

Cheryl Hammack

From: Greg and Rebecca Sopkin <grsop@msn.com>
Sent: Wednesday, December 28, 2022 2:21 PM
To: Statewide Initiatives
Subject: [EXTERNAL] Motion for Rehearing

COLORADO TITLE SETTING BOARD

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE FOR INITIATIVE
 2022-2023 #3

MOTION FOR REHEARING

On my own behalf, as a registered elector of the State of Colorado, the undersigned hereby submits this Motion for Rehearing for Initiative 2022-2023 #3 - Establishment of a New Attainable Housing Fee, pursuant to Section 1-40-107, C.R.S., and as grounds therefore states as follows:

I. THE TITLE BOARD DOES NOT HAVE JURISDICTION TO SET A TITLE FOR INITIATIVE #3 AS A STATUTORY INITIATIVE AS INITIATIVE #3 ATTEMPT TO RAISE TAXES CANNOT BE VALIDLY DONE WITHOUT AMENDING THE COLORADO CONSTITUTION

Initiative 2022-2023 #3 - Establishment of a New Attainable Housing Fee uses the term “fee,” rather than “tax” in order to attempt to avoid the requirement that a tax increase be done within the terms of the Colorado Constitution, including requiring an amendment of the Constitution.

It is well establishing in caselaw, including the cases cited by the Initiative’s proponents, that a fee is required to “defray the expenses of the particular service for which the fee is imposed.” TABOR v. Colo. Bridge Enterprise 353 P.3d 896 (quoting Bloom 784 P.2d 304, 308). The particular service for which the fee is imposed under Initiative #3 is “the recording of each deed” (proposed C.R.S. 29-4-1203(1)(a)). There is no rational basis for tying the expense of recording a deed to the value of the property at issue. There is also no valid way to claim that the 95% of the revenue obtained from the percentage charge which is to be put into a newly created “Colorado Attainable Housing Fund” is in any way “defraying the expenses of the particular service for which the fee is imposed.

II. INITIATIVE #3 IMPERMISSIBLY CONTAINS MULTIPLE SEPARATE AND DISTINCT SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT.

This Initiative impermissibly contains multiple subjects, thus depriving the Title Board of jurisdiction to set a title. The Initiative contains a number of terms so broad as to leave any possible number of unrelated subjects to be brought into its purview in the future. The revenue raised can be used for “any new or existing programs that support” a large range of different activities including “the construction, maintenance, rehabilitation or

repair” of housing, and the “provision of financial assistance” for the same. (proposed C.R.S. 29-4-1203(4)(b)).

II. THE TITLE SET FOR INITIATIVE #3 NEGLECTS TO INCLUDE ANY MENTION OF RENTAL PROPERTY WHICH THE PROPOSED STATUTORY CHANGE CLEARLY INCLUDES

The proposed statutory change includes “for rental purposes “(proposed C.R.S. 29-4-1203(4)(a)) but the proposed title does not references rental property in any way.

CONCLUSION

Accordingly, the Objector respectfully requests that this Motion for Rehearing be granted and a rehearing set pursuant to Section 1-40-107(1), C.R.S.

Respectfully submitted this 28th day of December, 2022.

/s/Rebecca R. Sopkin

Rebecca R. Sopkin
Attorney at Law, #20998
720 Kipling St. #12
Lakewood, CO 80215
303/946-2299
grsop@msn.com