

Measure 37 and the Economic Illusions of Takings

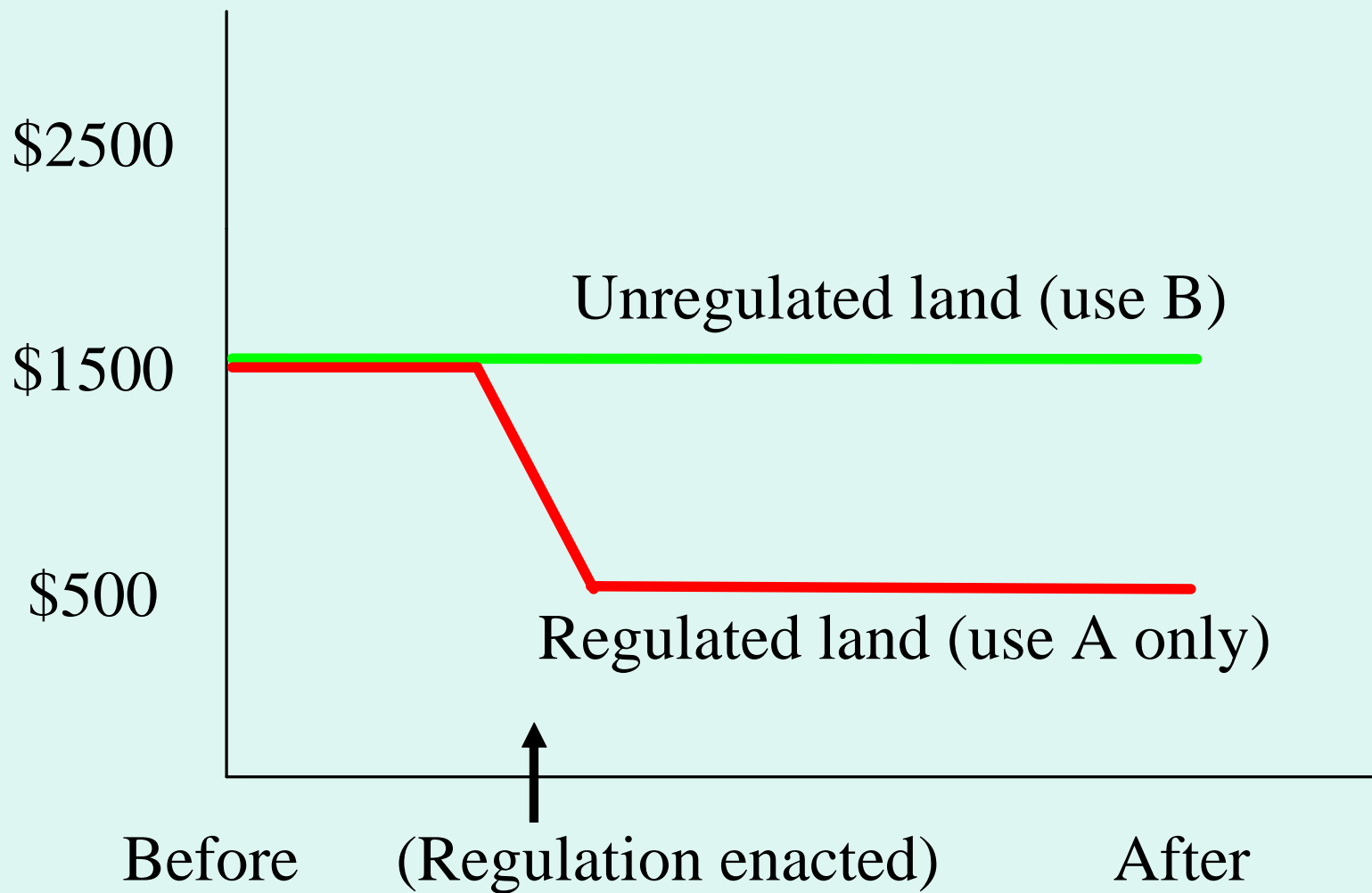
William Jaeger

Department of Agricultural and Resource Economics
Oregon State University

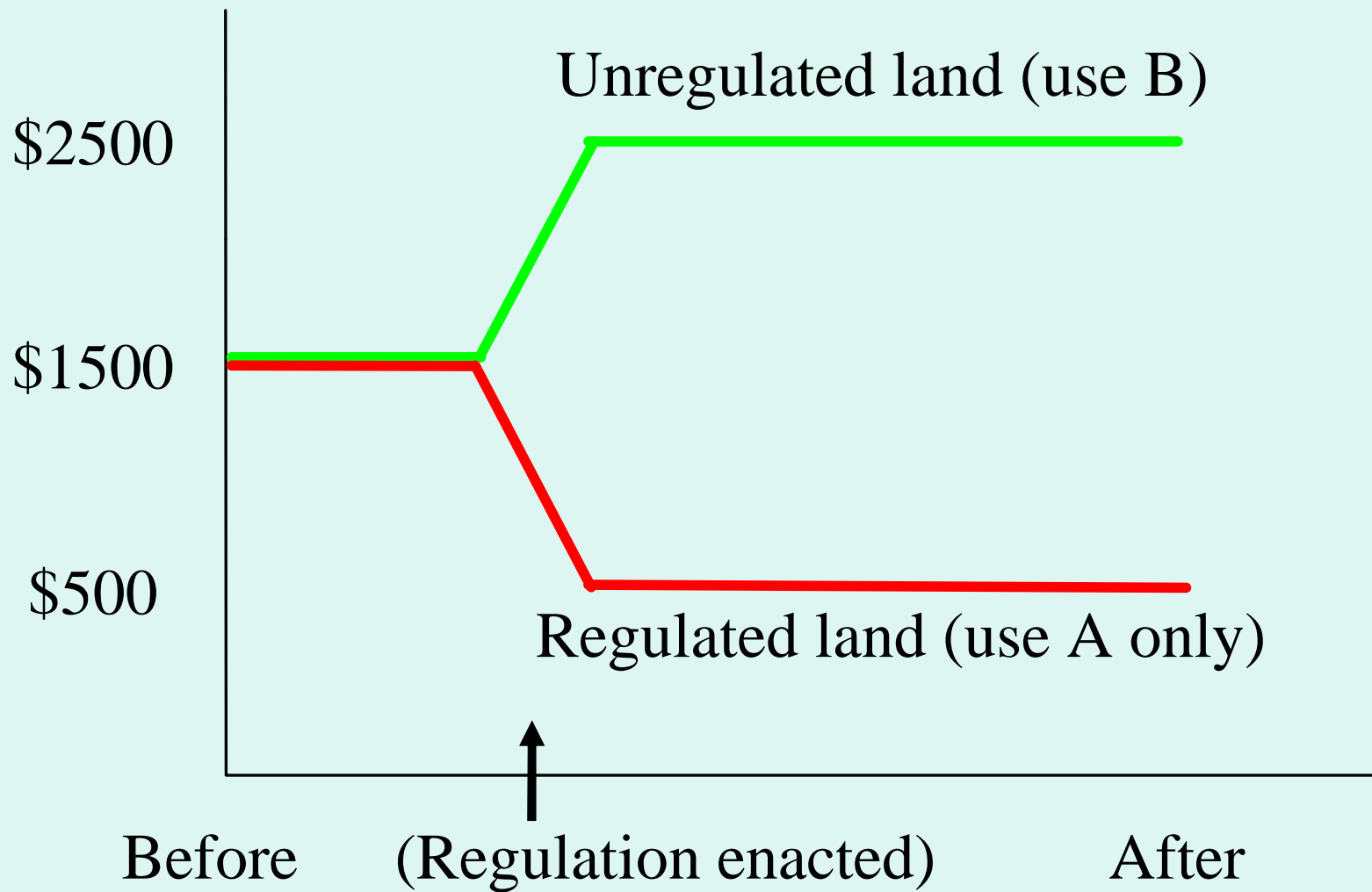
Measure 37 as passed in 2004

- If enactment/enforcement of a land use regulation has the effect of reducing a property's value:
 - Government must pay compensation
 - Or waive the offending regulation
- Determining if a land use regulation has reduced a property's value imposes an enormous burden on government.

