



Measure 7 Mutant Initiative 36

by Kate Kimball, 1000 Friends of Oregon

ONCE AGAIN, ANTI-GOVERNMENT groups are working to undermine Oregon's land use planning and environmental laws through the initiative process. Oregonians In Action (OIA) is circulating an initiative on the same subject as, but significantly different than, Measure 7 from 2000. Measure 7 was a property payment proposal that was passed by voters but overturned by the Oregon Supreme Court because it failed to follow the state's Constitutional requirements for initiatives. The new initiative is an even more direct assault on Oregon's land use planning legacy and environmental laws, rolling back duly-passed laws when taxpayers refuse to pay the ransoms demanded. The initiative would require taxpayers to pay property owners whenever certain new or existing laws reduce a property's value. While this has initial appeal, it's important that voters take a closer look. The initiative would undermine a host of local land use and zoning ordinances, Oregon's land use planning program, laws guiding farm and forest practices, and many other critical public safeguards. Unlike Measure 7, the initiative is a statutory change, making it less vulnerable to legal challenges.

Under the initiative, local elected officials, already facing serious budget pressures, would face an impossible choice: either pay landowners millions or bil-

ions of dollars to comply with numerous existing laws that protect our neighborhoods, farmland, and environment; or let landowners violate those laws. The measure provides no funding source, meaning claims against taxpayers and associated legal costs would add to Oregon's budget woes. Moreover, the measure's poor drafting and many legal uncertainties would certainly lead to extensive litigation.

Initiative Could Undermine a Sweeping Set of Laws

Laws that would trigger the pay-or-waive requirement include any statute regulating the use of land or any interest therein, with a few narrow exceptions. Initiative 36 applies retroactively to laws passed decades ago, or even a century ago, as long as the current owner, a relative, an estate or a legal entity connected to the owner owned the property at that time. The result is likely to be a patchwork of laws, where each property in Oregon has a different set of laws that apply to it, depending on when the property was purchased and when laws were passed.

A few examples of laws that may trigger the pay-or-waive requirement: zoning laws limiting or prohibiting tall buildings and all-night convenience stores in residential neighborhoods, limits on farmland sprawl, limits on mining practices, restrictions on clear cutting, zoning laws limiting cell

towers placement, urban growth boundaries, zoning laws protecting family farmers from conflicting uses, requirements to provide open space, requirements for public access to the coast, local hiring requirements, and scenic vista protections.

Several election law complaints have been filed against those collecting signatures, noting petitioners who are mischaracterizing the initiative to get people

to sign it, or breaking other election laws. Yet if OIA collects around 76,000 valid signatures by July 2nd, the measure will appear on the November 2004 ballot.

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Oregon's Future requested, but did not receive, alternative perspectives to this piece. See Oregonians in Action website at www.oia.org for another view. —E.d

