

**FOR IMMEDIATE RELEASE****December 5, 2005**

WLF URGES OREGON HIGH COURT TO UPHOLD INITIATIVE ON PROPERTY RIGHTS

(MacPherson v. Dep't of Admin. Svcs.)

The Washington Legal Foundation (WLF) filed a brief today in the Oregon Supreme Court opposing a lower court decision that invalidated a ballot measure adopted by the voters for the protection of landowners' rights.

Oregon voters adopted Ballot Measure 37 on November 2, 2004, with 61 percent voting in favor of the measure. The initiative gives protection to landowners who suffer a loss in the value of their property on account of land use regulations imposed after the owner has purchased the property. Under the initiative, if a property owner proves that a land use regulation restricts the use of the owner's property and reduces its value, then the government responsible for the regulation must either compensate the owner for the reduction in value or refrain from applying the regulation to that property. The initiative does not cover historically recognized public nuisances, public health and safety regulations, regulations required to comply with federal law, and certain other regulations. A group of plaintiffs brought suit, and on October 14, 2005, a state trial court held the ballot measure invalid under various provisions of the Oregon Constitution.

In its brief, WLF argued that the trial court had erred in its ruling under the Equal Privileges and Immunities Clause of the Oregon Constitution. WLF argued that the Equal Privileges and Immunities claim in the case is not justiciable because the plaintiffs lack standing under Oregon law to bring such a claim. WLF further argued that Ballot Measure 37 satisfied the rational basis test of the Equal Privileges and Immunities Clause because the measure's purpose is to recognize a reliance interest on the part of landowners in the set of regulations applicable to their properties at the time of purchase, and the protection of reliance interests has long been held a rational and legitimate basis for government action.

Dorothy S. Cofield of the Cofield Law Office in Lake Oswego, Oregon served as WLF's local counsel in the case on a *pro bono* basis.

WLF is a non-profit public interest law and policy center founded in 1977 and based in Washington, D.C., with supporters in Oregon and nationwide. WLF supports vigorous protection of property rights and has frequently filed briefs in support of property rights in state and federal courts, including in *San Remo Hotel v. City and County of San Francisco* (2005); *Tahoe Sierra Preservation Council v. Tahoe Regional Planning Agency* (2002); and *Machipongo Land and Coal Co., Inc. v. Commonwealth of Pennsylvania* (Pa. 2002).

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For further information, contact WLF Senior Vice President for Legal Affairs David Price, (202) 588-0302. A copy of the brief is posted on WLF's web site, www.wlf.org.