

HOUSE COMMITTEE ON LAND USE

June 09, 2005 Hearing Room 50

1:30 P.M. Tapes 124 - 125

MEMBERS PRESENT: Rep. Bill Garrard, Chair

Rep. Gordon Anderson, Vice-Chair

Rep. Mitch Greenlick, Vice-Chair

Rep. Robert Ackerman

Rep. Mary Nolan

Rep. Patti Smith

Rep. Mac Sumner

STAFF PRESENT: Sam Litke, Committee Administrator

Lindsay Luckey, Committee Assistant

MEASURES/ISSUES HEARD:

HB 3120-Work Session

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 124, A

- 002 Chair Garrard Calls the meeting to order at 1:34 p.m. and announces the committee will receive an update from Rich Angstrom.
- 012 Rich Angstrom Oregon Concrete and Aggregate Producers Association. Discusses mediation process during the interim on aggregate interests and explains that part of the mediation prohibits land use legislation that would effect either side. Reports that his interest in Measure 37 (M37) issues is that it should not benefit or hurt business.

HB 3120 – WORK SESSION

- 044 Chair Garrard Makes announcements about their timeline and the delay of the replacement -3 amendments.
- 070 Rep. Ackerman Relays his desire to form a single amendment from the committee.
- Chair Garrard Comments that any amendment from the committee is welcome at anytime.
- Rep. Ackerman Asks about the timeline.
- Chair Garrard Announces when he would like to have a final product.
- Rep. Ackerman Comments on the timeline.
- Chair Garrard Announces the committee will go through the -7 amendments **(EXHIBIT A)** today.
- 110 Bob Stacey 1000 Friends of Oregon. Notes he has highlighted the changes made from the HB 3120 -1 amendments.
- Chair Garrard Announces that he and Rep. Nolan must meet with the governor's staff and will return.
- 135 Stacey Notes intention to focus on the changes made to the -1 amendments and first directs them to the top of **(Page 2, EXHIBIT A)**.

	Rep. Greenlick	Asks if this version is based on the -1 amendments.
	Stacey	Confirms the changes are from the -1 amendments.
	Stacey	Discusses a provision which establishes a threshold of 25% to trigger loss under M37. Elaborates on the concept and makes comparisons with other states. Asserts it will give leeway to counties and cities to enact new regulations.
185	Stacey	References lines 6-7 (Page 3, EXHIBIT A) which adds new exemptions from M37 to include coastal goal protections and explains its intent.
207	Stacey	Discusses lines 4-14 (Page 5, EXHIBIT A) which deal with a compensation mechanism. Adds that when waivers are given, the use allowed should be proportional to the loss.
238	Rep. Greenlick	Asks if the 25% threshold would apply here as well.
	Stacey	Responds affirmatively and adds it applies prospectively and retroactively.
	Rep. Greenlick	Asks about the 25% in regards to impairing neighbors property in response to Stacey's usage of the term "significantly" impaired.
	Stacey	Accepts the clarification.
250	Rep. Anderson	Asks if this related to residential or farming interests that they are trying to protect.
	Stacey	Explains that the impetus is to protect agriculture although because it is a general rule, it would have impacts within UGBs as well.
265	Stacey	Continues testimony on Subsection 8 (Page 5, EXHIBIT A) dealing with allowed development on farm and forest land.
280	Stacey	Discusses lines 22-25 (Page 11, EXHIBIT A) which directs the Department of Administrative Services (DAS) to adopt a system for determining loss of value.

- 303 Stacey Outlines (**Page 14, EXHIBIT A**) detailing provisions on deed restrictions.
- 320 Stacey Discusses (**Pages 20-21, EXHIBIT A**) and their concept to distinguish between high value farmland and applying two levels of protection or waiver opportunities, outlines provisions for each.
- 400 Stacey Talks about (**Pages 22-23, EXHIBIT A**) and notes the effect of Section 13a (1) on non high value farmland.

TAPE 125, A

- 050 Rep. Greenlick Asks for clarification about which provision they are discussing.
- Stacey Directs the committee to Section 13a and continues discussion of its provisions.
- 020 Rep. Anderson Asks for the location of this provision.
- Stacey Refers to Section 13a (1)(a),(b), (c) and reports that Section 13b contains a provision for forest land.
- 032 Stacey Notes (**Page 25, EXHIBIT A**) gives directions to DAS on how to do appraisals for determination of loss of value.
- 037 Stacey Points to Section (44) – (57) (**Pages 67-73, EXHIBIT A**) which detail the “Development Rights Equalization Assessment” and provide for additional sources of revenue. Explains how the mechanism would work and urges addressing this issue in a later session.
- 100 Stacey Addresses Section 58 (**Page 73-74, EXHIBIT A**) and notes the effective date.
- 105 Rep. Greenlick Asks for an explanation of what conceptual differences the -7 amendments have between M37 and the -3 amendments.
- Stacey Notes their different approach in limitations on development on agricultural land. Acknowledges lack of funds for compensation and the potential impacts of proposed amendments on agricultural land.

