

*Framing the Oregon Land Use Debate: An Examination of
Oregon Voters' Pamphlets, 1970-2007.*

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Abstract:

While there has been extensive examination of the property rights movement, there is little research into the way we talk (and fight) about property rights and community planning in the public sphere. Using a content analysis approach, this study analyzes language and argumentation about land use planning in the state of Oregon as contained in arguments over ballot measures published in the state's voters' pamphlets. The debate is bifurcated: initially a fight over the locus of control, recent contestation has been over the impacts of the system. A variety of themes were deployed in arguments over time; "fairness" appears only in 2000. Using insights from cognitive linguistics, the paper argues that planners need to develop a non-technocratic language that expresses the values central to planning.

Keywords:

Property rights, regulatory takings, land use planning, Oregon, framing

Bio Sketch

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1. Introduction:

On November 6, 2007 the much anticipated results of Oregon's Measure 49 were announced by the Secretary of State's Election Division: 62% of the vote in favor of the measure; 38% opposed. Compared to other recent contentious ballot measures like those on same sex marriage, medical marijuana, or gun control, one might not think the outcome would be of such keen interest. Its ballot title, after all, reads fairly simply: "Modifies Measure 37; clarifies rights to build homes; limits large developments; protects farms, forest, groundwater." But the promise of those first three words—to modify the regulatory takings measure that had threatened to eviscerate Oregon's planning system—was anxiously awaited by the state's planning and environmental community. At the same time, the state's property rights advocates passionately defended the original measure and decried the newest measure as a "wolf in sheep's clothing." In fiscal terms the stakes were high: the state's Department of Land Conservation and Development (DLCD) estimated that the final cost to state and local governments to pay the 6,857 Measure 37 claims filed would have exceeded 19 billion dollars (www.lcd.state.or.us/LCD/MEASURE37 accessed 12/14/07). Not paying these claims and allowing the filed development proposals to proceed would have changed the Oregon landscape dramatically as the claims covered some 792,327 acres in all 36 counties of the state (Institute of Portland Metropolitan Studies <http://www.pdx.edu/ims/m37database.html>, accessed 12/14/07).

Responses to the passage of Measure 49 across the state and the nation were swift and positive. Environmental organizations like Environment Oregon called the passage a "resounding victory for farms and forests" (www.environmentoregon.org). In the rural-circulation *Capital Press* Don Schellenberg of the Oregon Farm Bureau called the vote a great victory for all Oregonians. "I think the Oregon voters cherish Oregon's land-use planning system. They cherish Oregon agriculture. And Measure 49 brought the necessary correction to

Measure 37” (Capital Press 2007). Eric Stachon, the communications director for the advocacy organization 1000 Friends of Oregon, indicated that Measure 49’s success showed that Oregonians were “caught off guard” when they voted for Measure 37 and that the more limited development rights granted by Measure 49 were more what voters really intended to pass with the earlier measure (Capital Press 2007). National organizations such as the American Planning Association (APA) and Smart Growth America also chimed in positively. Smart Growth America described the vote “a powerful expression of buyer’s remorse over a so-called regulatory takings measure” (Smart Growth America 2007). The Executive Director of the APA, Paul Farmer, said that the Oregon election as well as a number of other initiatives across the country indicated that “voters refused to be hoodwinked into supporting anti-planning policies that threaten local quality of life. Instead, most voters embraced the notion that communities of lasting value are built on good planning that ensures choice and genuine fairness” (Farmer November 2007)

But persons with the longer view are not at all certain that the debate over Oregon’s land use planning system has been laid to rest. After all, contestation over land use planning has been a consistent feature in Oregon politics, even predating the establishment of the current system in Senate Bill 100 of 1973 (Abbott, et al. 2003). Measure 49 was the seventh referendum on planning put before Oregon voters and while it mitigates many of the excesses of Measure 37, it does not address many of the underlying discontents with the system. Not surprisingly critics of Oregon’s land use system, like David Hunnicutt of Oregonians in Action, a property rights group and the chief backer of Measure 37, have vowed to fight on. As noted by Floyd Prozanski, the Eugene legislator who helped craft Measure 49, “this does not end the debate or the discussion on land use reform in this state. This was a fix to an overarching measure that was sold to the people under false pretense” (Capital Press 2007).

The perspective that Oregon voters supported Measure 37 in 2004 (and before that Measure 7 in 2000) because of false pretense is commonly held by members of the state’s land use planning and environmental community. How else to explain these two votes that not only ran counter to previous referenda which supported the land use system, but also overwhelmingly indicated previously unexpressed support for property rights and outrage over regulatory takings? (Please see Table 1 for an overview of all land use referenda in the state.)

The term “false pretense” is worth examining. While false pretense is commonly translated as “deception”—it is not found in every standard dictionary of the English language. One easily finds “pretense” which *The American Heritage Dictionary* lists in its first definition as “the act of pretending; a false appearance or action intended to deceive.” (False pretense thus appears to be a double negative—being false about being false!) The term false pretense instead comes from law. A thief has committed false pretense if he/she makes:

False representation of past or existing fact, made with knowledge of falsity, with intent to deceive and defraud, and which is adapted to deceive the person to whom made. (Black’s Law Dictionary 1991: 417)

The key element of this definition is intent. Did the backers of Measures 7 and 37 actively try to deceive the Oregon electorate? Did the voters not know what they were voting for? Were they duped? Or did the voters of Oregon simply respond to the more skillful messaging—the framing—of property rights advocates? The cognitive linguist George Lakoff (1996) defines a frame as “a conceptual structure used in thinking” and asserts that every word evokes a frame. Framing, he has shown, has been effectively employed by social conservatives and helps explain much of their ascendance on the national political stage (Lakoff 1996).

<INSERT TABLE 1 ABOUT HERE>

While there has been extensive examination of the private property rights movement in the United States, there has been little academic research into the way language has been used in

the debate and what role framing, if any, might have played in electoral outcomes. But framing is undoubtedly taking place. Beginning in the waning days of the Reagan Administration, private property rights advocates, for instance, dubbed their campaign to open up federal lands in the west “the Wise Use Movement.” For those with historical context this evokes the utilitarian land management philosophy of the Forest Service founder, Gifford Pinchot, but for the majority of Americans it evokes positive concepts of wisdom and human benefit—difficult concepts to oppose (Jacobs 1998). Even prior to the U.S. Supreme Court’s *Kelo* decision, there was a campaign by conservative and libertarian groups to “End Eminent Domain Abuse” (see websites for the Institute of Justice or the Future of Freedom Foundation). While voters may not even know what eminent domain is, they surely know that abuse is bad and abusers must be stopped.

This paper begins to address this gap in the planning literature by looking at the use of language in arguments about land use planning in the state of Oregon. While the debate over the land use planning system took place in both the broadcast and print media (and many may be familiar with televisions spots featuring the aggrieved land owner/widow, Dorothy English), this research focuses on an important source of information provided to every voter in the state prior to each election: the voters’ pamphlets published by the Elections Division of the Oregon Secretary of State. While the specific aims of the referenda have changed from one election to the next, the arguments made can be broadly categorized as either supporting the Oregon land use system or arguing for change.

