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BEFORE THE COLORADO BALLOT TITLE SETTING BOARD **Colorado Secretary of State**

Scott E. Smith, Objector,

vs.

Daniel Hayes and Charlotte R. Robinson, Proponents.

**MOTION FOR REHEARING ON INITIATIVE 2019-2020 #122
("Limits on Local Housing Growth")**

Scott E. Smith ("Objector"), a registered elector of the State of Colorado, through his undersigned counsel, submits this Motion For Rehearing on Initiative 2019-2020 #122 ("#122"), pursuant to C.R.S. § 1-40-107, and states:

The Board set the following ballot title and submission clause for Initiative 2019-2020 #122 on September 4, 2019:

Shall there be a change to the Colorado Revised Statutes concerning limitations on the growth of privately owned residential housing, and, in connection therewith, permitting the electors of every city, town, city and county, or county to limit privately owned residential housing growth by initiative and referendum; permitting county voters by initiative and referendum to limit privately owned residential housing growth uniformly within the county, including all or parts of local governments within the county; for the cities and counties of Broomfield and Denver and for the counties of Adams, Arapahoe, Boulder, Douglas, Elbert, El Paso, Jefferson, Larimer, and Weld: (1) limiting privately owned residential housing growth countywide to one percent annually for the years 2021 and 2022 and for subsequent years unless amended or repealed by initiative and referendum starting in 2023; and (2) requiring said counties and cities and counties to allot permits to build new privately owned residential housing units to ensure that the annual growth rate in the total number of such units does not exceed one percent in the years 2021 and 2022; permitting fifteen hundredths of one percent additional privately owned residential housing growth in said counties and cities and counties when such housing is either affordable housing or senior housing; and establishing procedural requirements for initiatives and referenda concerning proposals for local governments to regulate the growth of privately owned residential housing?

A. Initiative #122 contains multiple subjects, contrary to Colo. Const. art. V, sec. 1(5.5).

Initiative #122 violates the single subject requirement for initiatives. *In re Title for Initiative 2001-2002 #43*, 46 P.3d 438, 448 (Colo. 2002) (changing both petitioning

procedures and substantive rights addressing matters of local concern violates single subject requirement).

#122 would: 1) enable the electors of various local governments to limit privately owned residential housing growth by initiative and referendum; 2) enable the electors of counties to limit privately owned residential housing growth uniformly in all local governments within such county by initiative and referendum; 3) limit privately owned residential housing growth to one percent annually for the years 2021 and 2022 in eleven designated Front Range counties; 4) continue that annual growth limitation after 2022 unless amended or repealed by initiative or referendum; and 5) implement signature, form and content requirements for initiative and referendum proposals regulating the growth of privately owned residential housing.

Even accepting that these provisions of #122 fall within a single subject, presumably concerning limitations on the growth of privately owned residential housing, additional provisions of the measure violate the single subject requirement, including provisions that would 1) allow additional growth (by fifteen hundredths of one percent) of privately owned residential housing that meets the measure's definition of "affordable housing"; and 2) allow additional growth (by fifteen hundredths of one percent) of privately owned residential housing that meets the measure's definition of "senior housing".

B. The title for Initiative #122 contains elements that are not accurately or adequately described in the ballot title.

1. The title fails to state that, for two years (2021-2022), there is no right of initiative or referendum on growth limits in the 11 named Front Range counties.
2. The title fails to identify what procedural requirements for initiatives and referenda are affected by this initiative.

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

Respectfully submitted this 11th day of September, 2019.

s/ Thomas M. Rogers III
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CERTIFICATE OF SERVICE

I, Erin Holweger, hereby affirm that a true and accurate copy of the Motion For Rehearing for Initiative 2019-2020 #122, was sent this 11th day of September, 2019 by U.S. Mail, postage prepaid, to proponents at:

Daniel Hayes
5115 Easley Rd
Golden CO 80403

Charlotte R. Robinson
8300 Fairmount Dr. Unit L-104
Denver, CO 80247

s/ Erin Holweger _____