145	Stacey	Discusses the role of compensation and the possibility of using the Portland UGB as part of the mechanism.
161	Rep. P. Smith	References Stacey's statistic of 16 million acres of agricultural lands and asks how much of that is considered high value farm land.
	Stacey	Responds that under current law it is less than 25% and notes that their amendment would include important ranch lands under that category as well.
170	Rep. Anderson	Wonders about the number of possible homes and asks if there are any statistics about claims that are asking for single or few homes.
	Stacey	Defers to the representatives of Department of Land Conservation and Development (DLCD) but points out that they would not know at the county level.
	Rep. Anderson	Speculates on possible numbers of dwellings created by M37 claims and asserts that compared with the population of Oregon, the impact will not be too great.
200	Bob Rindy	Department of Land Conservation and Development (DLCD). Reports they can get the requested information. Reports that most claims are requesting subdivisions or partitions.
	Litke	Adds that Director Shetterly previously quoted around 84-85% of claims were for subdivisions rather than single family dwellings.
214	Rep. Anderson	Asks if that was from at the last meeting.
	Litke	Reports it was a few meetings ago.
	Rep. P. Smith	Asks if the 20% revenue would apply to everyone pulled into the UGB.
	Stacey	Responds affirmatively and states it would apply to every UGB expansion that occurs from now on and that it would be based on a net differential not an assessment on the entire property.
	Rep. P. Smith	Asks if it would apply regardless of whether or not the property had a M37 claim.

	Stacey	Responds affirmatively.
	Rep. Anderson	States that owners are already paying a 9% capital gains tax and asks if it would be 29% tax.
	Stacey	Comments it is a fee and gives an example of how the fee would apply in addition to the state 9%.
245	Rep. Anderson	Verifies that a 1031 is not an avoidance of tax rather a deferral.
	Stacey	Agrees.
	Rep. Greenlick	Verifies that Stacey's concept is that if a government action reduces the value of property the owner should be compensated and if government increases value a share should be given back.
	Stacey	Responds that if one group of property owners wins big and one losses, it is rational to look to some of that gain as a source of revenue.
270	Rep. Anderson	Asks Stacey for a discussion of development rights. Notes new concepts in this issue.
	Stacey	Comments that the -7 amendments do not impair development rights as they exist today and discusses prospectively assessing the land.
	Rep. Anderson	Asks if this is related to future transactions.
	Stacey	Responds affirmatively.
330	Rep. Greenlick	Asks Stacey if he would be in support of HB 3120 with the -7 amendments.
	Stacey	Responds affirmatively and reports the importance of finding a mechanism for implementing the intention of the voters. Would support some waivers and some compensation.
360	Rep. Anderson	Asks if Stacey feels implementing compensation or implementing changes in land division are most important.

	Stacey	Responds that they would support the compensation approach and elaborates on reasoning.
390	Rep. Sumner	Asks if M37 drew value from classes of land.
	Stacey	Responds negatively, and notes the amendments depart from the general concept of pay or not apply.
408	Harlan Levy	Oregon Association of Realtors. Comments on the proposed development rights equalization assessment .

TAPE 124, B

005	Levy	Speaks in opposition to new capital gains tax. Asserts it is based on a faulty premise and elaborates on criticisms of the proposed source of revenue.
040	Levy	Discusses undeveloped land inside UGB and a low inventory of available housing.
052	Rep. Greenlick	Corrects Levy on a point in his testimony.
	Levy	Corrects the point and asserts that new taxes or fees are a departure from the voter's intent.
073	Rep. Anderson	Comments on differences between land prices inside and outside UGBs.
	Levy	States that when land has increased uses, the value of land goes up.
	Rep. Anderson	Notes that in Southern Oregon people are buying available land and then holding it for profit, not allowing the land to be developed.
	Levy	Comments this is also a factor and discusses land speculators.
	Rep. Anderson	Discusses the difficulty caused by the speculation.
	Levy	Agrees and notes this is driving the price of land up.

115	Lynn Lundquist	Oregon Business Association (OBA). Stresses the importance of adding a threshold clause to limit future impacts on the planning process.
144	Rep. Sumner	Asks about what would limit future planning.
	Lundquist	Gives an example and asserts that M37 was not to preclude any type of future planning.
163	Rep. P. Smith	Asks if any M37 claims have been filed on regulations that have been enacted since November 2, 2005.
	Lundquist	Responds negatively but that people are considering it.
	Rep. Greenlick	Gives an example from the City of Portland who are hesitant to change zones for fear of triggering M37 claims.
	Rep. P. Smith	Asks about a solution.
	Lundquist	Comments on addressing issues which will be accepted by both parties and discusses the potential future impact.
200	Rep. Greenlick	Expresses his concern about M37 impacts in the future and asserts there needs to be clarification about what triggers a future claim and that zoning should not be a M37 issue.
222	Rep. Anderson	Comments on past initiatives and his desire to stick closely to M37 and take time to look at larger issues at a later time.
	Lundquist	Agrees but urges caution in how the committee responds to M37 noting that polling shows that Oregonians want personal property rights protected but also value planning.
300	Rep. Greenlick	Comments on difficulties in making adjustments to M37.
321	Lundquist	Urges the committee to pass legislation to make the initiative work better.
	Rep. Greenlick	Comments on voter intent.

357	Rep. Anderson	Asks if Lundquist has any suggestions on compensation.
	Lundquist	Responds there has not been much discussion on compensation in the business community.
	Chair Garrard	Adjourns the meeting at 3:12 p.m.

EXHIBIT SUMMARY

A. HB 3120, -7 amendments, Bob Stacey, 74 pp