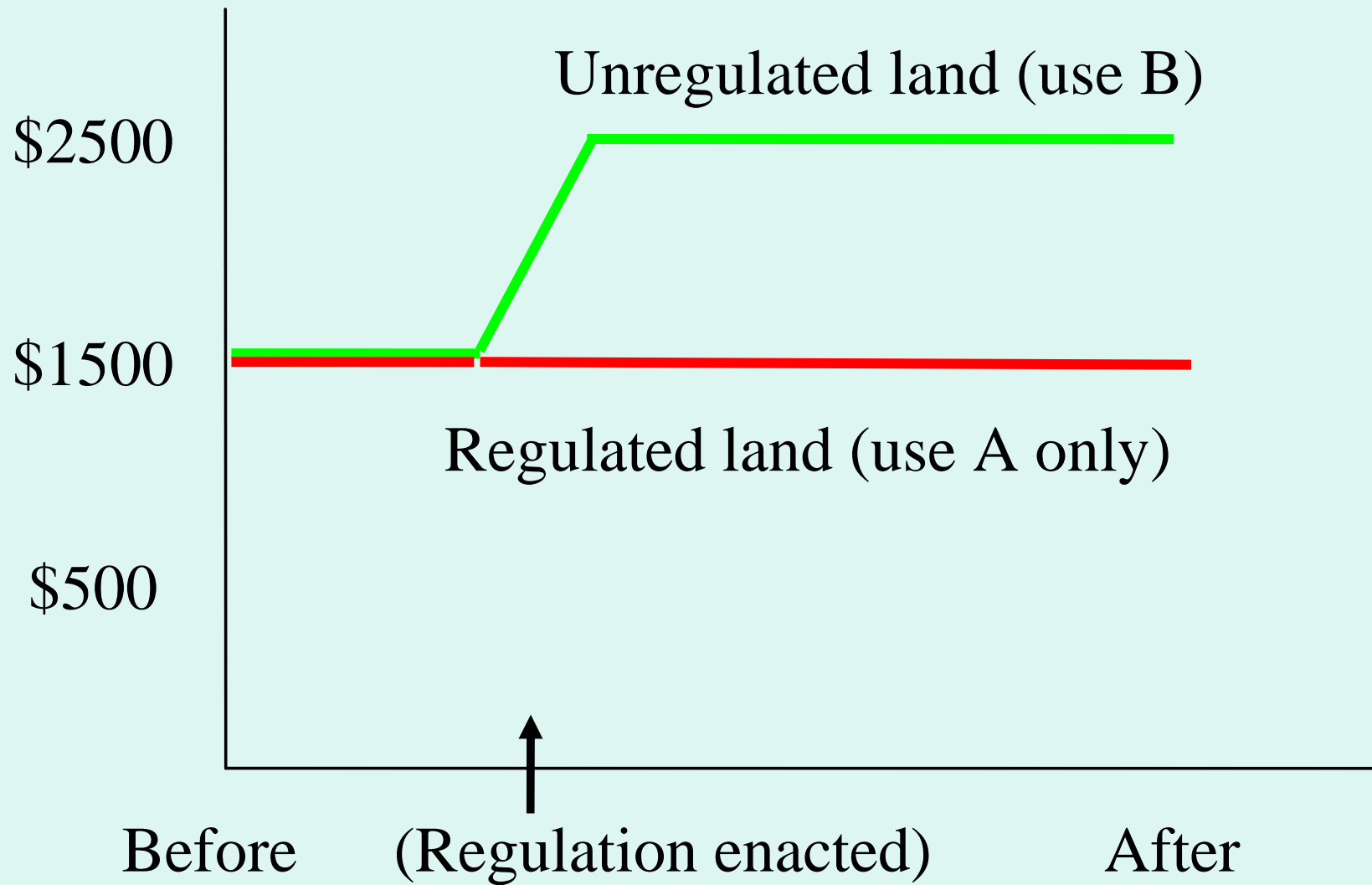
Hypothetical Illustration used by Oregonians In Action in state Supreme Court brief



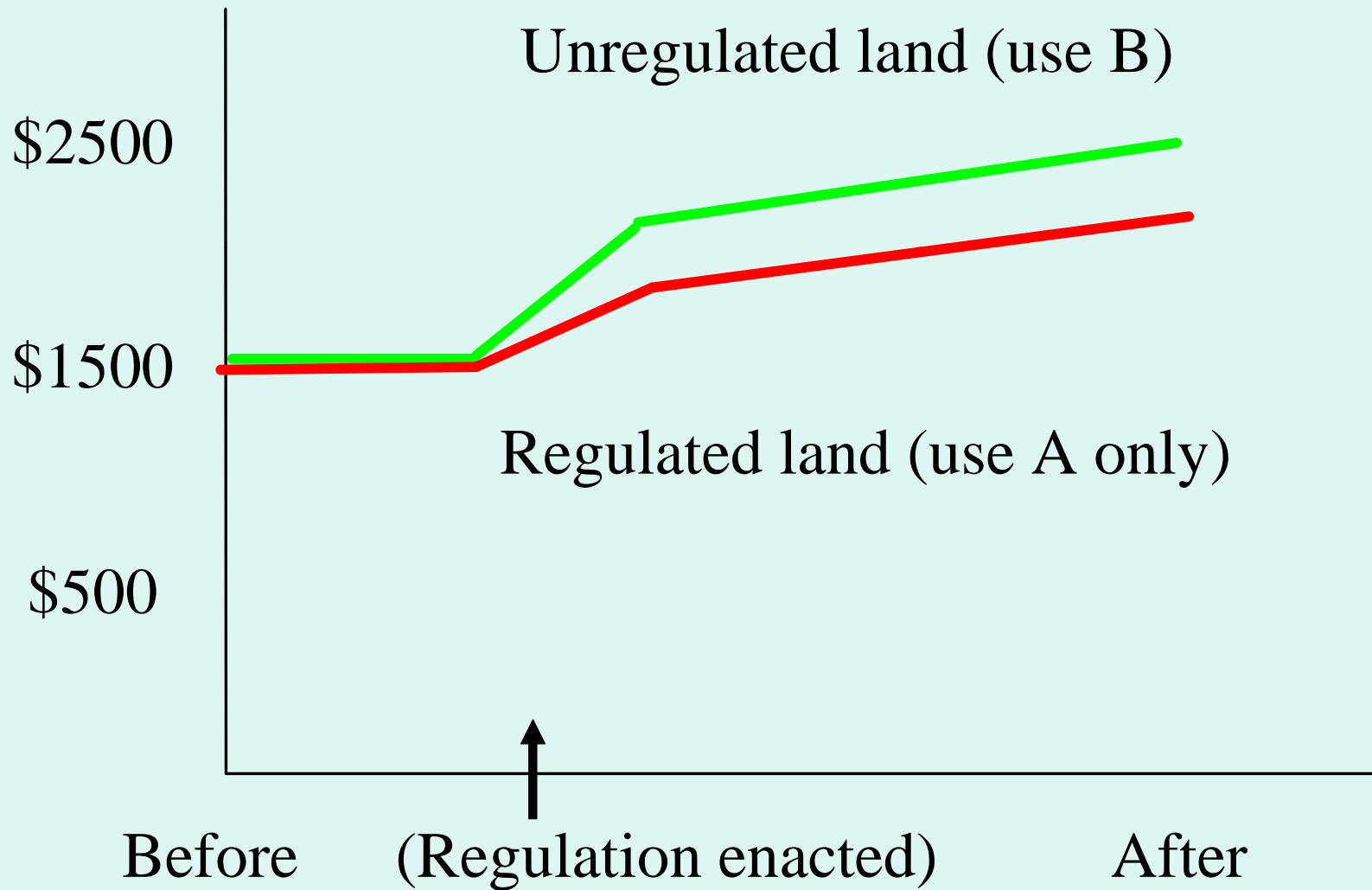
Hypothetical Illustration -- more plausible version



