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Legislature must address Measure 37

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Let Mikey try it. That refrain from the old Quaker Oats' Life cereal commercial comes to mind as the Oregon Legislature continues to let the state's courts take the lead in untangling the confusion created when voters passed Measure 37.

The measure, which provides either compensation or regulatory relief to farmers and others who owned land when the state's overarching land-use laws were adopted in 1974, passed overwhelmingly. That much is certain.

What is equally clear is the legislature's lack of leadership in making Measure 37 work as it should. It's almost as though legislators are standing by - watching the slow-motion legal train wreck that has ensued - and hoping for the worst. Then they might be able to get rid of Measure 37 altogether.

Maybe that's an overstatement. But the stance of the Legislature continues to be "Let the court system sort it out," instead of legislators stepping up and taking a leadership role in the issue.

Currently, 135 Measure 37-related lawsuits have been filed across the state. Ultimately, judges will determine how the law will be applied in each of those cases. Judges will also create precedents that will be applied to other cases, whether they were intended by the creators of Measure 37 or not.

By letting the courts take over the role that the Legislature should be playing, Oregonians can expect more lawsuits and more uncertainty.

Legislators and Gov. Ted Kulongoski have talked about Measure 37, but when it comes time to act, they have fallen short. Key points have been lost in their timidity.

For example, Measure 37 is a one-size-fits-all solution to a 30-year-old problem that was created by the state's one-size-fits-all land-use system. To say that what might be appropriate in the fast-growing Willamette Valley also makes sense in rural areas of Oregon makes no sense at all.

To say that a farmer who wants to build a house for a family member should have to jump through the same legal hoops as a developer who wants to build 200 houses and create a subdivision in the middle of farm country makes no sense at all. Some accommodation must be made for the size and scope of the claims.

Most importantly, though, for legislators to treat Measure 37 as another all-or-nothing political football and not do the heavy lifting of solving even the obvious problems does no one any favors and only makes the Legislature look more inept.

The irony of Measure 37 is the Legislature had 30 years to address the problem it created. Only when voters took the issue into their own hands did anything get done.

Perhaps the problem is Oregon's every-other-year legislative schedule that destroys the continuity of the body's work.

Or perhaps it's something else, like the propensity to toss political hot potatoes like Measure 37 to the electorate instead of working on the issue to come up with an effective and workable compromise.

Compromise. Now there's a word we'd like to see used more often in the Legislature. It is the mark of statesmen, not political operatives who want to earn points from their parties or from special interests. It is also part of the answer to the quandaries that Measure 37 presents.

Last week, land-use activist Henry Richmond presented to the Legislature a study of the property tax breaks farmers and forest owners received in the wake of the land-use system in 1974. His analysis shows that the tax breaks added up to \$3.8 billion statewide for farm land and \$1 billion for forest land.

He also questions how the state and others come up with the compensation due to landowners to make up for the loss in value created by the land-use regulations. Currently, the state is using the "monopoly value" of land, taking into account the fact that similar land near it may not be developed. He believes that a more reasonable value can be determined by taking the difference in value that the regulations caused in 1974 and paying interest on that value.

Maybe he has a point, but the key issue is that the Legislature should be taking up the cause of creating a fair system of land use and property rights in Oregon.

Measure 37 is the most important land-use issue facing Oregon today. One need only look at a map of Washington County near Portland and Hood River County along the Columbia River Gorge to see the threat posed to agriculture in those areas.

It is true that not all Measure 37 claims are for high-density developments. Many are for farmers and other landowners to determine the value of their land holdings. Still others are for farmers to build a house for family members that would have little impact on land use in the area.

But some claims have the potential of diminishing the ability of neighbors to continue to farm. Those are the claims that should be of concern to everyone in agriculture.

That is why the Legislature, mindful of the problems that created Measure 37 as well as the problems it has created, must seek a middle ground founded on fairness in addressing this extraordinarily complex issue.

The Legislature, not the court system, is the proper forum to address these and other concerns related to Measure 37.