claim. Measure 37 claims data came from the Measure 37 Database at Portland State and the planning and GIS departments of the counties. Geographic data came from the U.S. Census Bureau and public land data came from the U.S. Forest Service’s National Outdoor Supply Inventory which documents public lands at the county level.

Testimony delivered to the Big Look Task Force and the rhetoric provided by politicians supporting Measure 49 suggests that smaller claims such as the addition of a second home to a property was the true intention behind Measure 37. Waivers for big subdivisions covering a large number of acres were therefore not in line with voter’s intentions. These are the sorts of claims that received media attention and were the focus of testimony at the Big Look hearings. For our purposes “large claims” are defined as those that encompass more than 100 acres. The “large claims” variable will be measured as the number of “large claims” within the political boundary. Claims data are provided by Portland State University’s Measure 37 Database and county planning offices.

Hypotheses for socioeconomic characteristics:

- 6.) The higher the per capita income for the political boundary, the higher the “shift in vote.”
- 7.) The higher the level of education within the political boundary, the higher the “shift in vote”

Socioeconomic variables investigated include income and education. Data for the education and income variables came from the 2000 U.S. Census. To fit U.S. Census data to precincts, areal interpolation using street nodes will be utilized. This technique uses GIS software to determine which census tracts fall within which precincts. Maps of census tracts and voting precincts are overlaid with boundaries determined by street nodes which are intersections and ends of particular streets. Education is the percentage of the population 25 and over with a college degree and per capita income is measured in 1000's of 1999 dollars. As identified in the literature, higher levels of income and education are associated with higher levels of support for land use regulations. Presumably, the effect of these variables will be lost because the dependent variable measures the “shift in vote” rather than modeling one particular election. However the expected positive directional relationships are based on the assumption that most Oregonians did not know what they voted for with Measure 37 and as they gained knowledge on this policy issue they voted in patterns more consistent with the socioeconomic tendencies described in the literature.

Hypothesis for partisanship:

- 8.) The higher the level of Democratic voter registration within the political boundary, the higher the “shift in vote.”

Partisanship weighed heavily into the debate over Measure 49 especially as Democrats in the State Legislature acted on their intentions to amend the Measure. The positions taken by the two parties are consistent with the literature which suggests that conservatives typically favor stronger property rights whereas liberals demonstrate greater support for policies increasing public management of private property. Again, as the dependent variable measures a “shift in vote” rather than modeling a particular election the effect of this variable is expected to be of lower magnitude. However given the fact that many voters described a lack of knowledge regarding the measure and the parties were not significant players in this policy debate until after the passage of 37, it is still hypothesized that partisanship is a variable of interest. Data for partisan voter registration was acquired from county election offices.

Hypothesis for land ownership:

- 9.) The lower the area of land in public ownership in the political boundary, the greater the “shift in vote.”

The pattern of land ownership within a political boundary is a variable of interest because the level of public land ownership determines the amount of private land available for private uses. As Measures 37 and 49 address permissible land uses on private property, areas with higher levels of public ownership are more significantly affected because the limited amount of private land available is further restricted by land use laws. Areas with high levels of public land ownership have been documented in the literature to demonstrate preferences for strong private property rights whereas areas with lower levels are more supportive of open space initiatives. Therefore it is hypothesized that political boundaries with higher levels of public land ownership will experience a lower “shift in vote.” The quantity of public land within a political boundary is

measured as a percentage of the total land area in the political boundary with public land (local, state, and federal public land are included in this measure) data coming from the U.S. Forest Service's National Outdoor Supply Inventory.

Hypotheses for rurality:

- 10.) Urban political boundaries are more likely than rural political boundaries to have a higher "shift in vote."
- 11.) Political boundaries located within the Willamette Valley are more likely than those located elsewhere to experience a higher "shift in vote."

