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BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State
S-WARD 12:46 P.M.

In re Title and Ballot Title and Submission Clause for Initiative 2013-2014 #143 (“Required Distances from Schools in Certain Casino Gambling Jurisdictions”)

In re Title and Ballot Title and Submission Clause for Initiative 2013-2014 #144 (“Required Distances from Schools in Certain Casino Gambling Jurisdictions”)

In re Title and Ballot Title and Submission Clause for Initiative 2013-2014 #145 (“Required Distances from Schools in Certain Casino Gambling Jurisdictions”)

**MOTION FOR REHEARING
ON INITIATIVES 2013-2014 #143, #144, AND #145**

Objectors, Vickie L. Armstrong and Bob Hagedorn (jointly, “Objectors”), move (a) for a finding that no title can be set for Initiatives 2013-2014 #143, #144, and #145 (each captioned, “Required Distances from Schools in Certain Casino Gambling Jurisdictions”) (collectively, the “Proposed Initiatives”), on the grounds that (i) the Proposed Initiatives concern administrative matters not properly the subject of voter initiatives, and (ii) the Proposed Initiatives violate the single-subject requirement set forth in Article V, Section 1(5.5), of the Colorado Constitution and in C.R.S. § 1-40-106.5; or, alternatively, (b) for correction and clarification of the titles set for the Proposed Initiatives, for the reasons set forth below:

1. The Proposed Initiatives are identical, except as to the geographic radius set forth therein. Proposed Initiative #143 contains a one-mile geographic radius. Proposed Initiative #144 contains a three-mile geographic radius. Proposed Initiative #145 contains a five-mile geographic radius. Because of their substantial similarity, this motion for rehearing addresses all three of the Proposed Initiatives.

2. At a hearing conducted on April 17, 2014, the Title Board found it had jurisdiction to set titles for the Proposed Initiatives and that the Proposed Initiatives each addressed a single subject. Accordingly, the Title Board set the following titles (the “April 17 Titles”) for the Proposed Initiatives:

Proposed Initiative #143:

An amendment to the Colorado constitution to prohibit casino-style gambling, including video lottery terminals, within one mile of a public elementary, middle, junior high, or high school in jurisdictions other than those in which limited gaming was authorized prior to January 1, 2014.

Proposed Initiative #144

An amendment to the Colorado constitution to prohibit casino-style gambling, including video lottery terminals, within three miles of a public elementary, middle, junior high, or high school in jurisdictions other than those in which limited gaming was authorized prior to January 1, 2014.

Proposed Initiative #145

An amendment to the Colorado constitution to prohibit casino-style gambling, including video lottery terminals, within five miles of a public elementary, middle, junior high, or high school in jurisdictions other than those in which limited gaming was authorized prior to January 1, 2014.

3. No titles can be set for the Proposed Initiatives because the true intent and meaning of the Proposed Initiatives are to supplant by constitutional amendment the administrative discretion to issue or to renew licenses for “casino-style gambling,” which is not a proper subject of an initiated measure. *See Vagneur v. City of Aspen*, 295 P.3d 493, 507-11 (Colo. 2013); *City of Colorado Springs v. Bull*, 143 P.3d 1127, 1132-37 (Colo. App. 2006).

4. For the following reasons, the Proposed Initiatives contain more than a single subject, in violation of Article V, Section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5, and, in addition, violate the prohibition against “surreptitious measures” to “prevent surprise and fraud from being practiced on the voters.” The Proposed Initiatives relate to the following multiple subjects, among others:

(a) Establishing geographic restrictions on distances between the operation of “casino-style gambling” and public school property;

(b) Potentially nullifying Initiatives 2013-2014 #80, #81, #134, and #135 (“Objectors’ Initiatives”);

(c) Prohibiting “casino-style gambling” at Arapahoe Park, the only horse racetrack that has been conducting pari-mutuel wagering on horse races for a period of no less than five years as of January 1, 2014, as set forth in Objectors’ Initiatives, because property owned by the Cherry Creek School District for non-school purposes as a school bus depot is adjacent to Arapahoe Park’s property, *see* Exhibit A hereto, incorporated herein by reference;

(d) Allowing the intent and purpose of Objectors’ Initiatives to be frustrated with respect to authorized horse racetracks that may be located in the Counties of Mesa or Pueblo because, at any time during the five-year qualification period, any person could obtain nearby property, by lease or by purchase, to block the operation of “casino-style gambling”;

(e) Potentially forever banning any additional “casino-style gambling” in Colorado, which is a separate and hidden purpose not connected with the express purpose of prohibiting additional “casino-style gambling” within a specified distance of school property; and

(f) Prohibiting administrative issuance of a new or renewal license for “casino-style gambling,” thereby usurping the executive powers of the state.

5. Alternatively, the April 17 Titles do not fairly express the true meaning and intent of the Proposed Initiatives, and, therefore, violate C.R.S. § 1-40-106(3)(b), for the reasons set forth below:

(a) The April 17 Titles fail to disclose the multiple subjects of the Proposed Initiatives set forth in Paragraph 4 above;

(b) The April 17 Titles fail to inform voters that the references to public schools in the Proposed Initiatives are not limited to property used for education purposes and could include property used for a school bus barn, equipment storage, or other non-educational purposes; and

(c) The April 17 Titles do not disclose to voters that the Proposed Initiatives would prohibit the administrative issuance or renewal of a “casino-style gambling” license if any site at which “casino-style gambling” is proposed is within the stated distance from a school, even though such site does not include the casino itself, and even if the licensed “casino-style gambling” activity was established prior to acquisition of the school site. Such a broad prohibition could apply anywhere in the state for uses separate and apart from a casino.