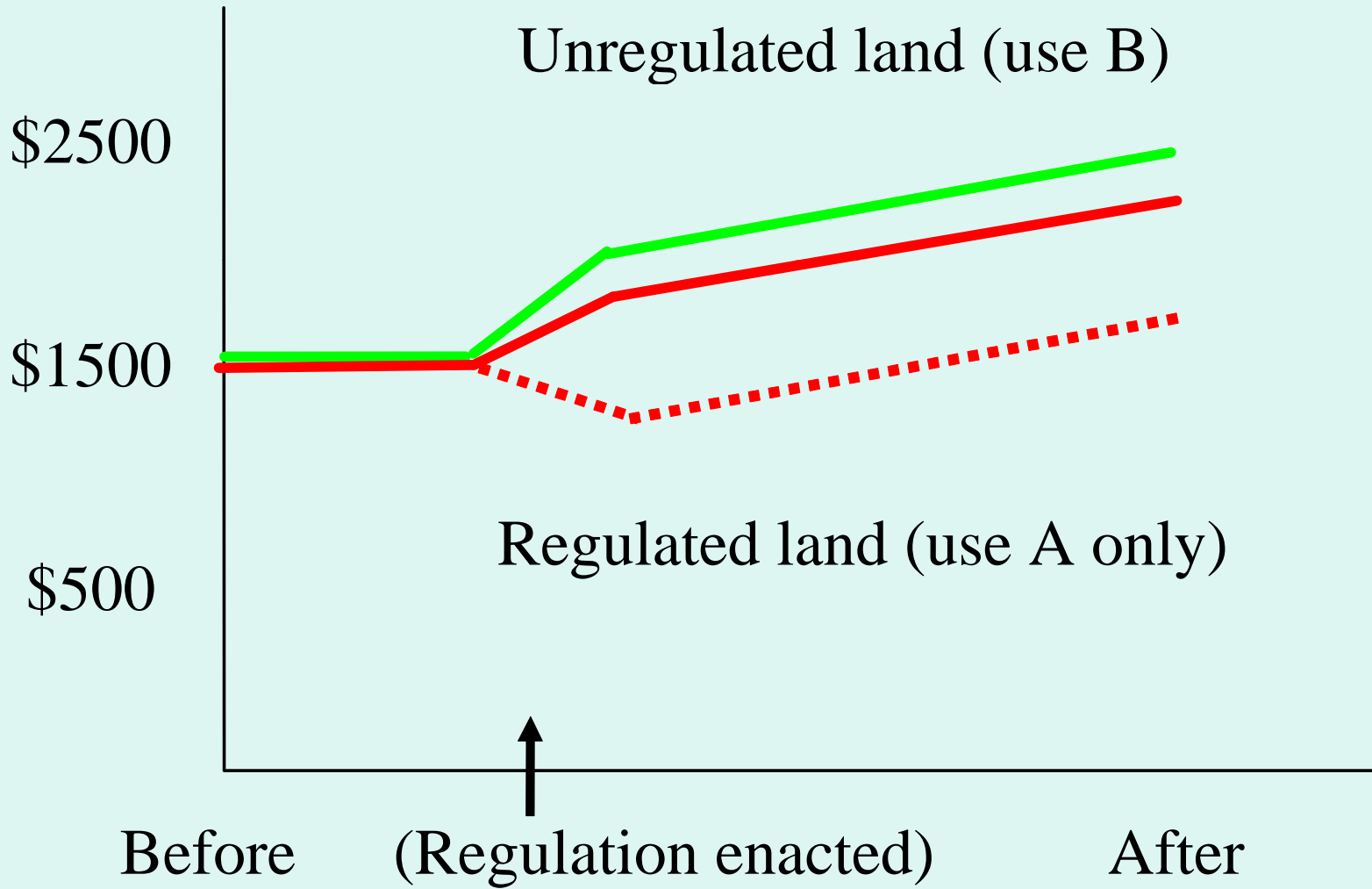
Hypothetical Illustration -- another plausible version