This paper also seeks to determine whether there are differences in the "shift in vote" between urban and rural counties and precincts. Based on the literature it is expected that rural political boundaries are more strongly in favor of property rights. Thus, urban political boundaries are more likely than rural political boundaries to have higher "shift in vote" values. For counties, urban and rural are differentiated by the USDA's Economic Research Service urban-rural continuum. Rural precincts are those precincts that contain more than 16,000 acres. The number of acres was selected because it best fit the author's familiarity of areas within the study counties. The relationship between urban and rural political boundaries is investigated in regression models through a dichotomous variable for precincts and a continuum value for counties.

Lastly, to investigate the "two states" dimension to Oregon politics, a dichotomous variable is used to compare political boundaries located within the Willamette Valley with those located outside in the Southern, Eastern, and Coastal parts of the state. For purposes of this paper, Willamette Valley counties include; Multnomah, Clackamas, Washington, Yamhill, Polk, Marion, Linn, Benton, and Lane.

Bivariate correlations are utilized to investigate the relationships between the variables in the first nine hypotheses and “shift in vote.” Regression analysis utilizing ordinary least squares is used to further understand the relationship among the variables. Akaike’s Information Criteria (AIC) was employed to determine best fitting models. At the precinct level, separate models were ran for each county in the study. These models included a best fit and models encompassing the same variables to make comparisons across counties. Finally, an additional set of models were created that combine all of the observations from the three counties. As some of these models consist of a limited number of observations, no model exceeded a 6:1 observation to variable ratio.

Table 1-Hypothesized Direction Relationships, Level of Analysis, and Supporting Theory

Variable	Predicted Directional Relationship	Level of Analysis	Theory
Acres Under Claims	+	Both	NIMBY
# of Claims	+	Both	NIMBY
% of Boundary Under Claims	+	Both	NIMBY
Large Claims	+	Both	NIMBY
Eligible Voters to Claims	-	Both	NIMBY
% Democrat	+	Both	Two States
Public Land	-	County	Two States
Rural-Urban Continuum	-	County	Two States
Willamette Valley	+	County	Two States
Rural	-	Precinct	Two States
Education	+	Both	Two States
Income	+	Both	Two States

County Results

Descriptive statistics for the county dataset are summarized in Table 2. Bivariate analysis supported all the hypothesized directional relationships among the variables tested and “shift in vote” (See Table 3). With the exception of the number of acres under claim, the number of large claims, and the ratio of eligible voters to claims, all of the correlations held some level of significance ($p < .05$). The rural-urban continuum produced the largest absolute value for Pearson’s r and the lowest p -value.

In the regression analysis presented in Table 4, the M37 model included only measures of Measure 37 claim activity. Most of these variables exhibited the predicted directional relationships with the exception of the number of claims and the number of large claims although nothing in the model was significant. The relationship of the large claim variable might be the result of qualitative characteristics of the claim holders. Large landowners might hold greater amounts of political power in their respective counties yet this hypothesis can not be verified by the data. The MEASURE 37 model did produce a significant F statistic.

The CONTROL model was comprised of the remaining variables not associated with Measure 37 claims or the control variables. This model produced a significant F value and obtained a larger adjusted R^2 than the M37 model suggesting measures of claim activity are not the primary predictors of “shift in vote.” All the variables held directional relationships consistent with the hypotheses with the exception of education and income. Counties with greater percentages of college graduates might have generated lower predicted “shift in vote” values because voters in these counties possess greater capacity to understand the implications of their Measure 37 vote and were thus less likely to experience a shift. Income, similar to acres

under claim in the M37 model, had a directional relationship inconsistent with the hypotheses but the magnitudes of these relationships were inconsequential and insignificant.

