



File No. 247-_____

Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005

Phone: (541) 388-6575 Fax: (541) 385-1764

<http://www.deschutes.org/cd>

DECLARATORY RULING APPLICATION Measure 49 Common Law Vested Right

The declaratory ruling will not be a land use decision

FEE: _____

1. Complete the application form and provide appropriate original signatures. To ensure timely processing of your application, all materials must be submitted on single-sided, 8.5" x 11" paper. Do not use binders, tabs/dividers, staples or tape.
2. Attach correct fee.
3. All applicable standards and criteria must be addressed in writing prior to acceptance of the application. Burden of proof, detailed descriptions, maps and other relevant information must be attached to the application. If color exhibits are submitted, black and white copies with captions or shading delineating the color areas shall also be provided.

Applicant's (Property Owner's) Name (print): _____

Phone: (____) _____ Email Address: _____

Mailing Address: _____ City/State/Zip: _____

Property Description: Township_____ Range_____ Section_____ Tax Lot_____

Property Zone(s): _____ Property Size (acres or sq. ft.): _____

Property Address: _____

Submit the following information with the application:

1. Deschutes County Measure 37 Order and State Waiver.
2. Deschutes County land use decisions approved under County and/or State Measure 37 Orders.
3. A copy of the current deed showing the property owners.
4. Burden of proof and evidence to support the claim for Common Law Vested Right to carry out a use on the property under Measure 49, Section 5(c). The following factors, as well as guidance from the Oregon Courts, will be used to determine whether a vested right exists. Thus, the Burden of Proof should include, but is not limited to, the information listed below each of the following factors:
 - a. The type of project, the location and the ultimate cost.
 - (i) Description of the use for which a common law vested right determination is requested.
 - (ii) Itemized list of the estimated total cost of developing the proposed use.
 - b. The ratio of expenditures incurred to the total cost of the project.
 - (i) Itemized list of the estimated total cost of developing the proposed use.
 - (ii) Itemized list of the all money spent on developing the proposed use prior to this application, including the dates when money was spent on the development activities.

(over)

- c. **Whether the development activities undertaken to date go beyond mere preparation (land clearing, planning, etc.).**
 - (i) **Itemized list, including dates, of all development activities undertaken by the property owner prior to this application.**
- d. **Whether the expenditures have any relation to the proposed completed project or could apply to other uses of the land.**
 - (i) **Description of any other uses or structures existing on and/or approved for the subject property.**
 - (ii) **Evidence of uses allowed on the subject property without a Measure 37 waiver.**
- e. **Evidence of good faith of the property owner.**
 - (i) **Description of how and when property owner first learned of the existence of the proposed legislation in the Oregon State Legislature and/or Measure 49 (for example, television, newspaper article, voter's pamphlet, friends or family).**
 - (ii) **Itemized list, including dates, of all development activities engaged in by property after having learned of the proposed legislation and/or Measure 49.**

To the best of my knowledge, the proposal complies with all previous conditions of approval and all other applicable local, state, and federal laws. By signing this application, I acknowledge that Deschutes County planning staff may make a site visit(s) to the address(es) listed on this application in order to evaluate the property(ies) with the Deschutes County Code criteria applicable to the land use request(s) submitted. Please describe any special circumstances regarding a potential site visit:

Applicant's Signature: _____ Date: _____

Property Owner's Signature (if different)*: _____ Date: _____

Agent's Name (if applicable): _____ Phone: (_____) _____

Mailing Address: _____ City/State/Zip: _____

Agent's Email Address: _____

***If this application is not signed by the property owner, a letter authorizing signature by the applicant must be attached. By signing this application, the applicant understands and agrees that Deschutes County may require a deposit for hearings officers' fees prior to the application being deemed complete. If the application is heard by a hearings officer, the applicant will be responsible for the actual costs of the hearings officer.**