Two questions guide the research. First, how do the two sides present their arguments? In this I am interested in rhetoric, specifically identifying the major themes used, categorizing arguments according to their theme(s), and detailing the specific way in which arguments are made. Second, have the terms of the debate and the presentation of arguments changed over time? Since we know that political conservatives have been actively researching language and

utilizing framing to advance their political messages since the late 1970s, is framing reflected in the most recent referendum arguments? If so, what types of frames are employed? While it cannot be answered definitely in this study, a background question of interest is whether framing played any role in the electoral outcomes regarding the Oregon land use system, specifically the dramatic support for property rights illustrated in Measures 7 and 37 and the subsequent turnaround represented by Measure 49 in 2007.

Following this introduction the paper is split into six sections. In the second section, I place the Oregon ballot measures into the broader context of state growth management and ballot box planning. The third section introduces framing as it appears in the work of the cognitive linguist George Lakoff. Section four details the research design and methodology, namely a qualitative content analysis of the arguments presented in the voters' pamphlets for each measure since the first challenge in 1970. Section five presents the findings of the content analysis. In this section I examine the arguments according to their themes and the framing level employed. The final section discusses the implications of the analysis for planners trying to more effectively communicate what they do to the wider public.

2. Growth Management and Ballot Box Planning in Oregon

Oregon's growth management system is one of the oldest and best known in the country and is essentially regulatory in nature (Knaap and Nelson 1992). Unlike most states that merely enable planning, local governments in Oregon must prepare comprehensive plans. Local level planning, moreover, is overseen and coordinated by a state level commission, the Land Conservation and Development Commission (LCDC), which is assisted by a technical department, the Department of Land Conservation and Development (DLCD). LCDC sets statewide policy for land use through the establishment of state goals; to ensure goal achievement, LCDC vets local land use plans for compliance with these goals, a process known

as “acknowledgement.” Overall, the state’s land use policy seeks to preserve farm and forest land through system of exclusive use zoning; the policy is also intended to concentrate urban development around existing cities, primarily through the designation of urban growth boundaries. As the system has evolved, it has become increasingly complex—characterized by numerous laws and administrative rules. To deal with the technical nature of the system, the state established a dedicated land use court, known as the Land Use Board of Appeals.

Since its inception, Oregon’s growth management system, like growth management elsewhere, has been controversial. Proponents of the system, such as environmental groups like 1000 Friends of Oregon, argue that the central regulatory powers vested in the state are necessary. State oversight ensures that growth proceeds in a way that takes into account the needs of all of the state’s residents and helps control the negative impacts of local control with its self-interested, even parochial, decision making. They note that local level decision-makers, like planning commissions and county commissioners, are especially vulnerable to special interests; those with historical perspective point out that the Oregon land use system arose from disgust with unbridled growth and cronyism between developers and elected officials in the 1960s and 1970s. In contrast, opponents of the system express concern over the loss of control at the local level—they see planning and zoning as a local level function that should be free of state-level constraints. They also argue that the regulatory nature of the system is problematic as it impinges upon individual property rights particularly those of landowners in exclusive farm or forest zones who desire to develop their land in a different manner.

While most concerns over the land use planning system have been dealt with by the state legislature (which has altered the system numerous times since its inception), tension over the land use planning system has spilled over to the ballot box. The use of ballot initiatives to affect land use planning (i.e., “ballot box planning”), however, is somewhat different in Oregon than in

other states. Categorized as a form of “direct democracy,” since the voter essentially becomes a legislator, growth-related ballot measures in most states are deployed at the local (i.e., municipal or county) level (Caves 1992; Gerber and Phillips 2003). The most active state for ballot box planning is California where ballot measures have been frequently used by citizens dissatisfied with growth trends and local decision-making. As Fulton, et al. (2002) have shown in a fairly recent inventory, during the period from 1986-2000 some 600 growth-related measures were placed on local ballots in California; of these, most appeared in times of economic boom and sought to slow growth within the voter’s jurisdiction.

In contrast to California, the struggle over land use at the ballot box in Oregon has been associated with strict control of growth rather than excessive accommodation of it. Of the 46 petitions addressing land use filed with the Election Division of the Oregon Secretary of State’s office for elections from 1998 to 2010, the majority attempt to change the land use system to loosen controls on growth. Petitioners have attempted to devolve all power to local governments, eliminate LCDC, negate statewide land use goals, open the door for residential development in exclusive farm use zones, prohibit local governments from raising zoning densities, and allow localities to waive land use laws. Twelve separate compensation measures have also been proposed. In any single year, several measures that are essentially variations on a theme may be filed; petitioners are the same limited cast of characters representing property rights groups and conservative political interests. (See Oregon Secretary of State database at: http://egov.sos.state.or.us/elec/web_irr_search.search_form)

Oregon’s ballot box planning is also different in that it takes place on statewide—not local level—ballots.¹ There are two reasons for this. First, because of the growth management system, state-level ballot measures are necessary to affect land use outcomes in any meaningful way—so advocates of change focus their efforts on the state referenda process. If passed, of

course, these measures have greater ramifications than local level initiatives as they affect land use policy and implementation rules for all units of government with planning powers in the state. The second reason that the debate over land use has taken place at on state ballots relates to the accessibility of the process and power given to citizens in the laws governing referenda and initiatives. Citizens can use signature petitions to initiate both statutory changes and constitutional amendments with the number of required signatures dependent upon the type of change desired.² Numerous petition drives take place every election cycle but only a percentage of the measures finally make it to the ballot. The Attorney General's office reviews prospective measures (and has been known to advise rejection of the measure on constitutional grounds) and drafts the ballot title. The main opportunity to derail a petition drive and keep a initiative off the ballot takes place around the ballot title which—if challenged—is reviewed by the state Supreme Court, which either certifies or modifies the ballot title.³ Good, simple ballot titles that resonate with voters are sought after—which brings us to the topic of framing and cognitive linguistics.

3. Framing Political Debates: Insights from Cognitive Linguistics

As noted in the introduction, since the 1970s political activists, particularly those associated with the conservative movement, have been actively researching and crafting language to advance their political agenda. They have, in short, employed framing. But just what is meant by “framing”? For planners, the term framing is not entirely unfamiliar with communicative action theorists such as Schon (1983) and Forester (1989/1999) advising planners to frame planning discourse. For these authors, however, the use of the term framing relates to “a particular way of representing knowledge, interpreting problems, and providing an evaluative framework for judging how to act” (Van Herzele 2004: 198). Cognitive linguists approach language and communication in manner somewhat distinct from planning theorists. Cognitive linguists are interested in understanding language creation, learning, and usage to

better understand human cognition. That is, they study language in order to ascertain how we as humans make sense of the world around us. Cognitive linguistics is a relatively new field within linguistics having emerged in the 1970s. At least until recently, university-based cognitive linguists do not appear to have been overtly interested in the framing of policy debates and political communication. This changed, however, with the publication of *Don't Think of an Elephant* by George Lakoff in 2004.