Table 2- County Descriptive Statistics

Variable	n	Min	Max	Mean	Std Dev.
“Shift in Vote”	36	2.35%	30.05%	18.06%	7.63%
Acres Under Claim	36	0.00	64466.00	22011.83	18959.72
# of Claims	36	1.00	1076.00	212.89	246.29
% of County Under Claim	36	0.00%	13.93%	2.29%	2.73%
Large Claims	36	0.00	72.00	18.89	19.97
Eligible Voters to Claims	36	0.03%	2.30%	0.56%	0.48%
% Democrat	36	25.62%	50.87%	34.50%	5.69%
Public Land	36	9.19%	78.42%	46.02%	21.11%
Rural-Urban Continuum	36	1.00	9.00	4.92	2.57
Education	36	11.00%	47.40%	19.18%	19.97%
Income	36	13.90	25.97	18.27	2.58

As the BEST FIT model offered little insight into the effects of measures of Measure 37 claim activity, MODEL I was included in Table 4 as it represents the next best fitting model that included more than one Measure 37 variable. The percentage of the county under claim was the strongest predictor of “shift in vote” among the Measure 37 variables in this model although it was not significant. The percentage of Democrats was the only significant variable in this model and it displayed the predicted positive directional relationship.

Table 3- County Correlations with “Shift in Vote”

Variable	Pearson's r	p-value
Acres Under Claim	.118	.492
# of Claims	.350	.036*
% of County Under Claim	.415	.012*
Large Claims	.157	.359
Eligible Voters to Claims	.114	.509
% Democrat	.520	.001***
Public Land	-.445	.007**
Rural-Urban Continuum	-.563	.000***
Education	.330	.049*
Income	.437	.008**

* Significant at $p < .05$

** Significant at $p < .01$

***Significant at $p < .001$

In the BEST FIT model the Willamette Valley variable and the percentage of registered Democrats were the only statistically significant variables. These results suggest that “shift in vote” is best explained at the county level by the “two state” theory and its subplot of Democrats versus Republicans. Voters likely did not know what they were voting for with Measure 37 and took cues from their party or their elected officials (which are both disproportionately

Table 4- Regression-County Level

Model	M37	CONTROL	MODEL I	BEST FIT
N	36	36	36	36
Constant	16.184*** (7.58)	15.494 (1.09)	5.912 (.80)	7.090 (1.00)
Acres Under Claim	-.000 (-1.31)			
# of Claims	.009 (1.13)		-.001 (-.21)	
% of County Under Claim	1.292 (1.97)		.354 (.70)	
Large Claims	-.021 (-.21)			
Eligible Voters to Claims	.632 (.23)			2.571 (1.27)
% Democrat		.399 (.180)	.394* (2.05)	.445* (2.25)
Public Land		-.089 (-1.78)	-.078 (-1.46)	-.094 (-1.90)
Rural-Urban Continuum		-.675 (-1.08)		
Willamette Valley		6.300 (1.75)	6.346 (1.96)	8.676** (2.70)
Education		-.178 (-.79)		-.192 (-1.08)
Income		-.000 (-.014)		
R ²	.251	.527	.496	.532
Adjusted R ²	.126	.430	.412	.454
DF	29	29	30	30
F	2.01	5.39***	5.90***	6.81***
AIC			132.60	129.95

(t statistic)

* Significant at p<.05

** Significant at p<.01

***Significant at p<.001

Democratic in the Willamette Valley and Republican in the rest of the state) when voting on Measure 49. Education again had a negative directional relationship but was insignificant. The ratio of eligible voters to claims was the only Measure 37 variable included in this model but was insignificant. Durbin Watson tests did not reveal problems of autocorrelation and the Breusch-Pagan test rejects the hypothesis that the model is heteroskedastic ($\chi^2 = .437$). In addition, there were no indications of non-linear relationships or problems of multicollinearity as condition index values ranged from 1 to 28.75.

Precinct Results

Although the sample counties are not the most representative, averages were roughly comparable to the county averages for “shift in vote,” the percentage of the political boundary under claim, the percentage of registered Democrats, and per capita income (See Table 5). The education level for the sample counties was much greater than the county average as Jackson and Lane County displayed somewhat larger values and Benton County exhibited a value greater than two times the county average (See Appendix III). Bivariate correlations produced different results compared to correlations at the county level. All of the measures of Measure 37 claim activity had directional relationships conflicting with the hypotheses with the exception of the ratio of eligible voters to claims, which does not support the NIMBY theory. The percentage of registered Democrats, education, and per capita income held positive relationships as predicted. The difference in the directional relationships between the county and precinct level of analysis suggests that those voters closest to Measure 37 claims were less influenced by the claims and therefore experienced a lower “shift in vote.”

