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S. WARD

3:00 P.M.

COLORADO TITLE SETTING BOARD

Colorado Secretary of State

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION
CLAUSE FOR INITIATIVE 2017-2018 #4

MOTION FOR REHEARING

On behalf of D. Michael Kopp, registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing for Initiative 2017-2018 #4 pursuant to C.R.S. § 1-40-107, and as grounds therefore states as follows:

I. INITIATIVE #4 IMPERMISSIBLY CONTAINS MULTIPLE SEPARATE AND DISTINCT SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT.

While the measure, in the abstract, concerns limiting housing growth, it contains multiple separate subjects, in violation of section 1 (5.5) of article V of the Colorado Constitution and section 1-40-106.5, C.R.S., that allow the proponents to strategically combine separate proposals into a single measure to alleviate their potential concern that one of the subjects might fail if presented to voters alone. *See In Re Title, Ballot Title, Submission Clause for 2011-2012 #3*, 274 P.3d 562, 566 (Colo. 2012). The following separate components of the measure are distinct and without a necessary or proper connection. *See, e.g., In re Title, Ballot Title and Submission Clause for 2007-2008 #17*, 172 P.3d 871, 878 (Colo. 2007).

1. While the majority of the measure's text provides the processes and procedures through which local governments may limit housing growth, subsection (2) of the amended measure is a separate subject that directly imposes certain housing growth limits, rather than processes and procedures, on specific Front Range counties and city and counties.
2. The measure includes a fundamental change to the constitutional home rule relationship in Colorado by giving counties authority over home rule municipalities, which in essence alters the home rule provisions in article XX of the Colorado Constitution.
3. The measure contains changes to the election process as they pertain to limiting housing growth by permitting only one challenge on the petition and only one challenge for sufficiency of signatures, which alters the petition challenge and protest processes contained in article 40 of title 1, C.R.S. The changes, except for the one person who

challenges the petition or signatures, abrogate all others' rights to challenge the petitions. Therefore, these changes are such a departure from the current petition protest processes that they constitute separate subjects.

II. THE TITLE DOES NOT ADEQUATELY DESCRIBE THE MEASURE.

1. Because the measure's one percent limit on housing growth on specific Front Range counties and city and counties is the predominant feature of the measure, it should appear upfront in the title and before the initiative process changes.

III. THE TITLE AS DRAFTED IS AMBIGUOUS.

1. The title as drafted is impermissibly ambiguous because:
 - a. It is unclear in the title whether the phrase describing the prohibition on the issuance of new permits for privately owned housing units by local governments refers to: (i) the Front Range counties and city and counties in subsection (2); or (ii) all counties and city and counties in Colorado.
 - b. Highlighting the title's ambiguity, it likewise is unclear whether subsection (3) in the amended measure (subsection (4) of the original measure), which concerns prohibitions on permits to build new privately owned residential housing refers to: (i) the Front Range counties and city and counties in subsection (2); or (ii) all counties and city and counties in Colorado.

Therefore, because the title and measure use the phrase "such cities and counties" without clarity as to the specific cities and counties they are referring to, the title is ambiguous and must be redrafted.

IV. THE ABSTRACT IS MISLEADING.

1. The abstract as drafted is misleading because while the abstract states that "[l]imits on housing permits will also impact the distribution of construction employment, retail trade, and population within Colorado," this language is vague and fails to adequately indicate that the measure's housing growth limitations will necessarily negatively affect construction and retail businesses and employees in the Front Range counties and city and counties where growth would be limited.

Accordingly, the Objector respectfully requests that a rehearing be set pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 28th day of December, 2016.

/s/ Jason R. Dunn
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