In both this popular work and his more academically-oriented pieces Lakoff makes an interesting and nuanced argument about language and cognition, which can only be touched upon here. Lakoff argues that “all words are defined relative to conceptual frames” so that when you hear a word or a message a frame or a group of frames is evoked in your mind (Lakoff 2004: iv). In an influential work that developed “conceptual metaphor theory,” Lakoff and Johnson (1980) argue for the centrality of metaphor in language and human cognition. They assert that metaphor is not simply a matter of style and rhetoric—rather our conceptual system is basically metaphorical in nature. We understand and experience “one kind of thing in terms of another” (Lakoff and Johnson 1980: 5). For example, they assert that we (Westerners) conceive of argument as a battle (or in their words “Argument is war”) and our language describing argument is rife with images and terminology of war such as “He shot down all of my arguments” and “Your claims are indefensible.” Argument does not have to be thought of as an armed conflict and they ask us to think of how argument might be thought of as “dance” in which the verbal dexterity and style of the participants is most admired. Similarly, other key concepts like time, love, and ideas are shown to have metaphorical structures expressed in multiple ways (e.g. time is money, love is madness; ideas are plants).

Relative to political discourse, Lakoff (1996, 2004) argues that the two major camps of the American electorate (social conservatives and liberals) can be characterized as being

organized around two opposing world views—both based on idealized models of the family. These family models, moreover, adhere to two decidedly different moral perspectives. Social conservatives see the world according to a “strict father morality” model, whereas the moral politics of liberals is described as the gender neutral “nurturant parent” model. In strict father morality the world is a pretty Manichean place—intensely competitive with forces of good vying with those of evil. Accordingly, social conservatives see the role of the state and the aim of public policy to enforce discipline to keep bad behavior at bay. Social conservatives, he asserts, support physical punishment because it helps an individual to develop internal discipline that stops one from doing wrong in the future. Internal discipline, moreover,

...has a secondary effect. It is what is required for success in the difficult, competitive world. That is, if people are disciplined and pursue their own self-interest in this land of opportunity, they will become prosperous and self-reliant. Thus, the strict father model links morality with prosperity. The same discipline you need to be moral is what allows you to prosper. The link is the pursuit of self-interest. (Lakoff 2004: 7)

The nurturant parent model sees world and accordingly the role of the state and public policy in a vastly different manner. For social liberals, while there is bad in the world this is not some immutable condition to be battled individually—the world can be made a better place, together. The role of the state, thus, is like the role of parents—to nurture family members until they achieve independence. Two characteristics are central to this model: empathy and responsibility. Social liberals empathize with the plight of others and consider it their responsibility to provide protection and assistance so that individuals can achieve happy, fulfilled lives. Some children, of course, can never leave the nest or achieve independence so the state’s responsibility can be on-going and permanent.

This is not to say that these world views are mutually exclusive. Lakoff (2004) notes that they can co-exist within an individual voter and that most people draw on both these models but at different times or in different parts of their lives. The success of the conservative movement

in the last three decades has been because conservatives have understood “how people think and how people talk” and how to frame arguments in ways that they resonate with the mixed or varying moral frames of the electorate (Lakoff 2004: 17). This effectiveness of this strategy is evidenced in electoral results that frustrate and puzzle social liberals the most: elections in which people vote against their self interest (e.g., blue collar workers voting for anti-union Republicans.) Most significantly, Lakoff (2004: 18) notes that social conservatives frame political arguments so that people can “...vote their identity. They vote their values. They vote for whom they identify with.” People do not vote facts and they do not vote self interest. Arguments and appeals based on identity and values win; arguments and appeals based on detailed policy analysis, factual evidence, and reason lose.

In analyzing health and political communication, Dorfman, et al. (2005) identify three conceptual levels for framing messages that build on these ideas. Messages can communicate and focus on overarching values (such as social equity and responsibility)—these are called Level 1 frames. Level 2 frames focus upon the general topic or issue being addressed such as policy about housing or the environment. The highest framing level, Level 3, is the most specific going into “the nitty-gritty of those issues, including the policy detail or strategy” (Dorfman, et al. 2005: 324). While they note that messages can be generated at any level, Level 1 is the most important framing level for public health advocates and other policy actors because that is the level at which people connect the most strongly to the issue at hand. Level 3 is the least useful as the details of Level 3 tend to crowd out whatever Level 1 values are expressed.

4. Research Design and Methodology

To gain an understanding of the Oregon property rights debate and framing, I have examined arguments for and against the land use planning-related referenda listed in Table 1 as published in Official Voters’ Pamphlets. These pamphlets are printed and distributed by mail to

all registered voters by the Election Division of the Oregon Secretary of State's office. While many western states produce official non-partisan voters' pamphlets to accompany elections (e.g., California, Montana, Washington), they are rare in other parts of the United States—even in those states that heavily utilize referenda (e.g., Michigan, Florida). Oregon's Official Voters' Pamphlet is perhaps the oldest in the country having been first issued in 1903 (Canary 2003).

In the time periods examined here, the pamphlet utilized a consistent format for referenda information consisting of five parts: 1) the origin of the referendum (i.e., citizen initiative, bill referred to the electorate by the legislature; 2) the Ballot Title and summary text the voter will encounter on the ballot sheet; 3) the full text of the measure; 4) a non-partisan explanatory statement; and 5) arguments submitted by individuals or groups. Authorship of the explanatory statement has differed only slightly over time. For six of the seven referenda examined it was drafted by a committee comprised of the petitioners and the personnel representative of the Secretary of State's office, whereas for Measure 49 the explanatory statement was drafted by the state's Legislative Assembly. Beginning in the 1978 election, those submitting arguments for inclusion in the Voter's Pamphlet had to pay for the privilege; prior to that the pamphlets do not indicate that there was a charge.

With the variety of electronic media available to and aimed at influencing voters, it may seem rather anachronistic to focus on printed arguments delivered by the U.S. postal service. The political science literature on direct democracy and voter referenda suggests otherwise. When faced with referenda voting, political scientists note that voters have high information needs (Magleby 1989; Bowler and Donovan 1994; Bowler and Donovan 2002). Magleby (1989: 113) observed that compared to candidate contests for which voters have party labels and incumbency as voting parameters, voters are “not as certain of their opinions on most ballot propositions and are more susceptible to the influence of the campaigns.”

