

From: [Cory Gaines](#)
To: [Statewide Initiatives](#)
Subject: [EXTERNAL] Request for rehearing on Initiative #3 (so-called "Attainable Housing Fee")
Date: Tuesday, December 27, 2022 4:32:05 PM

My name is Cory Gaines. I am registered voter and a resident of Logan County.

I would like to file an official request for a rehearing by the Title Board on Initiative #3 (the "Establishment of a New Attainable Housing Fee"), originally heard on the 21st of December.

The first reason I am calling for a rehearing is one of basic fairness. I was at the meeting on the 21st of December and wished to give my thoughts to the Title Board. I am not alleging that I was silenced, but due to inexperience or technical issues (and despite my best attempts) I was not able to speak. I wonder if I was not alone in this. If people are trying to speak up and unable, I think another hearing is the fair thing to do. Give everyone another shot if they missed the first chance due to technical problems, particularly those like myself who live far away (on the Eastern Plains in my case), and for whom a phone might be the only feasible method of joining the meeting.

As to the issues relating to the proposed initiative itself, I would like to highlight two things that I think need to be addressed in the language of the initiative. These are things I would have mentioned on the 21st.

First, as general citizen who is not a lawyer, it took me a long time to get to the bottom of what this initiative is trying to do. I read a whole lot of things on the first page. I read about firemen, teachers (of which I am one), businesses succeeding, climate change, diversity, and so on. It isn't until well down in the language that I see anything related at all to what I'm voting for. I'm voting to enable the government to tack on extra money that I'd have to pay them to help make "attainable" housing for people. Shouldn't this be higher up in the language? After all, I'm all for rooting for teachers like myself, but at the end of the day, what I'd like to know first since it will materially affect my life is whose hand is out and what they're asking for.

As for "attainable", I quibble with this word choice and would ask you to revisit it. Attainable might mean different things to different people. When I moved out to Sterling to teach at the College out here, attainable at that point meant that I could afford the house payments entirely on my income based on the fact that I wanted my wife to have the choice and freedom to stay home (or not) with our baby when we had one without selling her condo in Denver. Attainable could have also meant that we chose to stretch ourselves slightly and buy a bigger house with the thought that, baby or no, she'd either have to work or sell her condo. Therein lies the problem. For everyday people who read this initiative and/or who don't go past the title, attainable is going to inevitably carry the connotation that without this fee there will be people having to do without a home. That's a false choice, a forced dilemma. There are housing options now that are attainable by many quite comfortably that fall outside the definition in the initiative. Either you should make their definition part of the wording at the beginning or you should pick a different word than attainable which doesn't carry the same baggage with it.

Second, a fair bit of time is spent by proponents of the initiative in delineating that this is a fee and not a tax. I realize that it is not the Title Board's decision to weigh in on the constitutionality of that choice or the wisdom of it. I do think, however, that for the everyday

person who is not well versed in legalese, the language in the initiative should better reflect an everyday understanding of how our Colorado Supreme Court has distinguished the two. If a fee is defined as something with a specific purpose, that's fine, but the language here should have some consistency.

The language in the initiative should clearly state (and close to the top) that this money will not be subject, in any way whatsoever, to TABOR limits and if it exceeds what is needed citizens will not be getting the excess back.

The language in the initiative should also clearly state in what way 5% of the fee is given back to clerks with no guidance on how this is spent is different than the taxes they're used to. When I hear that 5% of government money goes back to a clerk without it being earmarked, the first thing I ask myself is why is it that the sale of a \$400K house would require more effort to enact than the sale of a \$350K house. Should be the same amount of work by the clerk, no? Why then is a fee done on a percentage? Next I ask myself, if it is a fee and the take exceeds the effort required, what will that excess cover? Other transfers?

A fee, in the sense that our courts define it, suggests something like a car registration where my tiny 97 Geo Prism costs less because (presumably) it does less damage to the road than a giant Ford F-250 truck which pays more. Is that the same here with the 5% fee that scales with the price of the home? That needs some clarity and explanation as to how this qualifies as a fee.

Depending on the hearing date and whether or not classes have resumed, I would like a chance to be able to flesh out these ideas and/or to answer any questions that the Board has if you hold a rehearing. Please be aware that if I attend, my phone will be 303-217-6782. In the meantime, if you have questions PRIOR to setting another meeting, please feel free to email or call.

Thank you for your time,

Cory