Hypothetical Illustration – one more plausible version



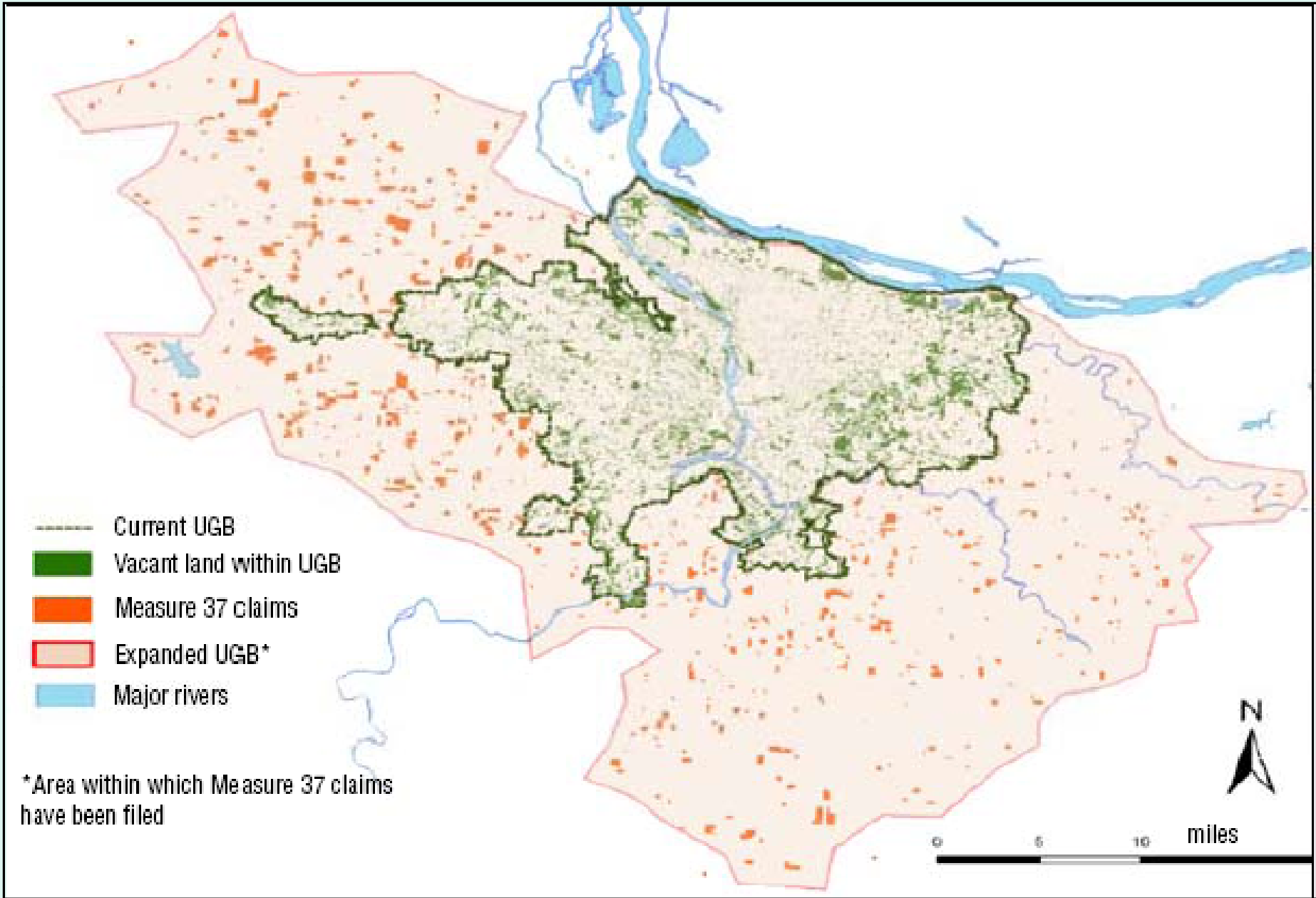
Hypothetical Illustration – more alternatives



Two practical alternatives:

#1: “Single Exemption” (removal from one property only)

- Estimates windfall gains not reduction in value
- Will always be positive
- Will greatly exaggerate “reductions in value”



Taking Portland claims at face value:

If you removed these regulations:

- Developed area grows to 3.6 times current size
- 650,000 new acres are developed
- New developed land bought at \$40,000/acre
- Total new land value: \$26 **billion**

Alternative method:

#2 “Before-and-After” (compare value before with value after)

- Based on valid economic reasoning
- Will produce “correct result” most of the time
- Will produce incorrect result in some cases

- Solution? -- “Just-before and just-after”

“Our planning system lowers the value of private property in Oregon by \$5.4 billion a year.”

– Oregonians in Action, 2004

- Over 25 years, that would add up to losses of \$5000/acre
- Surely that would be observable in data on land values in Oregon!

Empirical Study

- Samples of vacant parcels of land – in three Oregon counties, two Washington counties
- Traced land values back in time to before land use regulations (1970-2002)
- Compared trends for regulated, unregulated lands within counties, between states

