

## A Matter of Fairness

By Don Brunell

A June 11 piece on vesting in the *Times* (“Old Law Lets Developers Use Old Rules”) was, to put it mildly, incomplete. Even the headline was misleading. We would like to take this opportunity to set the record straight.

First, a note to everyone reading this: Vesting affects you. Vesting affects what you pay for housing, what your local government pays for public projects, and what employers pay for office and manufacturing space. Changing our current vesting laws will lead to higher construction costs, higher home prices, and higher taxes.

What is vesting? When you submit a final application for a building permit, vesting ensures that the regulations in place at the time won't change.

But activists have mounted an all-out assault on our vesting laws. Their latest proposal would delay vesting until any and all possible appeals of a permit are adjudicated and the local jurisdiction takes final action – something that could take months or even years. In the interim, the rules and regulations could change, requiring the contractor to go back to the drawing board to comply with the changes.

The activists also want to make it easier for a single individual to delay a project. This unpredictability will imperil financing, increase housing prices and increase the cost of public and commercial building projects – for no good reason.

Seattle attorney Ryan Durkan, who chaired Gov. Locke's 1997 Land Use Study Commission, says the Commission found “no widespread problems associated with vesting and so did not recommend any changes to the vesting statute.” The Commission hired researchers to analyze the impact of the vesting doctrine and their report stated that “[N]one of the jurisdictions contacted expressed an opinion that vesting was a major land use issue.”

For private contractors, changing our vesting laws would severely jeopardize financing. After all, what bank would lend millions of dollars on a project with no idea what rules will apply, how long it will take, or what it will cost?

If financing dries up, construction will slow. That's exactly what many activists want. But reducing the supply of housing will increase prices, making it harder for families to

find affordable housing. If you doubt that reducing supply increases prices, just visit your local gas station.

The activists pushing these changes effectively admitted the negative impacts of their plan when they exempted low-income housing from their most recent legislative proposal. If changing the vesting laws won't increase housing prices and imperil financing, why the need to exempt low-income housing projects?

Their scheme would also increase the cost of public projects because of higher financing costs, construction delays and the possibility that contractors could be forced to redesign portions of the project to comply with new rules.

The *Times* article left the impression that a contractor can simply stroll into a city or county office and permit a big project, locking in the existing regulations. In fact, in many instances, it takes a year or more and millions of dollars for planning, design, and environmental studies just to file a final permit application.

For example, an application for a waterfront project in our state must comply with more than a dozen layers of federal and state regulations, as well as a slew of local regulations such as the Critical Areas Ordinance and local Shoreline Master Programs adopted under the State Shoreline Management Act. State lawmakers have repeatedly reaffirmed their commitment that, after you jump through all these regulatory hoops, we'll ensure that the rules that apply to your project won't change.

Earlier this year, a University of Washington study found that land use regulations add \$200,000 to the cost of a Seattle home. Changing our vesting laws will increase these costs, pricing many more home buyers out of the market. More families would be forced to purchase homes in outlying areas and clog the freeways in long commutes to and from work – precisely the opposite of what our planners and policymakers say they want.

Despite the impression left by the *Times* article, our vesting laws have been reviewed, reworked and updated through the years by the courts, state lawmakers and stakeholders – most recently in 1994, by Gov. Lowry's Regulatory Reform Task Force and again in 1997 by Gov. Locke's Land Use Study Commission.

As part of their campaign to stop growth, activists are trying to use vesting laws to make building riskier, more time-consuming and more expensive. That would be a costly mistake for our state.

Our vesting laws are balanced and workable, and should be protected. It's a matter of fairness.