Table 5- Descriptive Statistics for All Precincts in Sample Counties

Variable	n	Min	Max	Mean	Std Dev.
“Shift in Vote”	154	-5.92%	46.30%	16.75%	11.77%
Acres Under Claim	154	0.00	13986.00	535.52	1382.89
# of Claims	154	0.00	81.00	7.06	13.00
% of Precinct Under Claim	154	0.00%	16.45%	1.45%	2.93%
Large Claims	154	0.00	27.00	1.42	3.15
Eligible Voters to Claims	154	0.00%	5.95%	0.47%	0.87%
% Democrat	154	23.63%	61.78%	38.83%	8.49%
Education	154	5.20%	80.59%	27.91%	15.46%
Income	154	7.65	33.94	20.25	43.91

Table 6- Precinct Correlations with “Shift in Vote”

Variable	Pearson’s r	p-value
Acres Under Claim	-.125	.122
#of Claims	-.294	.000***
% of Precinct Under Claim	-.133	.099
Large Claims	-.137	.089
Eligible Voters to Claims	-.305	.000***
% Democrat	.605	.000***
Education	.369	.000***
Income	.008	.917

* Significant at $p < .05$

** Significant at $p < .01$

***Significant at $p < .001$

In total, 12 models were run at the precinct level, with the results summarized in Tables 7-10. Table 7 contains the best fitting models for the sample counties which reveals that each of the counties has a different explanation for their “shift in vote.” In Benton County, rurality and income were the best predictors of “shift in vote” as both held significant negative relationships. The ratio of eligible voters to claims was the only Measure 37 related variable although it held an insignificant negative relationship. Jackson County did not produce a better fitting model and only consisted of two parameters. The “shift in vote” in this county is best predicted by the percentage of registered Democrats which demonstrated a positive relationship as hypothesized.

Similar to Benton County, income and rurality were important explanatory variables for Lane County. The percentage of the precinct under claim held a significant positive relationship and was one of two instances in the entire study in which a Measure 37 claim variable held a statistically significant relationship in the predicted direction. Income and rurality also held significant negative directional relationships in this model.

Table 7- Regression- Best Fit Model at the Precinct Level for Sample Counties

Model	Benton	Jackson	Lane
N	20	51	83
Constant	46.935*** (5.23)	-14.891*** (-3.79)	34.307*** (16.85)
Acres Under Claim			
# of Claims			
% of Precinct Under Claim			.398* (2.27)
Large Claims			
Eligible Voters to Claims	-2.475 (-1.60)		-1.954 (-1.28)
% Democrat		.537*** (4.64)	
Rural	-6.336* (-2.25)		-3.830** (-2.75)
Education			.065 (1.71)
Income	-.891* (-2.25)		-.549*** (-4.84)
R ²	.571	.305	.429
Adjusted R ²	.490	.291	.392
DF	16	49	77
F	7.04**	21.49***	11.58***
AIC	70.27	196.27	232.90

(t statistic)

* Significant at p<.05

** Significant at p<.01

***Significant at p<.001

Tables 8 and 9 offer models utilizing the same variables in each of the sample counties in order to draw comparisons across counties. Variables included in these models were all the

variables that held significant relationships in the best fitting models for the individual counties. The percentage of registered Democrats was the only variable to hold the same directional relationship for all three counties although it was only significant in Jackson County. Rurality was the only variable to hold a significant relationship in more than one county as it held significant negative relationships in Benton and Lane Counties but was positive and insignificant in Jackson. Income and the ratio of eligible voters to claims were negative and significant only in Lane County. The percentage of the precinct under claim and the number of claims were insignificant for all three counties and had mixed directional relationships. Results from these comparative models offer further evidence that each of the three counties has a different explanation for the “shift in vote.”