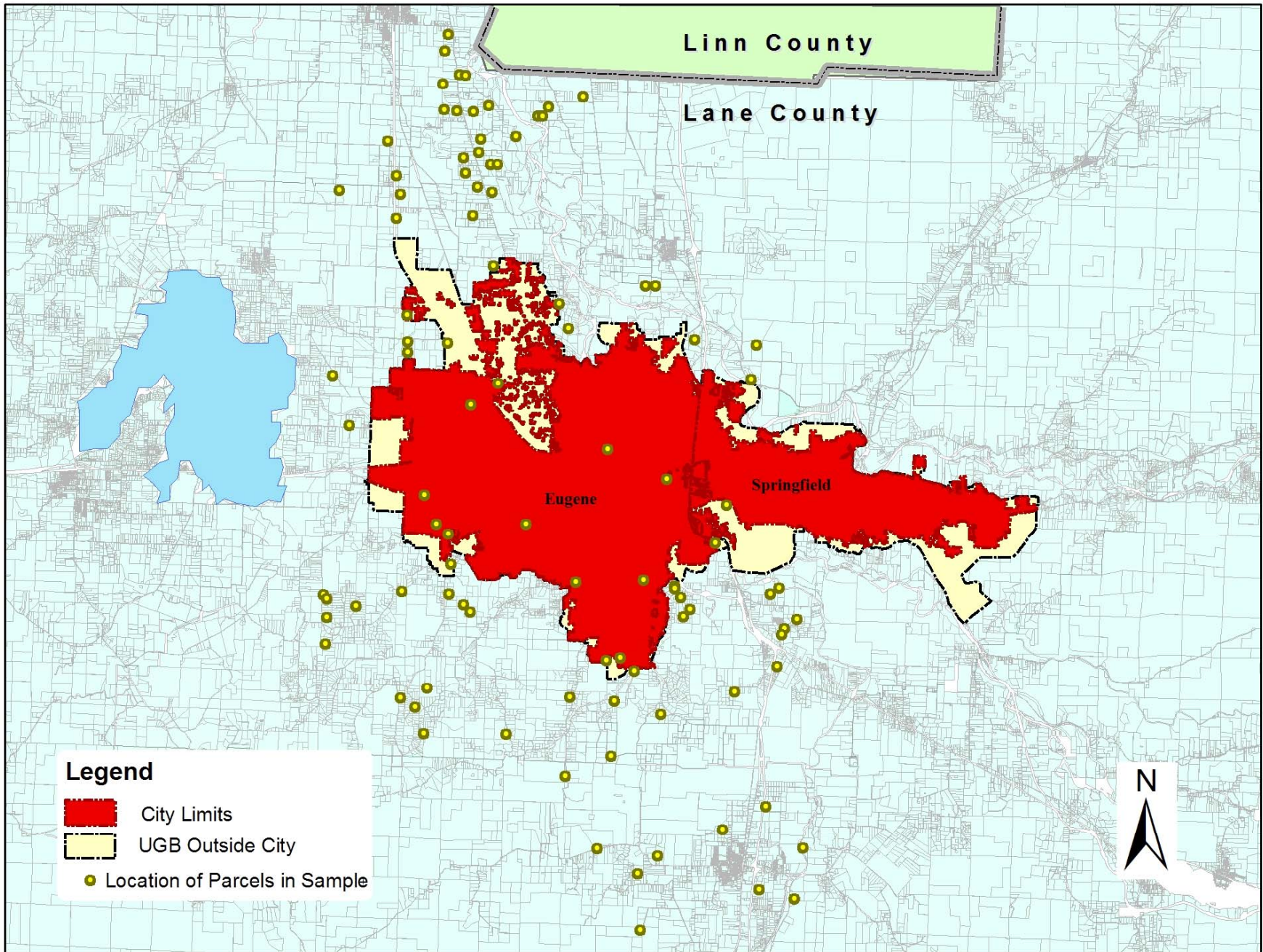


Figure 1. Property values for representative parcels in Lane County

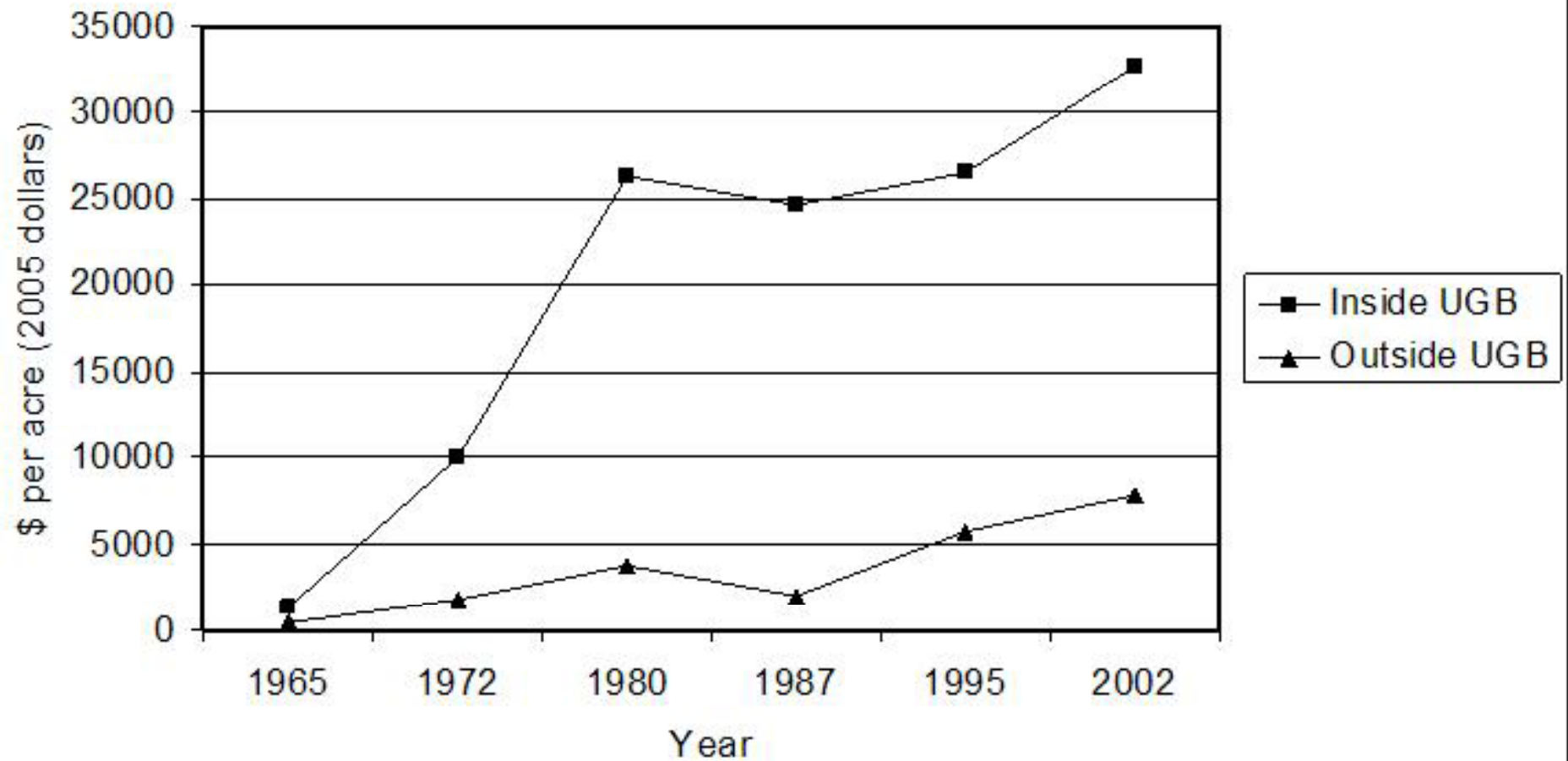


Figure 2. Property values for representative parcels in Lane County:
Index based on average 1965-1972 value

