Extension Service News

OSU study identifies best method for evaluating Measure 37 claims (03/16/2007)

CORVALLIS, Ore. – A new study comparing three methods for evaluating Measure 37 claims finds one to be the most practical and consistent with the spirit of the law.

William Jaeger, an Oregon State University economist, examined three methods that governments might use to evaluate Measure 37 claims. Of those methods, Jaeger reported that comparing the market value of a property before the regulation went into effect with the market value of the property after the regulation went into effect is the most practical and reliable approach.

By requiring government officials to determine whether a land use regulation has reduced a property's value, Measure 37 imposes an enormous burden on government, according to Jaeger.

"Measure 37 asks government to know the unknowable." Jaeger said. "It asks what would the world look like if a particular land use regulation had not been enacted or enforced? And, how would land prices in that alternative world compare to land prices in the real world?

"Since land use regulations can affect market prices for regulated lands as well as unregulated lands, and because other forces are also at work in the economy, these are not easy questions to answer," Jaeger said.

Jaeger, an economist in OSU's College of Agricultural Sciences, examined three methods for evaluating Measure 37 claims based on three criteria: practicality or cost, logic or reasonableness, and the rate of correct answers for a variety of scenarios.

"A 'correct answer' means getting the same answer if we had perfect information about the causes and effects of all the different factors affecting the economy and could separate out those related to the land-use regulation," Jaeger said.

He reported that the "with and without" method would require sophisticated computer models to simulate a world without a specific land use regulation and compare market prices for properties in the hypothetical world—without the regulation—to those in the real world —with the regulation.

"Although this kind of analysis could be highly successful in correctly evaluating Measure 37 claims, it would be prohibitively expensive," Jaeger concluded.

The "single exemption" method considers the effect of waiving a land use regulation on an individual property. Although practical in its approach, Jaeger found this method to be based on flawed reasoning and ignores many direct and indirect ways that land use regulations can affect the market.

"Indeed, in many cases a single exemption estimate will produce a large, exaggerated calculation of loss, precisely because land use regulations have raised the value of land," Jaeger explained.

The "before-and-after" method compares the market value of a property before the land use regulation went into effect with the market value of the property after the land use regulation went into effect. Jaeger found this method to be both practical and based on sound reasoning. It is the method currently being used by the Portland Metro Council to evaluate Measure 37 claims; it is also the method used to illustrate and defend the reasonableness of Measure 37 before the Oregon Supreme Court.

The full report, "Three Methods for Evaluating Measure 37 Claims," (EM 8933-E) was published by Oregon State University Extension Service and may be viewed at: http://extension.oregonstate.edu/catalog/pdf/em/em8933-e.pdf

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