Given a need for information and susceptibility to campaigns, how then do voters get information and how do they use it? In a study of opinion formation and proposition voting based on Californian poll data from 1990, Bowler and Donovan (1994) looked at the utilization of “hard” (i.e., ballot pamphlets, newspaper editorials) and “easy” (i.e., television ads, friends and neighbors) information sources by voters with different levels of education. While they found that college educated voters were more likely to use more sources of information as well as more “hard” source information than less educated voters, “utilization of “easy” broadcast information and direct information from campaign sources appears to occur independent of education” (Bowler and Donovan 1994: 419.) Of California voters polled only 21% reported using television advertisements as a source of their information, whereas 54% reported that they used the ballot pamphlet as a source of information—the highest level of utilization of all four sources analyzed. This reported reliance on voters’ pamphlets is also reflected in a more recent analysis of Washington state voters by the same authors in which 73% of voters in polled in 1999 reported that they used the state provided voters pamphlet (Bowler and Donovan 2002). While such recent data are not available for Oregon, in a poll from 1982, 64% of Oregon voters surveyed indicated that the pamphlet was their most important source of electoral information (Canary 2003).

Methodologically, the texts of the voters’ pamphlets were analyzed using content analysis. Content analysis has been defined as “the systematic, objective, quantitative analysis of message characteristics” (Neuendorf 2002). Within the myriad types of content analysis, the texts have been analyzed for the type of discourse they represent. Neuendorf (2002: 5) describes discourse analysis as a “process [which] engages in characteristics of manifest language and word use, description of topics in media texts, through consistency and connection

of words to theme analysis of content and the establishment of central terms.” This type of analysis is utilized for analyzing public communication.

In approaching the texts the following procedures were used. The reading and coding of the texts was conducted by the author and her research assistant; as the voters’ pamphlets were only available as hard copy or as PDF, content analysis software was not utilized. The researchers read the texts in two iterations. In the first reading, the researchers read the texts to identify the core arguments being made and to identify key words associated with the core arguments. From this reading, the over-arching themes of the voters’ pamphlet arguments were identified. Arguments were subsequently reread and organized under two broad categories: arguments that “supported the Oregon land use planning system” and those that “challenged” it. Themes and supporting arguments were categorized in this way (as opposed to being listed as arguments for and against the specific proposition) because the ballot measures listed in Table 1 have varied over time. While all measures sought to change the system, the last, Measure 49, sought to alter the system but was essentially “pro-land use system.”

As part of the second reading, a spreadsheet was set up in which the number of arguments made for each theme were tallied, direct quotes were typed in as evidence, and arguments were evaluated for the level of frame employed. Notably, arguments often contained more than one theme—a writer for instance might emphasize the need to protect land and natural resources for future generations and the threat of special interests. In such an instance the argument would be tallied twice: once under the theme of legacy for the future and second under the theme of special interests/threat to democracy. To augment this human coding, all texts were scanned into PDF format and using the search function word counts were conducted for the key words identified in the first reading.⁴

5. Research Findings

The public debate over Oregon’s land use system has changed greatly—both in volume and substance—since the first challenge was made in 1970. As seen in Graph 1, the first four initiatives spawned relatively little public debate in the voters’ pamphlets with only civic organizations like the League of Women Voters and a handful of issue groups like “The Committee for Jobs and Sound Development” (1976) and “Zoning Adjustment Modification Organization Inc.” (1979) participating. Ballot Measure 7 of 2000, however, witnessed a dramatic rise in the number of arguments submitted for and against the initiative; the peak of the debate over the state’s land use system was reached in the general election of 2007 with the vote over Measure 49.

<INSERT GRAPH 1 ABOUT HERE>

While the number of official arguments submitted has changed over time, this does not necessarily mean that voters were uninterested in the issues at hand or that emotions or rhetoric were not inflamed. As seen in Table 2, like the rest of the nation Oregon voters turn out in higher numbers when important state and national offices are being contested. However, when Oregonians participate in the polls, they vote on the ballot measures. Voting on land use referenda as expressed as a percentage of overall voter turnout has been at or above the 90% level for all measures over all years.⁵

The substance of the debate has clearly changed and falls into two distinct periods. From 1970-1982, the debate was over the legitimacy of newly introduced planning laws, while from 2000-2007 the debate was about the impacts of the system upon land owners and Oregonians as a whole. The first initiative, which pre-dates Senate Bill 100 that established the land use system, represented a push back from rural interests who did not want mandatory planning and zoning. The next three initiatives (1976, 1978, and 1982) all represented struggles over the locus

of control over planning and zoning. The final three measures depart dramatically from this theme—instead of attempting to wrest power from and de-legitimize the state’s role in planning—these initiatives focused on the regulatory nature of the system and the question of compensation to individual landowners.⁶

Themes

Our content analysis of the voter’s pamphlets shows—as might be expected as the specific provisions of the measures have changed—that the themes of the arguments have evolved over the years, although a number of the earliest themes recur even though the aims of the ballot measures changed so substantially. As is reflected in Table 3, in our reading a total of 37 themes were identified in the arguments printed in the voters’ pamphlets over time. Of these, 18 were introduced in the first four ballot initiatives debating the locus of control of land use planning; the remainder emerged in the last three initiatives, with the greatest number of new themes emerging in 2000 with the first regulatory takings proposition, Measure 7. Although the debate over Measures 7, 37, and 49 has often been reduced to a fight about fairness, contributors to the voters’ pamphlets touched on many more themes than just that. And although property value impacts of the regulatory system have been a point of contention since the beginning (see the discussion on legislative debates around Senate Bill 100 in Adler 2008), they were not the chief element of the debate at the ballot box for the first four measures.

<INSERT TABLE 3 ABOUT HERE>

In the first four ballot measures, pro-planning arguments stress the beneficial role of the state as a protector and a preserver of public goods; these arguments moreover stress the cooperative and inclusive democratic nature of the system. They reflect, in short, a nurturant parent perspective. The arguments opposing the land use system, however, do not fit as neatly into Lakoff’s schema. Notably, opponents do not marshal arguments attacking planning as an

illegitimate undertaking that is interfering with the market (which might be expected given the centrality of competition to strict father morality), rather they argue that the planning is good but that the system is undemocratic and unaccountable. Significantly, the system insults local leaders because it implies they lack the discipline to plan in a way that protects land. “Shall we assert our faith in ourselves and regain control of our destiny through local government responsive to our vote?” (Voters’ Pamphlet 1976: 33). At their most extreme, these arguments vilify the LCDC and characterize it as having “literally crushed local control under its bureaucratic boot!” (Voters’ Pamphlet 1982: 18). (Please see Figure 1 for an illustrative—if somewhat unsubtle—representation of this argument.)

<FIGURE 1 –*WHICH IS OMITTABLE DUE TO SPACE CONSTRAINTS*—ABOUT HERE>

A public debate over the impact of the system and its effects upon individual property owners emerges in 2000 with Measure 7 in 2000. In the intervening years, opponents of the land use system tried without much success to alter the system through the legislative process (Liberty 1996). By 2000, however, there was enough discontent with the system across a variety of constituencies that the opponents of regulation prevailed in getting this measure on the ballot (see Abbott, et al. 2003). The seriousness of the challenge to the land use system is captured in the number of arguments: 40 total arguments with 75% supporting and 25% opposing the system. The measure nevertheless passed with 53% of the vote (Buchanan 2001).