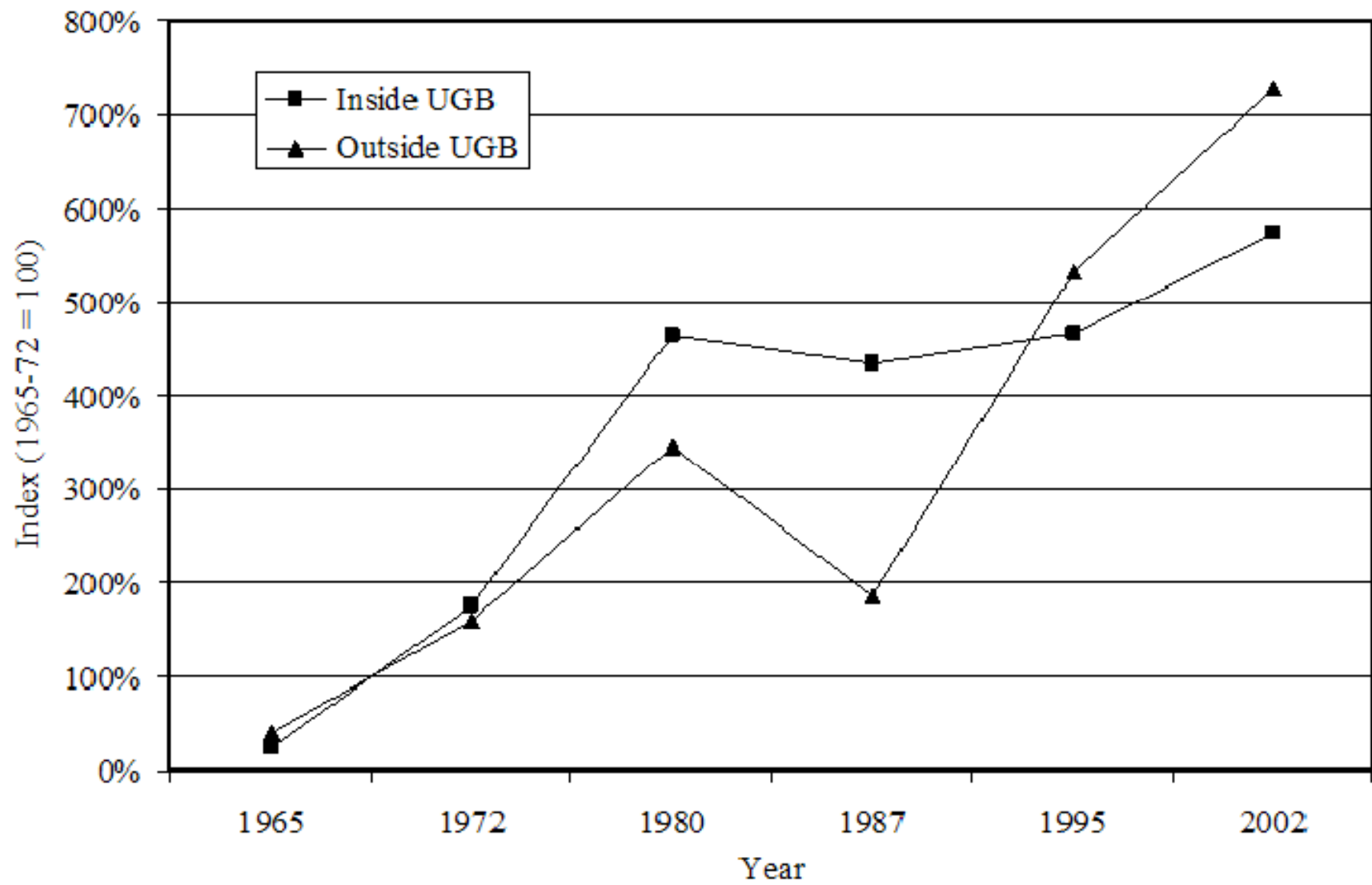


Figure 4. Property values for representative parcels in Lane County:
Index based on 1965-1972 values

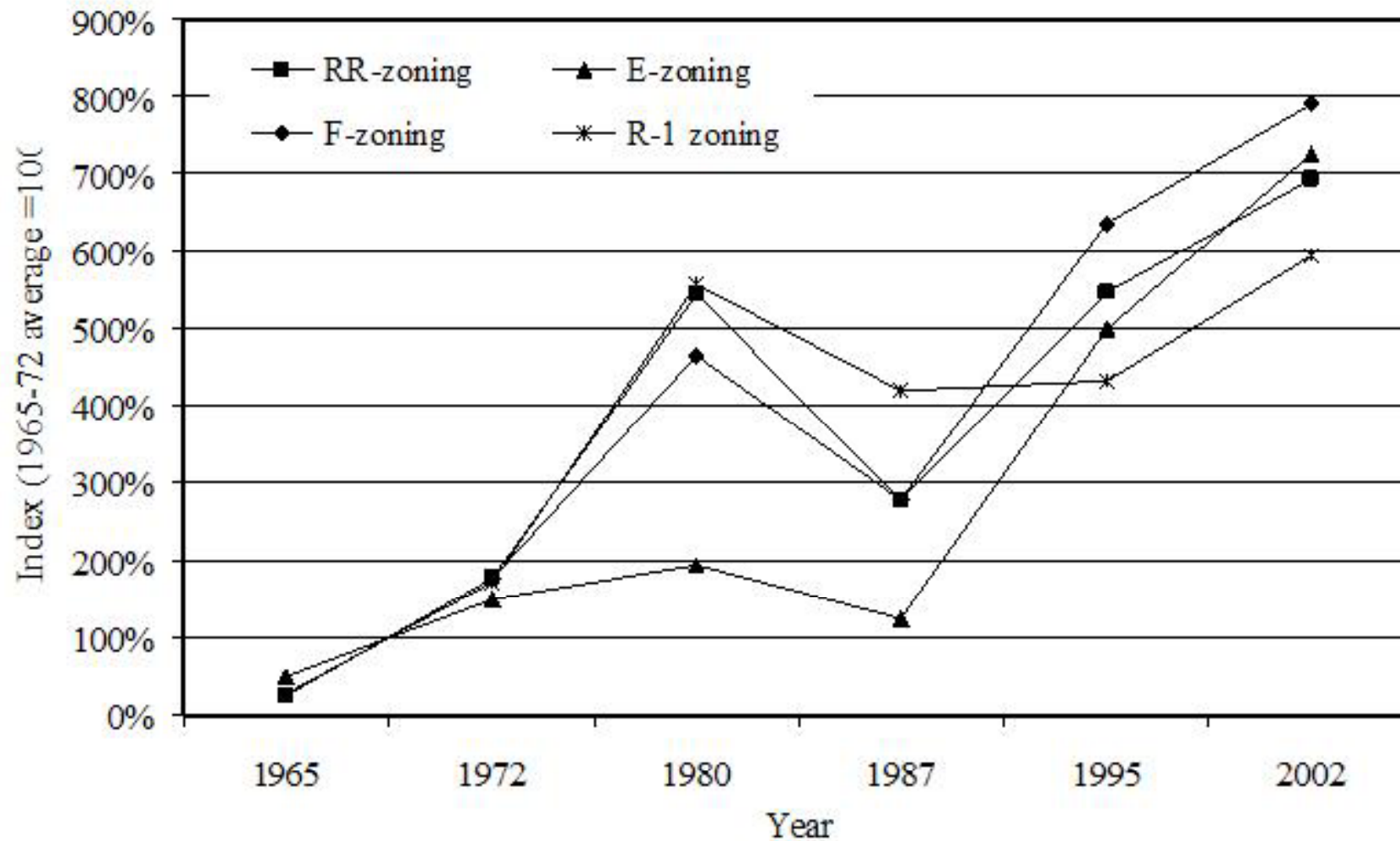


Figure 6. Values for representative parcels in Lewis County, WA.
Index (1973 value = 100)