Table 8- Regression- Comparative Model at the Precinct Level for Sample Counties

Model	Benton	Jackson	Lane
N	20	51	83
Constant	18.638 (1.60)	-14.718*** (-3.47)	22.446*** (6.51)
% of Precinct Under Claim	-.139 (-.19)	-.135 (-.44)	.164 (.90)
% Democrat	.199 (.74)	.538*** (4.50)	.067 (.88)
Rural	-8.043* (-2.49)	.169 (.08)	-5.037*** (-4.29)
R ²	.409	.308	.242
Adjusted R ²	.298	.264	.213
DF	16	47	79
F	3.69*	6.96***	8.39***

(t statistic)

* Significant at p<.05

** Significant at p<.01

***Significant at p<.001

Finally, observations from all of the sample counties were included into the same three models used in analysis at the county level (See Table 10). One precinct in Jackson County did

not have GIS data available and was therefore excluded from this sample. Similar to results from the county models, the CONTROL model produced a greater adjusted R^2 than the M37 model suggesting that greater variation in the “shift in vote” is explained by the control variables rather than the measures of Measure 37 claim activity. In the M37 model, the number of claims held significant negative relationships contrary to the predicted directional relationships while the ratio of eligible voters to claims held a significant negative relationship as predicted. This would again suggest that those voters closest to the claims were less influenced by Measure 37 claims and therefore were less likely to experience a “shift in vote.” None of the variables in the CONTROL model were significant but the percentage of registered Democrats, rurality, and education exhibited the same directional relationships as they did in the county model.

Table 9- Regression- Comparative Model at the Precinct Level for Sample Counties

Model	Benton	Jackson	Lane
N	20	51	83
Constant	45.285*** (4.22)	-3.191 (-.60)	32.939*** (15.04)
Number of Claims	-.138 (-.65)	-.045 (-.56)	.058 (.57)
Eligible Voters to Claims	-2.939 (-1.17)	.517 (.44)	-5.409** (-2.66)
Income	-.880 (-1.84)	.309 (1.19)	-.398*** (-3.75)
R^2	.450	.034	.297
Adjusted R^2	.347	-.028	.271
DF	16	47	79
F	4.36*	.55	11.14***

(t statistic)

* Significant at $p < .05$

** Significant at $p < .01$

***Significant at $p < .001$

To correct problems of autocorrelation, a dummy variable for Jackson County was included in the MODEL I and BEST FIT models. Similar to results at the county level, the

BEST FIT model did not reveal much about measures of Measure 37 claim activity. Therefore, MODEL I was included in Table 10 as it represents the next best fitting model that includes two or more Measure 37 variables. The percentage of registered Democrats and rurality were two of the four significant predictors of “shift in vote” in this model similar to results from the county level of analysis. The other significant variables were the Jackson County variable and per capita income which both held statistically significant negative relationships. A negative relationship with Jackson County is consistent with the county’s descriptive statistics where the mean “shift in vote” is substantially lower than Benton and Lane Counties (See Appendices III-V). Per capita income’s negative relationship suggests voters from high income precincts may stand to benefit economically from Measure 37 claims or were more likely to have greater percentages of registered Republicans and thus experienced a lower “shift in vote.” None of the measures of Measure 37 activity were significant but all exhibited positive directional relationships with the exception of the number of claims.

The BEST FIT model provides further evidence for the “two states” theory as this model only consisted of the percentage of Democrats, rural, income, and the Jackson County variables all of which were significant. There were no changes in the directional relationships of the variables between the MODEL I and BEST FIT models. The BEST FIT model had more degrees of freedom compared to MODEL I which increased the t statistics on all of the parameters with the exception of income. The F statistic was also substantially greater in the BEST FIT model in comparison to MODEL I. Durbin-Watson tests revealed no problems of autocorrelation after inclusion of the Jackson County variable. The presence of heteroskedacity was rejected by the Breusch-Pagan test (chi squared=.438). There were no problems of multicollinearity as condition index values ranged from 1 to 17.87. An examination of

influential cases revealed no observations with dfbetas greater than 2. In addition, no non-linear relationships were found among the variables.