Appealing to Voters: Measures 7 and 37

How were appeals and arguments made about the regulatory takings measures in the voter pamphlets? In the first two regulatory takings measures (Measures 7 and 37), the pro-land use system arguments have one notable characteristic: their appeal to reason through the use of facts and figures. Of the 41 total arguments opposing Measure 37, for instance, most carried significant detail about the measure—covering everything from the projected fiscal costs (\$344

million and there is no funding mechanism!), its legal ambiguities (*how many owners will this effect?*), its unclear policy impacts (*will it hurt established single-family neighborhoods?*), to the myriad educational, social, and environmental programs that would be hurt if it passed (*expect more cuts to senior services.*) The arguments are also vaguely conspiratorial: special interests and developers will benefit; local participatory democracy will suffer. Our reading of arguments indicates that supporters of the land use system utilized complicated, factual appeals more often than their opponents, with 50% of the total arguments for Measure 7 and 61% of those made for Measure 37 being categorized as either Level 2 or 3.

<INSERT TABLE 4 ABOUT HERE>

In contrast, the arguments made by opponents of the system are more value-laden. The key value of fairness (or its corollary unfairness), which has been acknowledged elsewhere in the literature (e.g., Abbott, et al. 2003), really emerges in this period. In Measure 7 arguments the land use system is compared to a game in which the rules are always shifting and government is depicted as an actor captured by extremists who “want to stop all land uses on rural lands, and make Oregon one giant public park” (Voters’ Pamphlet 2002: 312). The government is profiled as a rule-breaker as well—the Constitution may require compensation but “why buy the cow when you can get the milk for free?” (Voters’ Pamphlet 2000: 315). For both of these measures, few arguments supporting compensation address the details of the proposition. In short, level 3 arguments are avoided, Level 1—the fairness card if you will—is employed.

Role of Story and Metaphor

The final part of this analysis relates to the role of story and the use of metaphor in the arguments. Departing from Lakoff and Johnson (1980), I was interested to see if there were dominant metaphors that emerged in the arguments. Specifically, was metaphor employed to represent land and property? In western literary tradition, for example, land is a metaphor with a

gender: land is like a “woman,” a “virgin” and a “mother” (Kolodny 1975; Porteous 1982).

Land as mother gives sustenance and demands respect, but land as virgin or woman can also be violated, raped and abused. She clearly needs protection. Legally the dominant metaphor for real property is familiar to planners: land is a “bundle of rights” or a “bundle of sticks”. I did not expect to find this metaphor employed as it isn’t particularly evocative. I was also interested to see how frequently personal stories were used. Stories were of particular interest as other work on Measure 7 analyzing newspaper coverage stressed the role stories played in convincing voters to adopt a position by identifying with the plight of a person (Winett, et al. 2001).

In looking at the text of argument for the last three referenda, the use of the above identified metaphors seems limited at best. Referents to land, the evocative elements of the Oregon landscape, and the need to protect these assets were, not surprisingly, more commonly employed by advocates of the land use planning system. (Please see Table 3 for argument counts.) While not referred to as a mother or a woman, land was identified as a source of sustenance and wealth and the Oregon landscape a legacy Oregonians could proudly bequeath to their children. An argument from Measure 49 captures this best: “Sauvie Island nourishes body and soul, people and wildlife. It’s an amazing place, one of Oregon’s treasures—worth saving from over-development” (Voters’ Pamphlet 2007: 23.) Advocates of the system were also more likely than opponents to use language that evoked images of degradation and exploitation at the hands of the greedy few. A typical comment from the debate on Measure 49:

Changing the rules of the game in this way is not what Measure 37 was supposed to be about. Measure 37 was advertised simply as a way to help individuals who wanted to build a few homes on their land—NOT AS A GREEN LIGHT FOR LARGE BUSINESS INTERESTS TO EXPLOIT OUR LAND, OUR OREGON. (Voters’ Pamphlet 2007: 41; emphasis in original.)

Stories, in contrast, were frequently deployed—most markedly in the profiles of distressed land owners supporting Measure 37. Out of the 42 arguments paid for by supporters

of the measure, 17 were detailed accounts of aggrievement.⁷ Throughout these stories the theme of unfairness—of the little guy having to bear the costs of the system—is repeatedly evoked. The little guy can never win—at least not without an onerous and expensive court battle—and his struggle for justice is on many fronts, against many actors: the state, the county, the city, and even one’s neighbors. A tale from Portland provides an example of unfairness, irrational regulation, and economic costs:

After years of hard work and saving, I eagerly went to get my building permit. The City of Portland, however, had other ideas. In the time since my purchase, the City placed more and more restrictions on the property, ultimately converting it into a wildlife habitat reserve: over 2/3 of the property set aside for the city; less than 1/3 left for me! ... I would sympathize if the property contained old-growth trees, a stream, eroding slopes or endangered species habitat, but it does not...The City seizes land for free while the property owner bears huge cost increases for design, construction and additional regulatory fees. (Voters’ Pamphlet 2004: 111).

If one analyzes the argument themes, the levels of framing deployed, and the use of story from the perspectives provided by Lakoff, the fact that both of these ballot measures passed should not come as a complete surprise. Defenders of the land use system did not consistently play to values—they repeated facts, statistics, and policy details in numerous arguments. Proponents of compensation, in contrast, made more consistent appeals to voters’ values and gave the voters stories with replete with locations and emotion, with which they could identify. The value utilized for the appeal—fairness—is evocative regardless of world view. For a conservative strict father moralist, the government’s role is to make and enforce rules created to help us differentiate right from wrong—yet it was breaking sacrosanct rules embodied in the Constitution. We all know that’s not right. Moreover, the individuals affected were hard-working (disciplined) farmers and land owners who only sought to better their position in life. For a nurturant parent liberal unequally applying the law is also bad—tantamount to telling one

child you love him or her more than another. Good parents don't do such things. Fairness appeals to both perspectives.

Measure 49

To close, it is useful to return the outcome of Measure 49. This measure passed in November 2007—it allows land owners who purchased their property prior to Senate Bill 100 to develop their property in a more limited manner and prevents the more ambitious (and divisive) large scale developments proposed under Measure 37 from proceeding.⁸ Because it passed with a significant margin, Measure 49 has been interpreted as a validation of the land use system. While few new themes were introduced in the voters' pamphlets for this ballot measure, the volume of the debate crescendoed with 118 arguments in total being submitted; 59% of them supporting the measure (being thus pro-land use system) and 41% opposing the modification of Measure 37.

Proponents of Measure 49 appear to have learned from their opponents. A greater percentage of messages speak to values. The measure is depicted as “balanced”—promising to treat owners fairly while still protecting the landscape and the broader community. Proponents also told stories—of regret at having voted for Measure 37, of estranged neighbors and communities divided by the developments proposed, and of concern over the expensive legal morass facing the state. Proponents stressed the unfairness of Measure 37: creating two unequal classes of landowners and benefiting large landowners, timber companies, and out-of-state corporations—not the little guy. While they did not eschew facts, facts were bundled with appeals to values and evocations of the Oregon landscape and the changes the filed Measure 37 claims would bring:

One of the greatest pleasures in Oregon is driving to the Coast, through the rolling fields, the Coast Range and the natural wonder that is Oregon. It's not just the destination—it's the journey. **But unless we fix Measure 37 now**, that journey will be changed forever, with peaceful hills and fields replaced by

massive subdivisions and strip-malls developed through Measure 37 claims. (Voters' Pamphlet 2007: 30; emphasis in original).

