

# HOUSE COMMITTEE ON LAND USE AND REGULATORY FAIRNESS

April 10, 2001  
3:30 p.m.

Hearing Room 357  
Tapes 7 - 8

**MEMBERS PRESENT:**     **Rep. Max Williams, Chair**  
                                  **Rep. Kurt Schrader, Vice-Chair**  
                                  **Rep. Chris Beck**  
                                  **Rep. Betsy Close**  
                                  **Rep. Kathy Lowe**  
                                  **Rep. Karen Minnis**  
                                  **Rep. Susan Morgan**

**STAFF PRESENT:**         **Virginia Gustafson Lucker, Counsel**  
                                  **Jane Bodenweiser, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **Land Use and Regulatory Fairness**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 7, A</b>		
005	Chair Williams	Calls the meeting to order at 3:45 p.m. Comments that the committee continues to meet with all interested parties on this issue and feels that there is a reasonable chance of success.
030	<b>Deirdre Molander</b>	<b>Oregon Business Council</b> Testifies that in order for the Directors to better understand the implications of Measure 7, the Oregon Business Council commissioned ECONorthwest to prepare a report ( <b>EXHIBIT A</b> ) and feels that its contents are particularly valuable to this committee.
044	<b>John Tapogna</b>	<b>ECONorthwest</b> Submits testimony and testifies on regulatory takings ( <b>EXHIBIT B</b> ). Says they agree that regulatory takings are not rare and are the outcome of a necessary but inherently imperfect regulatory process. Agrees with the majority of Oregon voters that some property owners bear a disproportionate share of the costs. Submits recommendations
203	Rep. Close	Asks about the givings tax described in Exhibit A, and wonders if surrounding property owners would pay a higher tax because the government takes a piece of property in that area.
208	Tapogna	Replies that if a regulation is efficient, it has made the area and society in general better off in total, but within that area there are winners and losers.
222	Rep. Close	Asks if property owners would be taxed if a park or bike path were installed.
226	Tapogna	Replies that if an argument was made whether a park or bike path would/would not add value to the surrounding area an

		appraiser would be able to tell whether those amenities factored in to the value of the surrounding homes.
235	Vice Chair Schrader	Asks how we deal with federal regulations, particularly in the rural areas.
243	Tapogna	Replies that Measure 7 explicitly did not address federal regulations and that he is not aware of any other state level regulatory takings programs that has tried to take on the federal regulations as well. Explains that there is currently a debate going on at the federal level.
258	Rep. Beck	Asks about the method of financing compensation and wonders what are the most efficient methods.
266	Tapogna	Explains both theoretical and practical methods of financing compensation.
323	<b>Dan Cooper</b>	<b>Metro</b> Submits testimony and testifies with regard to Measure 7 and regulatory fairness ( <b>EXHIBIT C</b> ). Addresses a set of principles on Measure 7 issues as adopted by Metro's 7-member panel.
439	Rep. Beck	Asks about regulations that Metro has imposed that are perceived to be regulations that Metro area citizens are anxious about.
<b>TAPE 8, A</b>		
021	Cooper	Replies those might include the 20-40 Functional Plan having to do with urban growth boundaries, and Title 3, which deals with natural resources, wildlife protection, stream quality and natural disasters. Explains how those have been implemented.
078	Rep. Beck	Asks if Metro voters approved a \$135 million property tax bond for open space purchase.
083	Cooper Rep. Beck	Replies, yes Asks him for any potential role that the funding source has played in alleviating some landowners concerns about burdensome regulations on their property.
094	Cooper	Replies that both the environmental community and development community broadly supported the bond measure because they saw it as an opportunity to pay property owners for protecting land rather than regulating property owners into protecting land.
113	Rep. Morgan	Asks about Metro's position on the concept of allowing a variance to development standards.
122	Cooper	Replies that it is a very important tool.
138	Vice Chair Schrader	Asks if he is suggesting that the variance he describes is finding alternative ways to get the same outcome.
141	Cooper	Replies basically, yes.
152	Vice Chair Schrader	Asks about private actions that might reduce value, including water appropriation.
155	Cooper	Replies that it is not an issue that seems live, but an important principal that needs to be remembered.
176	<b>Craig Zell</b>	<b>Appraisal Institute</b> Says that if and when a major re-write of Measure 7 is adopted, appraisals need to be performed for any claim process, and that they need to be performed according to the uniform standards of professional appraisal practice. Discusses the appraisal process.
224	Rep. Close	Asks if he can quantify the value of certain properties.
239	Zell	Replies that there are standards that are applied.
249	Rep. Close	Asks how wetlands can give value to a home.
253	Zell	Explains that wetlands can enhance an area in which it is

277	Rep. Beck	integrated. Asks how property is appraised when a property has been partially regulated.
310	Zell	Replies that there is a before and after analysis that would apply in such instances.
338	Chair Williams	Asks the appraisers to consider what the top 10-50 issues are that the committee should be considering.
384	Zell	Says that the Appraisal Institute would be happy to consult with the committee on that issue.
402	Vice Chair Schrader	Asks about the reliability of an appraisal as you go back in time and wonders how far back a retrospect appraisal can be reliable.
413	Zell	Replies that he has performed retrospective appraisals as far back as 6 to 7 years, but doesn't feel that someone could go back 20 or 30 years and reconstruct a market.

**TAPE 7, B**

452 **Glen Stonebrink**

**Oregon Cattlemen's Association**

Submits testimony and testifies in support of Measure 7 (EXHIBIT D). Discusses how Government regulation of land use is unconstitutional. Says that while the courts may find a technicality by which to stifle the voice of the people of Oregon, the Legislature must be responsive to it. Explains and illustrates his encounter with the Land Use Commission regarding 162 acres he is not allowed to divide further or re-unite.

159 Chair Williams

Adjourns the meeting at 4:50 p.m.

Submitted By,

Reviewed By,

Jane Bodenweiser,  
Committee Assistant

Virginia Gustafson Lucker,  
Counsel

**EXHIBIT SUMMARY**

**A – ECONorthwest Report submitted by Deirdre Molander, dated 3/20/01, 22 pp**

**B – Written testimony submitted by John Tapogna, dated 4/01, 2 pp**

**C – Written testimony submitted by Dan Cooper, 1 p**

**D – Written testimony submitted by Glen Stonebrink, dated 4/10/01, 2 pp**