

HOUSE COMMITTEE ON LAND USE

February 23, 2005 Hearing Room 50

1:30 P.M. Tapes 26 - 27

MEMBERS PRESENT: Rep. Bill Garrard, Chair

Rep. Gordon Anderson, Vice-Chair

Rep. Robert Ackerman

Rep. Mary Nolan

Rep. Patti Smith

Rep. Mac Sumner

MEMBER EXCUSED: Rep. Mitch Greenlick, Vice-Chair

STAFF PRESENT: Sam Litke, Committee Administrator

Lindsay Luckey, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2549 – Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/# Speaker Comments

TAPE 26, A

002 Chair Garrard Calls the meeting to order at 1:38 p.m. Opens a public hearing on HB 2549.

HB 2549 – PUBLIC HEARING

005 Rep. Dennis Richardson HD 4. Submits written testimony (**EXHIBIT A**) and speaks in favor of HB 2549 “Lot of Record Bill”.

052 Chair Garrard Asks if those who would file a Measure 37 (2004) claim could instead use HB 2549 to build as they had originally planned.

057 Rep. Richardson Confirms and adds that with HB 2549 transferability of waivers would not be an issue.

060 Rep. Anderson Wonders what in HB 2549 is different than in Measure 37 in regards to transferability of waivers.

070 Rep. Richardson Submits -1 amendments (**EXHIBIT B**) and invites Harlan Levy, who helped draft the amendments to testify as well.

072 Harlan Levy Senior Staff Attorney, Oregon Association of Realtors. References -1 amendments (**EXHIBIT B**) lines 19-23 and summarizes that this provision allows for a dwelling to be transferable to a new purchaser.

090 Rep. Richardson Reads from Page 2, Lines 1-5 of HB 2549 and summarizes.

111 Rep. Anderson Asks how many single family dwellings might be involved in this process.

113 Rep. Richardson Responds that he doesn’t know. Adds that in most cases it will apply to land purchased before 1994.

124 Rep. Nolan Ask if HB 2549 would authorize property owners that do not have claims under Measure 37 to assert a claim.

131 Rep. Richardson Responds that it is more restrictive in its definition of family members.

136	Rep. Nolan	Asks Rep. Richardson to address the purpose for the definition of “owner” in HB 2549 which seems to expand those eligible.
143	Rep. Richardson	Reads from Section 2 (3) which defines “owner” and explains that if a legal title of ownership changes but the owner remains the same, it would still apply.
157	Rep. Nolan	Asks if this definition is broader than what is in current law or Measure 37.
161	Rep. Richardson	Defers to Levy.
167	Levy	Responds that it would not expand those eligible but would provide fewer people claims.
171	Rep. Richardson	Refers to HB 2549-1 amendments (EXHIBIT B) and notes word-smithing changes to the amendments.
247	Rep. Ackerman	References HB 2549 Page 2, Line 43 and questions its compatibility with Page 2, Line 6 and their planned intent of having current building codes apply.
268	Levy	References Page 2, line 5 and reads “except as required in section 5” explaining their compatibility towards the desired aim.
286	Lane Shetterly	Director, Department of Land Conservation and Development. Speaks to the Department’s recognition of this as a “concept for consideration” in the broader context of Measure 37 and notes the Senate’s possible interest as well.
320	Rep. Nolan	Asks if the term “reinterpretation” has precedent in land use.
331	Shetterly	Believes that further discussion to clarify intent may be appropriate but offers two options: <ul style="list-style-type: none"> • reinterpretation by local government because of a change in administration • reinterpretation as mandated by court decision Defers to Levy for further clarification.
366	Levy	

Submits and summarizes written testimony (**EXHIBIT C**).
Elaborates on the inclusion of the term “reinterpretation” which is
referenced on Page 1, Line 22 of HB 2549.

397 Levy Elaborates on policy reasons for the bill. Notes lot of record statutes
ORS 215.700-730 from HB 3661 (1993) and explains restrictiveness
of statutes resulting in frustration with the land use system.

TAPE 27, A

021 Levy References an American Farmland Trust press release (**EXHIBIT C,**
Page 3). Reports that no other states have the types of restrictions
that Oregon does on farmland. Notes laws with restrictions on
subdivisions but allow one dwelling on farmland parcels.

048 Levy Points out that HB 2549 will not allow subdivisions or urban sprawl
but one house on a legal lot of record. Believes a reasonable
compromise would be to further narrow the application to tract of
record. Urges adoption of Richardson’s amendments and support of
the bill.

085 Rep. Nolan Asks for clarification of Levy’s definition of “reinterpretation”.

096 Levy Defines “reinterpretation” as “application of the land use restriction
that differs from the established interpretation”.