Opponents of the measure, in contrast, marshaled only a few stories (3/48 arguments) depicting unfair land use decisions. They spent much energy defending Measure 37, debunking claims that it would have a deleterious impact, and dissecting the technical details of Measure 49. Cross-over arguments appear with those opposing Measure 49 warning that it was written at the behest of special interests (a theme deployed in all measures but one by land use system supporters). In 17 different arguments, they also included dire warnings about the impact of the measure by intoning that without the protections of the previous measure “they’ll just take it!”—implicitly conflating the seizure of land through eminent domain with takings of the regulatory kind. This scare tactic does not appear to have worked.

6. Conclusion

Oregon voters' pamphlets show that over time Oregonians have had a multi-faceted, multi-themed debate regarding the state's land use system. The more recent property rights-based challenges introduced the central theme of fairness, which was utilized by both sides in their struggle to win over voters. To return to the allegation of “false pretense”, can we really conclude that Oregonians were duped? While other entities have double checked facts on specific claims (and shown distortions for a number of the stories), if we just judge from the plain text of arguments and analyze voter decision-making through the lens of framing—what appears to have happened is that voters responded positively to messages crafted to appeal to their values and they failed to respond to more technically oriented appeals.⁹

This case contains a broader lesson that brings back to the fore an essential message of communicative action theorists: planners need to be more effective communicators. We need to impart what it is we do, why we do it, and why it is valuable. Drawing from Lakoff, we need to be able to speak to multiple audiences with various moral perspectives and conceptual frames.

Most specifically, we need to move from the fact-filled technocratic language with which planners are most comfortable and acknowledge that planning as an enterprise is an expression of community values and a means for achieving those values. Professional planners are not alone in this quest. Dorfman, et al. (2005) argue that public health practitioners need to develop a language of “interconnectedness,” that is, a language about community and cooperation which is supportive of progressive goals and offers values to counter the dominant discourse of individualism and competition in American society. Developing such a language is not about planners learning to “dupe” the public into supporting planning; it is about finding a way to express the value system central to planning and enabling community members to find commonality with these values.

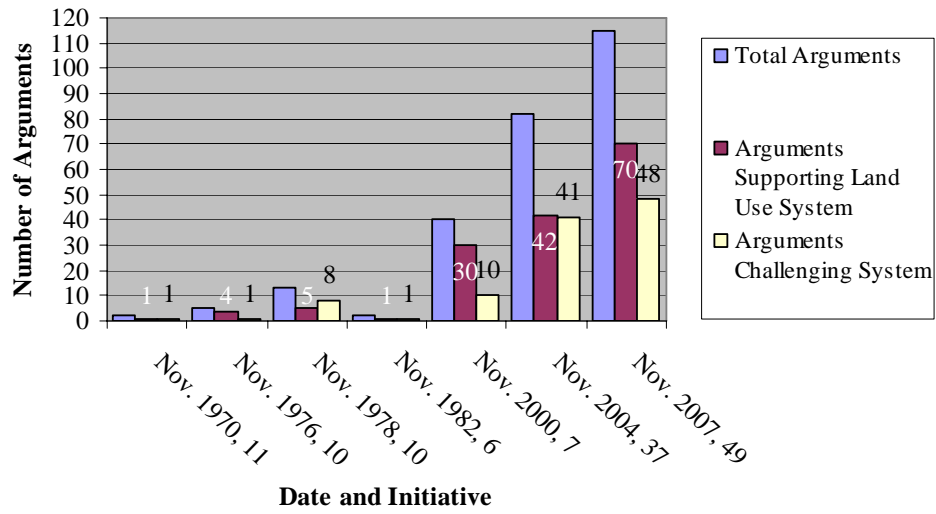
These conclusions about language and framing are not new. There is a current campaign supported by the American Planning Association and smart growth advocates to frame the national discussion on property rights and takings, namely, the “property fairness” campaign (see. www.propertyfairness.org). While experts in framing and political communication have presumably played an influential role in crafting this term, the chosen appeal is somewhat worrisome—at least for this Oregon voter—because the term selected evokes a powerful unspoken word: “private.” Emphasizing “private property fairness” does not move planning toward a new language or a distinct expression of values; rather it ensnares planners and planning in the language of individualism, competition, and the market. Will it pay off? Time will tell.

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Graph 1: Overview of Voters' Pamphlets: Total Arguments and Arguments by Type



**Is This What LCDC Plans
For Douglas County??**



Figure 1
Source: Sy Adler, personal collection

**Is Oregon land captive
of Rockefeller-L.C.D.C.?**

Table 1: Overview of Oregon Land Use Planning Referenda 1970-2007

Election	Measure Number	Origin	Ballot Title/(Abbreviated) Purpose of Measure	Vote (%)
Nov. 1970	11	Initiative Petition	<u>Restricts Governmental Powers Over Rural Property</u> Constitutional amendment restricts power of legislature, counties and other governmental units to pass future zoning, subdivision or building code legislation affecting land outside of city limits. All such legislation must be approved by voters of the area affected at a special or general election. People outside city limits given initiative and referendum powers over any zoning, subdivision or building codes affecting their area.	Yes: 272,765 (44%) No: 342,503 (56%)
Nov. 1976	10	Initiative Petition	<u>Repeals Land Use Planning Coordination Statutes.</u> Repeals statutes relating to state-wide land use planning, coordination and control, and creating and prescribing powers and duties of the Land Conservation and Development Commission and Department. Repeals state wide land use goals and guidelines, review and control of local comprehensive plans, land use decisions, and activities of statewide significance. Amends statute on county comprehensive plans to eliminate reference to statewide goals and guidelines.	Yes: 402,608 (43%) No: 536,502 (57%)
Nov. 1978	10	Initiative Petition	<u>Land Use Planning, Zoning Constitutional Amendment</u> Nullifies LCDC-adopted land use planning goals and guidelines. Requires cities and counties to have comprehensive plans, but requires legislature to prescribe goals, zoning, planning and notice procedures. Permits legislature to establish an advisory commission and regulate use in geographic areas of statewide significance provided compensation is awarded to owners adversely affected. Requires voter approval before regional planning districts are organized. State and local land use legislative acts subject to referendum.	Yes: 334,523 (39%) No: 515,138 (61%)
Nov. 1982	6	Initiative Petition	<u>Ends State's Land Use Planning Powers, Retains Local Planning</u> Removes requirement that local plans conform to state-wide planning goals. Requires cities and counties to have master land use plans. Abolishes LCDC, its administrative arm (DLCD), and the Land Use Board of Appeals. Appeals to be heard by circuit courts. Requires legislature to establish state-wide committee to propose goals changes, deletions or additions. Local governments not required to conform to these goals.	Yes: 461,271 (45%) No: 565,056 (55%)
Nov. 2000	7	Initiative Petition	<u>Amends Constitution, Requires Payment to Landowner if Government Regulation Reduces Property Value.</u> Measure requires governments to pay landowner amount of reduction in market value if regulation reduces value. Compensation required if owner must protect certain natural resources, cultural values or low income housing. Some exemptions (e.g., nuisance); applies if regulation adopted after owner acquired property.	(Count enjoined) Yes: 53%* No: 47%
Nov. 2004	37	Initiative Petition	<u>Governments must pay owners, or forgo enforcement when certain land use restrictions reduce property value.</u> When a government enacts or enforces land use regulations that restrict use, must pay owner reduction in fair market value of property or forgo enforcement. If compensation not paid in timely manner, owner not subject to restrictions. Applies to restrictions after family member acquired real property. Creates civil right of action; provides no revenue source for payments.	Yes: 1,054,589 (61%) No: 685,079 (39%)
Nov. 2007	49	House Bill 3540	<u>Modifies Measure 7; Clarifies Right to Build Homes; Limits Large Developments; Protects Farms, Forests, Groundwater.</u> Gives landowners with M37 claims right to build homes as compensation for land use restrictions imposed after their land was acquired. Claimants can build up to 3 homes; 4-10 homes if reductions in property value can be documented. Can transfer homebuilding rights upon sale or death. Allows future claims for restriction of farm, forest or residential uses; disallows categories of commercial and industrial uses.	Yes: 718,023 (62%) No: 437,351 (38%)