Table 10- Regression-All Precincts in Sample Counties

Model	M37	CONTROL	MODEL I	BEST FIT
N	154	154	154	154
Constant	19.188*** (18.07)	-9.956 (-1.65)	19.569*** (4.81)	17.027*** (4.85)
Acres Under Claim	.000 (.18)			
# of Claims	-.468** (3.17)			
% of Precinct Under Claim	-.103 (-.31)		.172 (1.08)	
Large Claims	1.513 (1.76)			
Eligible Voters to Claims	-2.845* (-2.01)		.157 (.21)	
Jackson			-18.556*** (-15.61)	-18.417*** (-16.25)
% Democrat		.784*** (6.53)	.253** (3.18)	.304*** (4.64)
Rural		-.185 (-.11)	-3.083* (-2.31)	-2.974** (-2.95)
Education		.061 (.76)	.062 (1.26)	
Income		-.265 (-1.18)	-.368** (-2.64)	-.243* (-2.30)
R ²	.158	.372	.777	.773
Adjusted R ²	.13	.355	.766	.767
DF	148	149	146	149
F	5.57***	22.09***	72.45***	126.66***
AIC			543.684	540.239

(t statistic)

* Significant at p<.05

** Significant at p<.01

***Significant at p<.001

Table 11- Summary of Predicted Directional Relationships and Results

Variable	Predicted Directional Relationship	Level of Analysis	Theory	Supported by the Results
Acres Under Claims	+	Both	NIMBY	No
# of Claims	+	Both	NIMBY	No
% of Boundary Under Claims	+	Both	NIMBY	No
Large Claims	+	Both	NIMBY	No
Eligible Voters to Claims	-	Both	NIMBY	Yes
% Democrat	+	Both	Two States	Yes
Public Land	-	County	Two States	No
Rural-Urban Continuum	-	County	Two States	Yes
Willamette Valley	+	County	Two States	Yes
Rural	-	Precinct	Two States	Yes
Education	+	Both	Two States	No
Income	+	Both	Two States	No

Conclusions and Policy Implications

This study sought to determine and measure those factors which contributed to the divergent outcomes between the Measure 37 and Measure 49 votes. Although much of the media attention focused on specific Measure 37 claims, the NIMBY theory can not be sustained in this analysis as measures of claim activity were not significant predictors of the “shift in vote” between Measure 37 and Measure 49 at either the county or precinct unit of analysis. Rather,

results from this study provide greater support for the “two states” theory as the Measure 37 controversy helped to accentuate differences between urban and rural populations and the major political parties in their valuation of private property rights and their attitudes towards Oregon’s land use system. Rurality and Democratic voter registration were significant predictors of “shift in vote” at both levels of analysis and were the most consistent variables in terms of directional relationships.

These results do not rule out Measure 37 claims as an important consideration for individual voters. They merely demonstrate that the concentration of claims can not be linked to voting patterns based on the variables used and the counties sampled in this study. If greater GIS data becomes available this study should be replicated with a more representative sample of counties to improve validity. Results for the income and education variable could also be enhanced by using blocks or block groups for areal interpolation. Further research should evaluate the association of Measure 37 claim activity and levels of voter turn out. The influence of the media is also ripe for research as “shift in vote” could be investigated through content analysis of local newspapers. Inquires into the influence of campaign spending might shed additional light on the conflicting outcomes of the Measure 37 and Measure 49 votes. Finally, future models might incorporate a variable for the number of Measure 37 claims that moved forward with development in a political boundary.

Findings from this study offer important insights for policymakers seeking to increase voter satisfaction with Oregon’s land use system. Rural areas, with lower levels of registered Democrats, demonstrate lower levels of opposition to Measure 37 claims and a number of precincts (primarily in Jackson County) experienced a negative “shift in vote.” Such results suggest that these areas welcome stronger property rights via relaxing land use regulations. To

appease this population, the State might consider moving away from statewide land use goals to pursue development strategies customized to particular regions. While rural areas with low Democratic voter registration seek deregulation, the largely privately owned Willamette Valley appears more favorable to public management of private lands. Development restrictions should be maintained in this region to maximize voter satisfaction.