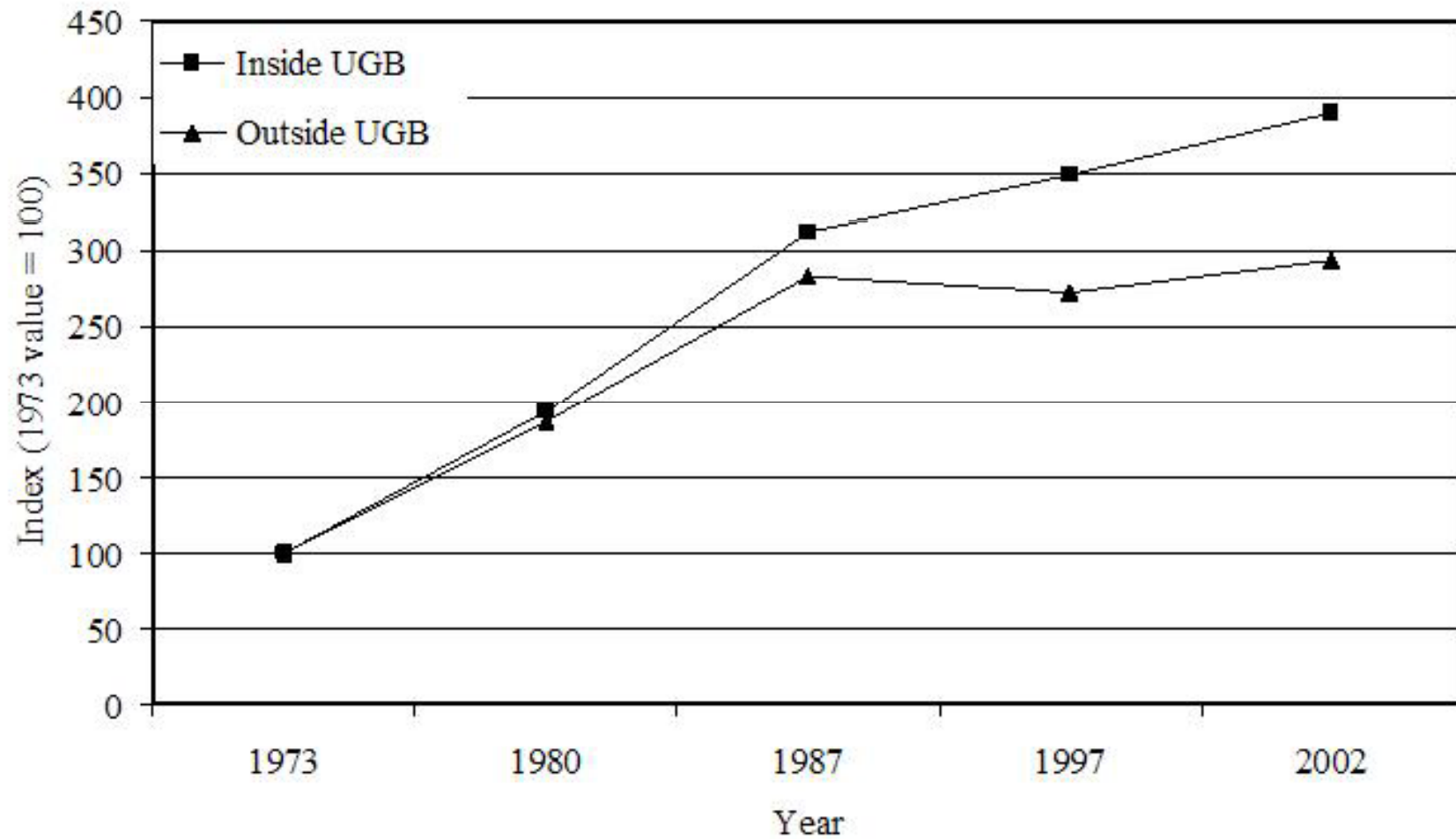


Figure 7. Values for representative parcels in Lane County, OR.
Index (1972 value = 100)

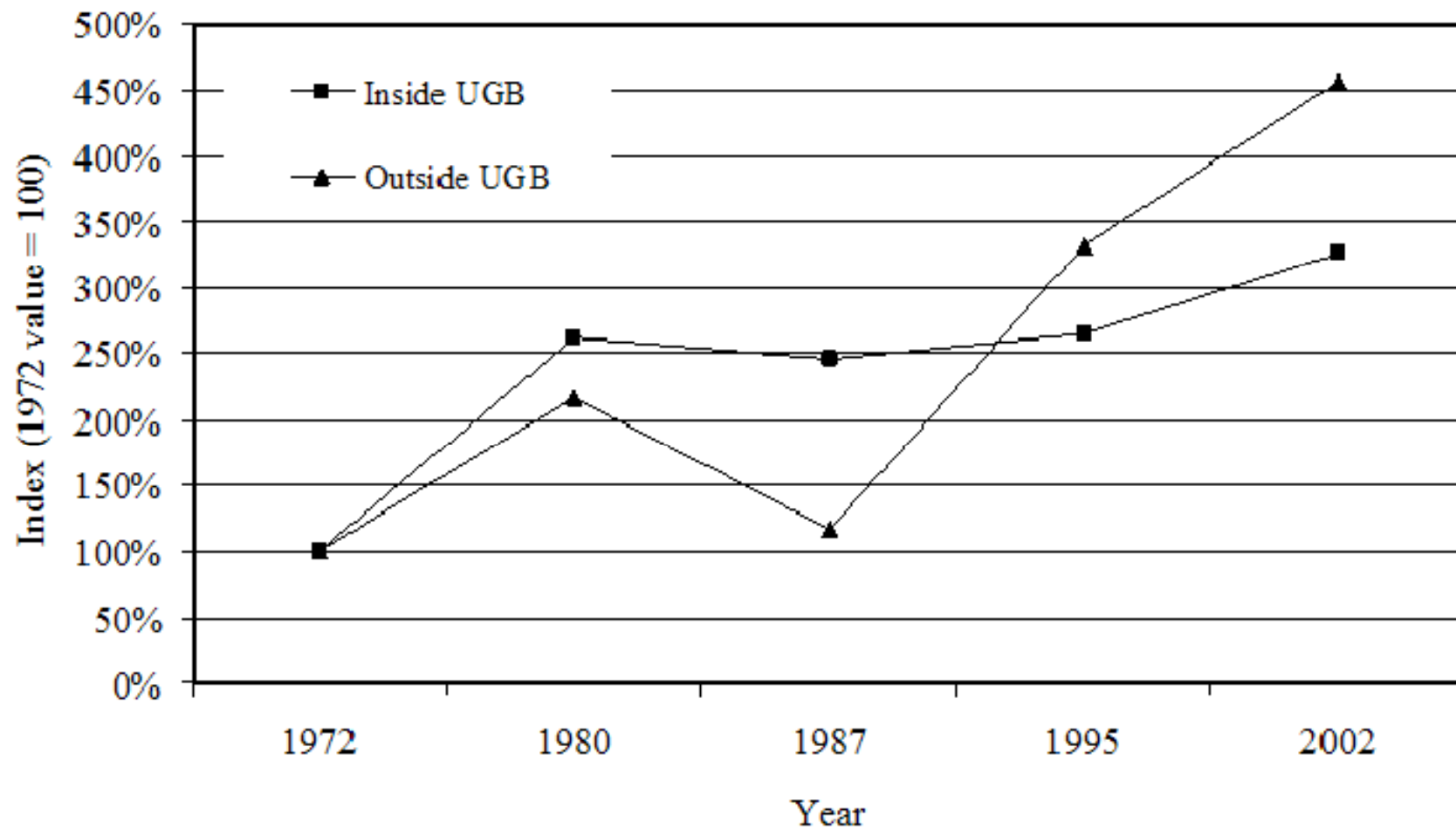


Figure 10. Property values for representative parcels in Kittitas County, by location inside and outside the UGA

