

Local Landowners Hail Court Ruling Protecting Oregon from Sprawl

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(Jackson County, Oregon) In a decision issued today, the 9th Circuit Court of Appeals took a big step to preserve Oregon farm and forest lands from large developments proposed under former Measure 37 claims. The Court reversed an Oregon District Court decision that found that Measure 37 waivers were contracts and that the application of voter-approved Measure 49 violated the separation of powers doctrine. Measure 49 was passed in 2007 to reign in the worst abuses of Measure 37.

In Jackson County, a number of property owners with claims under former Measure 37 filed suit seeking to block the application of Measure 49 so they could continue with large developments on farm and forestland. One of the many claims involved in the suit proposed a large destination resort next to the Cascade Siskiyou National Monument. Other claims proposed developments on farmland in the Applegate River, on forestland along the Rogue River and were spread throughout Jackson County.

If the ruling had been upheld, the State's land use system would have been in disarray. Over 7,500 claims were filed under Measure 37, and the ruling threatened to re-instate all of these claims despite the passage of Measure 49. Under Measure 37, owners made claims seeking to lift the application of laws that applied to them and their neighbors so they could build large developments on farm and forestlands. Neighbors grew increasingly concerned because the development proposals threatened rural land, the livability of these communities and the viability of local groundwater supplies.

Rogue Advocates, Oregon Shores Conservation Coalition, Friends of Marion County and Friends of Polk County worked with neighbors, including farmers, vineyard owners and other property owners, to appeal the District Court decision to the 9th Circuit Court of Appeals.

In the appeal, the groups pointed out that the landowners had not even started the large developments before Measure 49 passed. The land owners had spent money on lawyers and consultants to pursue large developments but had done nothing on the ground to establish the uses they proposed before Measure 49 passed. The 9th Circuit reversed Judge Panner's decision and found that "the waivers do not show that there was any offer by Jackson County, acceptance by the property owners or consideration." Further, the Court stated "[i]ndeed, the waivers disavow any promise to the property owners: "Jackson County does not promise Claimant(s) that Claimant(s) will eventually be able to put the property to any particular use."

Now, instead of large subdivisions sprouting up on prime farmland and threatening water supplies, the owners will be able to pursue modest developments of up to three homes allowed under Measure 49. Ralph Bloemers, a staff attorney with the Crag Law Center, stated: "Many people sought to take advantage of Measure 37 and develop large residential subdivisions, commercial developments and gravel mines. These proposals threatened neighboring property rights, water supplies and undermined the efforts of people with more reasonable goals. This decision protects neighboring property owners and preserves Oregon's valuable agricultural capabilities."