

August 14, 2007

Mr. Ralph Bloemers
Crag Law Center
917 SW Oak, Suite 417
Portland, OR 97205

Re: Statewide Laws Applicable to Farm & Forest Lands

Dear Mr. Bloemers:

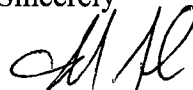
Under ORS 197.352 (also known as Measure 37), a claimant may seek payment from public funds or an alternative remedy in lieu of a cash payment. Under the alternative remedy, the claimant may seek to have certain land use laws enacted after the date of the claimant's acquisition of property set aside. Further, when a local government receives a land use application along with a Measure 37 claim, that agency must determine the date of acquisition and the laws that were in effect when the property was first acquired.

I have been practicing land use law in Oregon since before the inception of Oregon's land use planning system in the early 1970s. I have written extensively on land use law and am intimately familiar with the evolution of the law concerning Oregon's land use system. As you requested, I have reviewed the history of statewide laws applicable to resource land you prepared and which is attached as **Exhibit A**.

In assessing Measure 37 claims, local governments must determine the criteria that applied when the owner acquired the property. **Exhibit A** will aid these entities in determining which statewide laws applied, as well as the substance of those laws. I also note that the court decisions set forth in **Exhibit A** were handed down based on *pre-existing* legislation. Therefore, the court decisions are not applicable as of the date the decision issued. Rather these decisions provide guidance on the law from the date of its enactment and are thus applicable *from the date that the legislation was first adopted*.

In addition to this statewide analysis, local governing bodies must also identify those local land use ordinances that applied at the time of acquisition. This additional analysis depends on evaluation of the regulations of each jurisdiction and is not treated here. I hope this analysis is helpful in ensuring the proper implementation of the law.

Sincerely



Edward J. Sullivan