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## The problems of Measure 49

A misleading ballot title is only one of the problems with Ballot Measure 49. Its other shortcomings are more serious.

One is that the measure reaffirms the principle that the government is in complete charge of our land and its putative private owners may be allowed to do something only at the sufferance of lawmakers and officials in Salem.

The other is that even if officials allow owners to build some additional houses, the measure couches that permission in so many conditions and requirements, some of them vague or unspecified, that nobody can say exactly if any building will be allowed at all.

The ballot title says the measure clarifies the right to build homes. Actually, it circumscribes the right to build homes. It conditions the right to build homes. And it abridges the right to build homes. Clarifying is the one it does not do.

In their explanatory statement, the legislative authors of this measure contend that it "modifies" Measure 37. Instead, it essentially repeals Measure 37, the 2004 initiative that voters enacted to restore property rights abridged by land-use rules after the owners bought their property.

The legislators who crafted this repeal of Measure 37 say in their statement that claimants who already received waivers from land use rules can complete their developments "if they have established vested rights to do so." Local land use administrators say they have no idea how this vesting is accomplished. What if an owner is in possession of newly platted lots but has not yet filed for building permits? Or has filed for but not yet received the permits? Or has spent tens of thousands of dollars on the process so far but does not yet have platted lots?

What if you've won approval for a six-lot rural subdivision on farmland in Benton County, land made unworkable for farming by residential growth all around over the last 40 years, what happens to the money you've already spent if now you have to reapply and then will be limited to just two more houses? What if you're in your 80s, your wife is in a nursing home and the money from a reverse mortgage on your former farm, to pay for the nursing home, is about to run out? Does that count as vesting? Not according to the measure, which says three houses are all that's allowed.

Before the question of vesting even comes up, though, there is the little matter of having to file new forms even if an owner has already spent a year or two going through the process established under Measure 37.

This measure pays tribute to property rights only in words. In practice it mocks them.

But don't take anyone's word for what this measure does. Instead, crack open the Voters' Pamphlet and start plowing through all that bold-face type yourself. If you understand this legislation and convince yourself that somehow it protects your rights and doesn't hurt a lot of other people who believed that Measure 37 was the law, then vote for it.

But if you get mired in the morass of requirements and references to other statutes and administrative rules you would have to observe if you had the nerve to file for a permit, you will wonder where the state gets off making people jump through all those hoops for using land they thought they owned. (hh)

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