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BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

S.WARD 2:56 P.M.

Holly Tarry, Objector,

vs.

George Brown and Juliet Piccone, Proponents.

MOTION FOR REHEARING ON INITIATIVE 2013-2014 #68

Holly Tarry, through legal counsel, Recht Kornfeld P.C., objects to the Title Board's title and ballot title and submission clause set for Initiative 2013-14 #68 ("Restrictions on Pet Animal Euthanasia").

On April 2, 2014, the Board set the following ballot title and submission clause:

SHALL STATE TAXES BE INCREASED \$6,275,000 ANNUALLY IN THE FIRST FISCAL YEAR AND BY SUCH AMOUNTS THAT ARE RAISED THEREAFTER BY IMPOSITION OF A FEE ON SALES OF PET ANIMALS TO FUND PROGRAMS AND SERVICES TO ADDRESS PET OVERPOPULATION, AND, IN CONNECTION THEREWITH, AMENDING THE COLORADO REVISED STATUTES TO PROHIBIT PET ANIMAL CARE FACILITIES FROM EUTHANIZING HOMELESS PETS EXCEPT IN LIMITED CIRCUMSTANCES; IMPOSING A MONETARY PENALTY FOR EACH VIOLATION OF THE EUTHANASIA PROHIBITION, ALLOWING PERSONS TO BRING COURT ACTIONS TO ENFORCE COMPLIANCE WITH AND PENALIZE VIOLATIONS OF THE EUTHANASIA PROHIBITION, AND USING CERTAIN FEES AND PENALTIES COLLECTED TO MAKE GRANTS FOR PROGRAMS AND SERVICES TO ADDRESS PET OVERPOPULATION?

ADVISORY GROUNDS FOR RECONSIDERATION

A. The Board lacks jurisdiction to set a title for #68 under C.R.S. § 1-40-105(4)

The measure's designated representatives failed to provide to the Title Board and the public a properly "amended" version of their initiative. Specifically, their amended version, received by

the Secretary of State on March 20, 2014 at 11:45 a.m., is incomplete, inaccurate, and confusing in showing what language was deleted and what language was added. *In the Matter of the Title, Ballot Title and Submission Clause, and Summary for Initiative 1997-97 #109, 962 P.2d 252* (Colo. 1998).

B. The title is misleading and confusing, in violation of C.R.S. §§ 1-40-106, -107 for the following reasons:

1. As a matter of law and this Board's wording of the title, the charge imposed is a "tax" not a "fee" and should be so described (i.e., "IMPOSITION OF A TAX ON SALES OF PET ANIMALS...").
2. The title fails to state that the new tax applies to "all" pet animal sales in the state.
3. The title fails to state that the new tax is 15% of the sales price.
4. The title fails to state that the measure transfers ownership of pet animals left at shelters and makes them the property of the shelter or pet animal rescue.
5. The title fails to state that the measure allocates liability for harm caused by pet animals transferred by animal shelters or animal rescues.
6. The title incorrectly states that it applies to "homeless pets."
7. "Homeless pet" is not a phrase defined or used in the measure and is misleading.
8. "Homeless pet" is a political rather than informative statement.
9. The title fails to state that, in a private right of action, the plaintiff may seek penalties of not less than \$1,000 as well as damages, restraining orders, injunctions, and attorney fees.

RESPECTFULLY SUBMITTED this 9th day of April, 2014.

RECHT KORNFELD, P.C.



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Objector's Address:

2202 Nancy Gray Ave
Fort Collins, CO 80525

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2013-2014 #68** of Holly Tarry was sent this day, April 9, 2014, via first class U.S. mail, postage pre-paid to the proponents at:

George Brown
PO Box 460805
Aurora, CO 80046

Juliet Piccone
PO Box 472364
Aurora, CO 80047