Sources: http://bluebook.state.or.us/state/elections/elections_18.html; Oregon Voters' Pamphlets, 1970, 1976, 1982, 2000, 2004, 2007; *Buchanan, 2001

Table 2: Voting on Ballot Measures Over Time								
General Election Date	Registered Voters	Overall Voter Turn Out	% of Registered Voters	Votes Cast President	Votes Cast US Senate	Votes Cast Statewide Office*	Votes Cast Land Use Referenda	% of Voter Turnout
Nov. 1970	955,459	681,381	71.31%	NA			615,503	90%
Nov. 1976	1,420,146	1,048,561	73.83%	1,002,734	NA	950,531	939,110	90%
Nov. 1978	1,482,339	937,423	63.24%	NA	892,518	911,143	849,661	91%
Nov. 1982	1,523,655	1,063,913	69.83%	NA	NA	1,042,009	1,026,327	96%
Nov. 2000	1,954,006	1,559,215	79.80%	1,533,968	NA	1,436,481	Enjoined	NA
Nov. 2004	2,214,243	1,851,671	83.63%	1,827,826	1,780,550	1,707,998	1,739,668	94%
Nov. 2007	1,976,669	1,163,210	58.85%	NA	NA	NA	1,155,374	99%
*Year 1978: Governor; Year 2000 and 2004: Attorney General;								
Source: <i>Oregon Blue Book</i> (printed biennially, starting in 1933/34)								

Table 3: Overview of Theme Data

Name of Theme*	Summary	Year of Emergence	Number of Instances of in Arguments						
			1970	1976	1978	1982	2000	2004	2007
<i>Protect and Preserve</i>	<i>The OR Land use system protects (e.g., against pollution) and preserves (e.g., natural heritage)</i>	1970	1	0	1	0	4	3	11
<i>Save our Ag Economy</i>	<i>Land use planning protects farmland and our farm economy</i>	1970	1	1	0	0	2	4	10
<i>Special Interests/Threat to Democracy</i>	<i>Back room deals will rule and special interests will benefit; communities will lose</i>	1970	1	2	5	0	10	6	16
<i>Democracy and Accountability</i>	<i>Oregon system is undemocratic and unaccountable to locals</i>	1970	2	1	5	2	0	0	0
<i>We (heart) planning and zoning but...</i>	<i>We're not anti-planning, but it should be done at the local level</i>	1970	1	0	4	0	0	0	0
<i>Big Government</i>	<i>Govt. is too big and the budgetary costs are too high</i>	1970	1	1	1	1	0	0	0
<i>Can't Trust Them Bureaucrats</i>	<i>LCDC and state government cannot be entrusted with land use planning function</i>	1976	0	1	1	1	0	1	1
<i>Democracy</i>	<i>OR land use system is open, democratic and based on cooperation between local and state govt.</i>	1976	0	2	0	1	0	0	0
<i>Jobs and Economy</i>	<i>Good planning yields good jobs and a predictable environment for business</i>	1976	0	1	0	1	1	1	0
<i>Property Values and Regulation</i>	<i>Regulations protect and enhance property values</i>	1976	0	1	0	0	2	6	3
<i>Oregon Pride</i>	<i>Oregon is at the forefront of good land use planning</i>	1976	0	1	1	0	2	6	6
<i>Consumptive Conservation</i>	<i>Planning supports natural-resource based livelihoods and recreation</i>	1976	0	2	0	0	3	0	2
<i>Adjust don't Destroy</i>	<i>Don't throw the baby out...legislative adjustments can be made</i>	1976	0	1	0	0	0	0	0
<i>Legacy</i>	<i>Our land use planning system will leave a natural legacy for future generations</i>	1976	0	1	1	0	1	0	11
<i>Affordable Housing</i>	<i>The system assures affordable housing for the needy</i>	1978	0	0	1	0	2	0	0
<i>Don't Mess with Success</i>	<i>Land use planning system is just starting to bear fruit</i>	1978	0	0	1	2	0	1	1
<i>Costs of Uncertainty</i>	<i>Undoing the system will create uncertainty with huge economic costs</i>	1978	0	0	4	1	3	15	2
<i>Triad: property=freedom=democracy</i>	<i>The system is interfering with fundamental rights of property owners, undercutting our freedoms and hurting our democracy</i>	1978	0	0	4	0	2	7	1

Table 3: Overview of Theme Data (cont).