There are also important implications for interest groups on either side of this debate. Supporters of Measure 37 initiated their campaign to seek relief from what they believed to be overly burdensome land use policies. Although Measure 49 offers a reprieve to certain landowners, it will not fully satisfy those populations frustrated with the system. As the population increases and rural areas look to move away from development strategies based on agriculture, this debate will resurface. Supporters of the principles of Oregon's land use planning system should proactively work with land use detractors to reach some balance in order to avoid being blindsided by a future iteration of Measure 37. Proponents of 37 and land use deregulation should also be conscious of their tactical use of the ballot initiative system. The Measure 37 campaign took advantage of a largely uninformed public to push through legislation that ultimately the majority of Oregon voters did not support. Through use of this strategy, they awoke and in many cases angered voters who had allowed land use issues to fall off their political agendas. Proponents of further land use regulation could ride this wave of support to advance their policies, perhaps via the ballot initiative.

Beyond identifying what happened between the Measure 37 and Measure 49 votes, it is important to understand what this vote means in the greater debate over the balance between private property rights and the public interest in Oregon. Measure 49 is the first substantial indication of a directional shift in this balance since society began to favor private property rights

in the 1980s. However, it is yet to be determined whether 49 represents an actual period of realignment or merely a temporary adjustment. A better understanding will be available after the next major property rights related legislation or court outcome. Yet with Democrats gaining control of both chambers of the State Legislature and more engaged Democratic voters, the signs point towards a period of greater emphasis on the public interest.

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Appendix I- Measure 37 Ballot Title and Summary from the 2004 Oregon Voter's Guide

Ballot Title: **GOVERNMENTS MUST PAY OWNERS, OR FORGO ENFORCEMENT, WHEN CERTAIN LAND USE RESTRICTIONS REDUCE PROPERTY VALUE**

RESULT OF "YES" VOTE: "Yes" vote requires that governments pay owners, or forgo enforcement by repealing, changing, not applying restrictions, when certain land use restrictions reduce owners' property value.

RESULT OF "NO" VOTE: "No" vote rejects requiring that governments pay owners or forgo enforcement by repealing, changing, not applying restrictions, when certain land use restrictions reduce property value.

SUMMARY: Currently, Oregon Constitution requires government(s) to pay owner "just compensation" when condemning private property or taking it by other action, including laws precluding all substantial beneficial or economically viable use. Measure enacts statute requiring that when state, city, county, metropolitan service district enacts or enforces land use regulation that restricts use of private real property or interest thereon, government must pay owner reduction in fair market value of affected property interest, or forgo enforcement. Governments may repeal, change, or not apply restrictions in lieu of payment; if compensation not timely paid, owner not subject to restrictions. Applies to restrictions enacted after "family member" (defined) acquired property. Creates civil right of action including attorney fees. Provides no new revenue source for payments. Certain exceptions. Other provisions.

ESTIMATE OF FINANCIAL IMPACT: The measure would require state administrative expenditures to respond to claims for compensation of between \$18 million and \$44 million per year.

The measure may require compensation to landowners. The amount of state expenditures needed to pay claims for compensation cannot be determined.

There is no financial effect on state revenues.

The measure would require local government administrative expenditures to respond to claims for compensation of between \$46 million and \$300 million per year.

The measure may require compensation to landowners. The amount of local government expenditures needed to pay claims for compensation cannot be determined.

The effect of the measure on local government revenues cannot be determined

Appendix II- Measure 49 Ballot Title and Summary from the 2007 Oregon Voter's Guide

Ballot Title: **MODIFIES MEASURE 37; CLARIFIES RIGHT TO BUILD HOMES; LIMITS LARGE DEVELOPMENTS; PROTECTS FARMS, FORESTS, GROUNDWATER.**

RESULT OF “YES” VOTE: “Yes” vote modifies Measure 37; clarifies private landowners’ rights to build homes; extends rights to surviving spouses; limits large developments; protects farmlands, forestlands, groundwater supplies.