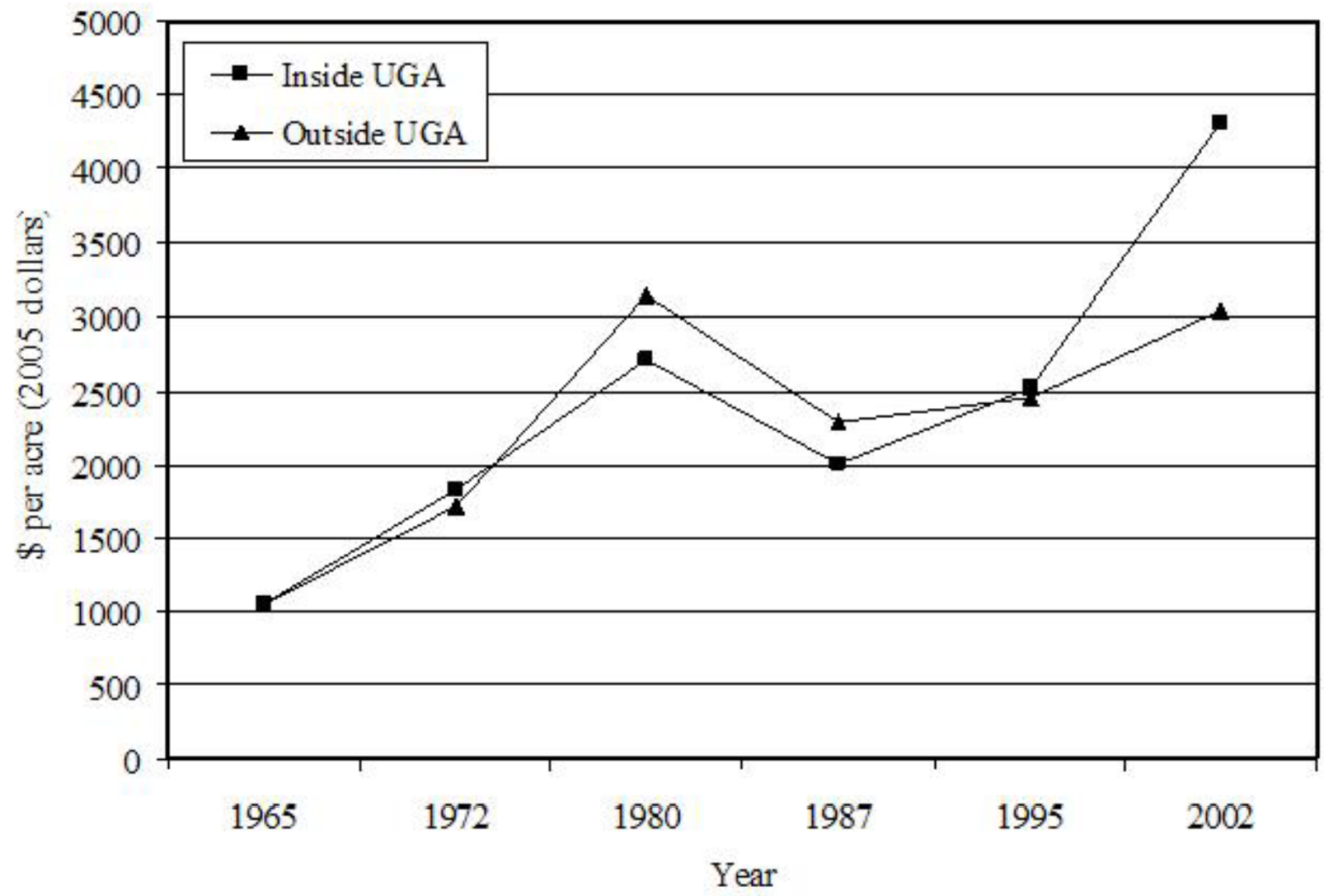
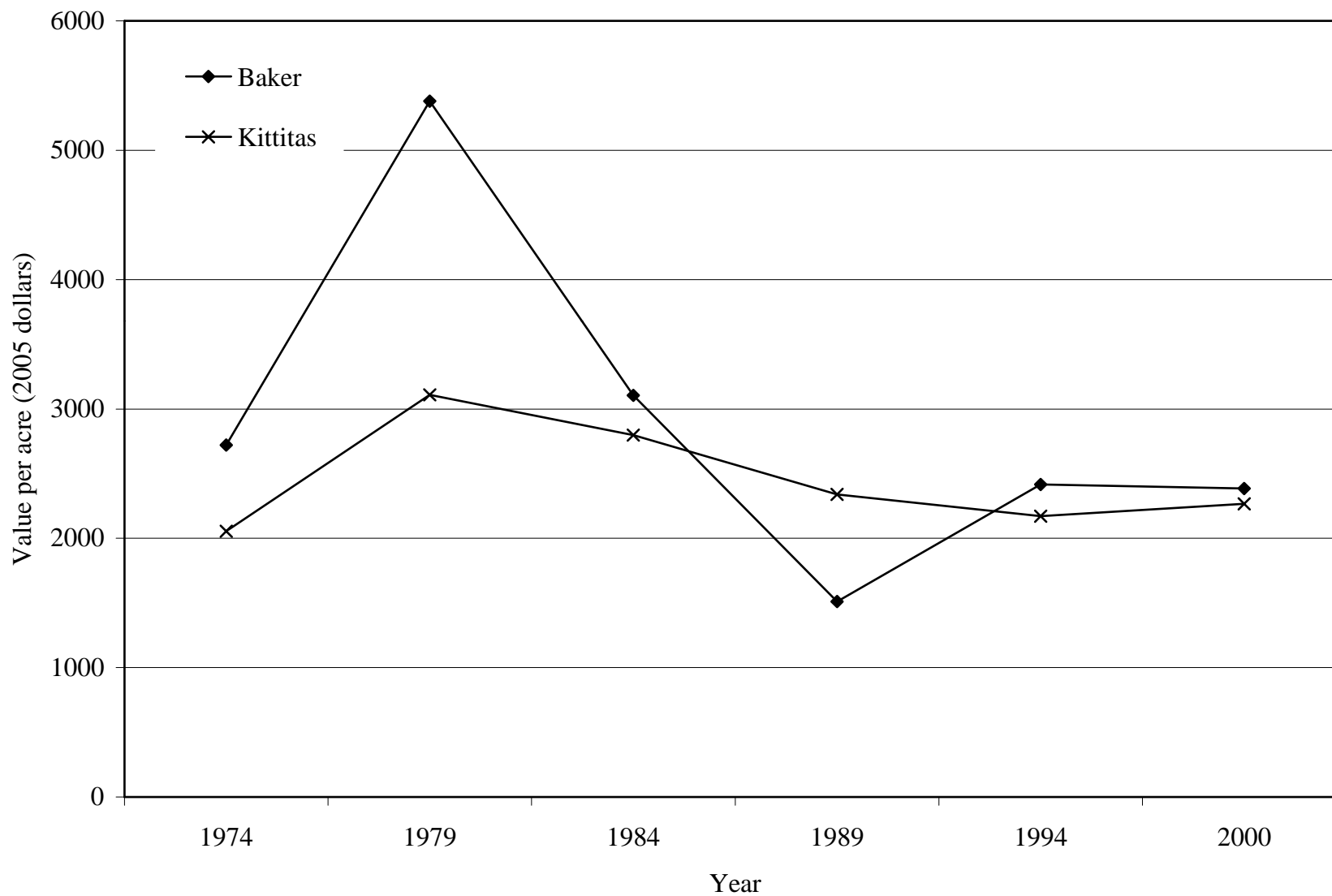


Figure 14. Growth in Median Agricultural Land values, Baker and Kittitas counties



Summary

- The “single exemption” approach to Measure 37 is not a valid way to determine “reduction in value.” It will indicate a reduction in value even if none has occurred.
- This same “single exemption” way of thinking may be the reason many landowners believe they have been harmed.
- Data on land value trends to not support the claims that Oregon’s land use system has systematically reduced the value of lands subject to these regulations.
- Oregon’s land use system, has however, created many tempting opportunities for “windfall” gains for those who can secure waivers.