Name of Theme*	Summary	Year of Emergence	Number of Instances of in Arguments						
			1970	1976	1978	1982	2000	2004	2007
Economic Cost of Regulation	Too much red tape is making OR uncompetitive and hurting local economies	1982	0	0	0	1	1	6	2
<i>Public Health and Safety</i>	<i>This will take money from public health, safety and education</i>	2000	0	0	0	0	4	3	6
<i>Hands off Our Constitution</i>	<i>Poorly written measure has no place in Oregon's constitution</i>	2000	0	0	0	0	15	0	0
<i>Fiscal Costs</i>	<i>It will cost the state and taxpayers billions.</i>	2000	0	0	0	0	22	18	0
<i>It's Blackmail!</i>	<i>We're being blackmailed by polluters and corporations</i>	2000	0	0	0	0	3	0	0
<i>Full Time Employment for Lawyers</i>	<i>This measure will clog our court system and make only lawyers fat and happy</i>	2000	0	0	0	0	4	10	0
<i>Unfairness/Unequal Protection</i>	<i>Say the neighbors: what about our rights?</i>	2000	0	0	0	0	0	2	1
End this Endless Litigation	The system requires lengthy court battles in which the costs are born by the victims of the regulation	2000	0	0	0	0	5	7	3
Fairness	Regulatory system makes the little guy bear the costs	2000	0	0	0	0	8	24	5
Restore Balance	Control (environmental) extremists, we need balance between environment and preservation	2000	0	0	0	0	5	3	1
Fiscal Benefits	Restoring property rights will raise tax revenues	2000	0	0	0	0	3	1	0
Perverse Outcomes of Regulation	Ridiculous things happen when government regulates	2004	0	0	0	0	0	2	0
Just the Facts	Factual discussion of Measure 37	2004	0	0	0	0	0	3	7
They'll just take it!	You'll have no protections from takings! (Conflates with eminent domain.)	2004	0	0	0	0	0	1	17
<i>Reasonable compromise/balance</i>	<i>M49 achieves a balance between protection and land owners' needs</i>	2007	0	0	0	0	0	0	24
<i>Just the Facts</i>	<i>Statements of facts illustrating range of impacts by identifying Measure 37 claims</i>	2007	0	0	0	0	0	0	13
Special Interests	The law will benefit special interests—it was written behind closed doors!	2007	0	0	0	0	0	0	18
It's a Fake Crisis	No crisis with Measure 37, fear-mongering only	2007	0	0	0	0	0	0	2
Family Farms will be hurt	Our farms need Measure 37 (so don't vote for 49)	2007	0	0	0	0	0	0	6
It's Bad Legislation	Badly written legislation will increase confusion	2007	0	0	0	0	0	0	1

*Arguments supporting land use system in italics

Table 4: Tally of Arguments by Framing Level								
Ballot Measure	Total Arguments	Level 1 Arguments	% of Total	Level 2 arguments	% of Total	Level 3 arguments	% of Total	Number of Stories
Measure 11, 1970								
Supporting Land Use System (LUS)	1	1	100%	0	0%	0	0%	0
Challenging LUS	1	1	100%	0	0%	0	0%	0
Measure 10, 1976								
Supporting LUS	4	3	75%	0	0%	1	25%	0
Challenging LUS	1	1	100%	0	0%	0	0%	0
Measure 10, 1978								
Supporting LUS	5	3	60%	2	40%	0	0%	0
Challenging LUS	8	3	38%	4	50%	1	13%	0
Measure 6, 1982								
Supporting LUS	1	1	100%	0	0%	0	0%	0
Challenging LUS	1	1	100%	0	0%	0	0%	0
Measure 7, 2000								
Supporting LUS	30	15	50%	11	37%	4	13%	0
Challenging LUS	10	8	80%	1	10%	1	10%	1
Measure 37, 2004								
Supporting LUS	41	16	39%	15	37%	10	24%	0
Challenging LUS*	42	25	60%	11	26%	5	12%	17
Measure 49, 2007								
Supporting LUS	70	39	56%	21	30%	10	14%	8
Challenging LUS*	48	22	46%	14	29%	11	23%	3

*In these two years, one argument was printed two times. For the purposes of this categorization, the duplicate argument was not tallied. The tallies by level, thus, do not tally to the total arguments given in the second column.

Note: Values are generally categorized as personal, social, political, economic and religious. Our reading of what constituted a value was broad, including personal values (like belief in the importance of honesty), social values (like equality, freedom), economic values (beliefs around ownership of property), and religious values (beliefs about stewardship of the earth).

Level 1 argument = evident value in the message (e.g., legacy, fairness) and/or clear emotional appeal or provocation (e.g., appeal to civic pride; playing upon fear or raising suspicion of government or special interests).

Level 2 argument = general argument addressing elements of measure. Not necessarily without value or emotional appeal but factual in nature. In Measure 49 arguments, a standard format appeared for several arguments in which the writer presented an emotional appeal followed by a detailed inventory of Measure 37 claims. These arguments were categorized as Level 2—an averaging of the initial Level 1 appeal with the detail of a Level 3 argument.

Level 3 argument = presentation of nitty, gritty detail or technical aspects or impacts of the measure. Measure 49 examples are arguments that report research findings or inventory of claims in a manner devoid of an introductory emotional appeal.

Endnotes:

¹ Following the passage of Senate Bill 100, some Oregon localities did put their newly crafted zoning ordinances to the voters for approval. Local ballot measures do exist, but they have been used in a limited manner—mainly to make decisions on annexation into city boundaries in the 30 cities that allow referenda (Seltzer and Rehberg 2002).

² Constitutional amendments have a higher bar; for the 2008 and 2010 ballot statutory measures required 82,769 signatures, while constitutional provisions required 110,358 (Oregon Secretary of State Elections Division, 2008).

³ No challenge was made to the ballot title for Measure 37; informants suggest that key organizations were overly confident and/or simply remiss in not tracking the numerous petition campaigns of Oregonians in Action.

⁴ Parallel to the reading process, a spreadsheet was created in which the names and affiliations of those submitting to arguments to the voters' pamphlets were entered. This was done to get a sense of who has been participating in the public debate over land use in the state over time. Although individuals submitting arguments are required to provide an address and affiliation, it was not always clear to the author the interest group represented by the person (e.g., Joe X, Attorney at Law). A faculty member at Portland State University reviewed the "who's who" spreadsheet and provided the author with biographical details and greater context on those submitting arguments.

⁵ The Measure 7 vote count was enjoined by the Attorney General's office and is not available to date.

⁶ The defeat of the earliest ballot measures has been the subject of some academic study. In their analysis of the 1976 referendum, Medler and Mushkatel (1979) concluded that the defeat of this referendum could be explained on class lines with better off counties and cities favoring land use planning and the less well off rejecting it. Knaap's studies of the 1978 and 1982 referenda offer a different perspective on the fight over the local of control in planning. Knaap rejected the social class hypothesis, however, and argued that the vote outcomes could be explained by individual self-interest. The referenda passed in localities reliant upon resource-based occupations and passed in areas where the land use restrictions posed no threat to employment or job growth (e.g., service industry dominated economies) (Knaap 1987).

⁷ In the years 2004 and 2007, one argument supporting the respective measure was printed twice. The duplicated argument for 2004 is rather intriguing and probably disingenuous. In the text, the author claims to be a land speculator from Southern California (a very popular demographic in Oregon) and is looking for land owners interested in developing their land for uses such as adult entertainment, strip malls, and detention facilities.

⁸ The main consideration right now is whether and how many claims made under Measure 37 have "vested" so that they may proceed regardless of Measure 49. The state has established procedures and an office of an Ombudsman to deal with vesting under Measure 49. Newspaper reports have highlighted various tactics by Measure 37 claimants to achieve vested rights, including erecting tiny plywood homes on sites. (*The Oregonian*, May 27, 2008.)

⁹ See, for instance, information on specific Measure 37 claimants provided by Measure 37 Watch (http://www.measure37watch.com/oregon_measure_37/2007/10/stop-measure-49.html).