102 Rep. Nolan Gives a hypothetical situation and asks if it would be considered a
reinterpretation that triggers a right under this bill

110 Levy Responds that it would trigger a right if the net effect of the
reinterpretation would be to deny a building permit to built a single
family dwelling.

115 Rep. Nolan References earlier statistics and asks if they have an objective as to
how many properties will be effected.

126 Levy Responds that they have no specific number objective but to provide
land owners some degree of relief based on their reasonable
investment expectations.

136 Rep. Nolan Asks if his testimony was that this bill would not allow building on
parcels smaller than 80 acres.

140	Levy	Clarifies that this bill will not change the 80 acre minimum lot size but that he used the number as a comparison with other states in which the closest minimum lot size was 50 acres in New York.
156	Rep. Anderson	Asks Levy how he believes Measure 37 will be effected when those who are able to use HB 2549 have been exhausted.
167	Levy	Notes the bill's intent as a "parallel route to Measure 37", not as a replacement, and would give people the right to build rather than seek compensation.
170	Rep. Anderson	Clarifies that it will not weaken the chances of those who want to do more under Measure 37 than what HB 2549 allows.
174	Levy	Confirms that it won't effect other Measure 37 claims.
188	Chair Garrard	Asks if the bill were law, if a local government entity could deny a Measure 37 claim on the basis of the other route the bill would provide.
196	Levy	Responds negatively and confirms they would be independent statutes.
205	Bob Leipper	Troutdale, Oregon. Describes the restrictions disallowing him building a single house on his 24 acres of land. Urges passage of HB 2549.
230	Carrie MacLaren	1000 Friends of Oregon. Submits written testimony to address functional problems with HB 2549 and policy issues to consider (EXHIBIT D) . Asserts HB 2549 expands the number of people eligible for and the scope of what triggers a land use waiver within the definition of "reinterpretation".
275	MacLaren	Elaborates on the expanded definition of owner (EXHIBIT D, Page 1) .
300	MacLaren	Describes the expanded scope of what triggers a land use waiver and gives hypothetical situations (EXHIBIT D, Page 1) .
327	MacLaren	Discusses the creation of additional "right" for land use waivers (EXHIBIT D, Page 2) . Relays 1000 Friends of Oregon's support of

payments rather than waivers and the concept of transferable development credits as a method of compensation.

365 MacLaren References historical map (**EXHIBIT D, Page 3**) and asserts that allowing dwellings in these areas could be substantial development. Urges addressing issues of Measure 37.

TAPE 26, B

002 Rep. Anderson Gives a hypothetical situation in which someone is forced to transfer their title. Clarifies that MacLaren is suggesting they would be ruled out of Measure 37 and asks if they would have a right under this bill.

009 MacLaren Clarifies the hypothetical situation.

019 Rep. Anderson Clarifies that in his hypothetical, the title had been transferred into a trust but had the same owners.

021 MacLaren Comments on discussions about what distinguishes revocable and irrevocable trusts and what constitutes a new entity.

030 Rep. Anderson Asks if they consider the same people, but a different legal entity to be the same owner.

033 MacLaren Responds that her interpretation is that Measure 37 doesn't and to a certain extent HB 2549 does.

040 Chair Garrard Asserts that drafters need to address this and while they will finish taking testimony, there will be no work session on HB 2549 today.

043 Art Schlack Association of Oregon Counties. Speaks in support of HB 2549 and the concept of "lot of record".

090 Rep. Anderson Asks what Schlack thinks the impact of HB 2549 will be on Measure 37.

096 Schlack Responds it will have a positive impact and mentions other issues which still need to be addressed.

109 Rep. Nolan Asks what the scale of impact will be.

122	Schlack	Responds on the difficulty in determining and comments on lawfully created tax lots. States that he will try to give an estimate to the committee.
152	Don Schellenberg	Oregon Farm Bureau. Submits and reads from written testimony (EXHIBIT E) . Asserts that HB 2549 is not a “lot of record” bill.
190	Schellenberg	Reads their recommendations for conceptual amendments from (EXHIBIT E, Page 1-2) .
258	Schellenberg	Speaks about concerns with -1 amendments (EXHIBIT B) and urges the committee not to adopt them. Reiterates that the intent is to allow dwellings but keep protections.
278	Chair Garrard	Requests that Levy and Rep. Richardson consider testimony to reevaluate the bill and amendments proposed. Closes the public hearing on HB 2549 and adjourns the meeting at 2:52 p.m.

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EXHIBIT SUMMARY

- A. **HB 2549, written testimony, Rep. Dennis Richardson, 1 p**
- B. **HB 2549, -1 Amendments, Rep. Dennis Richardson, 2 pp**
- C. **HB 2549, written testimony and press release, Harlan Levy, 3 pp**
- D. **HB 2549, written testimony, Carrie MacLaren, 3 pp**
- E. **HB 2549, written testimony, Don Schellenberg, 2 pp**