RESULT OF “NO” VOTE: “No” vote leaves Measure 37 unchanged; allows claims to develop large subdivisions, commercial, industrial projects on lands now reserved for residential, farm and forest uses.

SUMMARY: Modifies Measure 37 (2004) to give landowners with Measure 37 claims the right to build homes as compensation for land use restrictions imposed after they acquired their properties. Claimants may build up to three homes if previously allowed when they acquired their properties, four to 10 homes if they can document reductions in property values that justify additional homes, but may not build more than three homes on high-value farmlands, forestlands and groundwater-restricted lands. Allows claimants to transfer homebuilding rights upon sale or transfer of properties; extends rights to surviving spouses. Authorizes future claims based on regulations that restrict residential uses of property or farm, forest practices. Disallows claims for strip malls, mines, other commercial, industrial uses. See Explanatory Statement for more information.

ESTIMATE OF FINANCIAL IMPACT: The measure would require one-time state administrative expenditures of \$8.7 to \$12.5 million to evaluate claims received to date for adherence to measure requirements.

In the short term, the measure would require state administrative expenditures of \$1 million to \$2 million per biennium to evaluate future claims. In the long term, state administrative costs may be reduced as the measure limits the scope of potential future claims. The amount of those potential reductions cannot be determined. Potential state litigation costs cannot be determined.

The measure authorizes compensation to landowners. The amount of state expenditures to pay claims for compensation cannot be determined.

The measure authorizes establishing a claims review fee for new claims not to exceed the actual and reasonable cost of reviewing a claim. The impact on state revenues cannot be determined. The measure clarifies ongoing claims review processes and is expected to reduce local government claim processing costs from current levels. The amount of these potential reductions cannot be determined.

The measure authorizes compensation to landowners. The amount of local government expenditures to pay claims for compensation cannot be determined. The effect of the measure on local government revenues cannot be determined.

Appendix III- Descriptive Statistics for Benton County Precincts

Variable	n	Min	Max	Mean	Std Dev.
“Shift in Vote”	20	12.34%	38.87%	23.16%	7.43%
Acres Under Claim	20	0.00	4975.00	548.33	1196.81
# of Claims	20	0.00	32.00	6.5	10.99
% of Precinct Under Claim	20	0.00%	8.23%	0.90%	2.06%
Large Claims	20	0.00	8.00	1.35	2.62
Eligible Voters to Claims	20	0.00%	3.48%	0.47%	0.91%
% Democrat	20	27.95%	50.85%	39.51%	6.37%
Education	20	23.78%	64.38%	45.38%	9.26%
Income	20	17.55	27.16	22.54	3.10

Appendix IV- Descriptive Statistics for Jackson County Precincts

Variable	n	Min	Max	Mean	Std Dev.
“Shift in Vote”	51	-5.92%	35.49%	2.79%	7.98%
Acres Under Claim	51	0.00	13986.10	691.16	2012.69
# of Claims	51	0.00	81.00	11.20	17.71
% of Precinct Under Claim	51	0.00%	13.84%	1.91%	3.19%
Large Claims	51	0.00	27.00	1.75	4.21
Eligible Voters to Claims	51	0.00%	5.95%	1.91%	3.19%
% Democrat	51	23.63%	58.86%	32.91%	8.20%
Education	51	5.20%	54.88%	21.22%	13.29%
Income	51	11.97	31.36	19.62	4.46

Appendix V- Descriptive Statistics for Lane County Precincts

Variable	n	Min	Max	Mean	Std Dev.
“Shift in Vote”	83	15.44%	46.30%	23.79%	5.04%
Acres Under Claim	83	0.00	3535.80	436.81	860.98
# of Claims	83	0.00	41.00	4.65	8.92
% of Precinct Under Claim	83	0.00%	16.45%	1.29%	2.93%
Large Claims	83	0.00	9.00	1.23	2.44
Eligible Voters to Claims	83	0.00%	1.50%	0.26%	0.48%
% Democrat	83	32.24%	61.78%	42.31%	7.07%
Education	83	7.36%	80.59%	27.81%	14.71%
Income	83	7.68	33.94	20.09	4.48