6. “Casino-style gaming” and “gambling” are impermissible catch phrases or slogans.

7. For these reasons, Objectors request that the Title Board conduct a rehearing for the purpose of:

(a) Striking the April 17 Titles, and declining to set new titles for the Proposed Initiatives, on the grounds that (i) the Proposed Initiatives concern administrative matters not properly the subject of voter initiatives, and (ii) the Proposed Initiatives violate the single-subject requirement set forth in Article V, Section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5; or, alternatively,

(b) Revising the April 17 Titles to fairly express the true meaning and intent of the Proposed Initiatives.

Respectfully submitted this 23rd day of April, 2014.

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CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVES 2013-2014 #143, #144, AND #145** was sent this 23rd day of April, 2014, via first class U.S. mail, postage prepaid, to the proponents of the Proposed Initiative and their counsel of record at:

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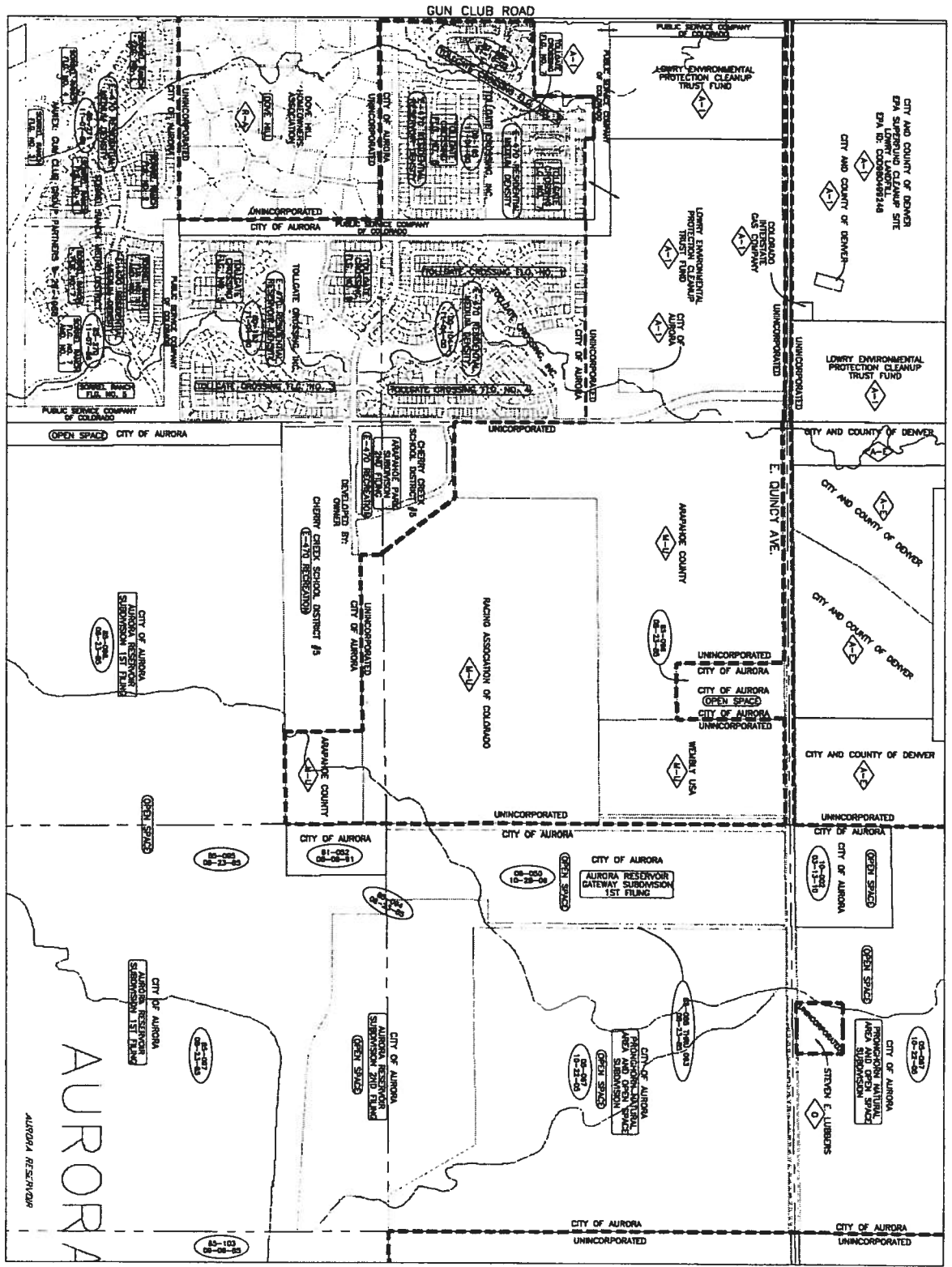
Sally Kline

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