

SUPREME COURT, STATE OF COLORADO

2 East 14th Avenue
Denver, Colorado 80203

ORIGINAL PROCEEDING PURSUANT TO
§ 1-40-107(2), C.R.S. (2007)

Petitioner:

Robert Golden, Objector,

v.

Respondents:

Nedra San Fillippo and Kenneth Hoagland, Proponents,

v.

Title Board:

William Hobbs, Sharon Eubanks, and Daniel Domenico

Attorneys for Petitioner:

Jason R. Dunn
BROWNSTEIN HYATT FARBER SCHRECK LLP
410 Seventeenth Street, Suite 2200
Denver, CO 80202-4432
Tel: 303.223.1100
Fax: 303.223.1111
jdunn@bhfs.com

Case Number:

08SA193

FILED IN THE
SUPREME COURT

JUN - 3 2008

OF THE STATE OF COLORADO
SUSAN J. FESTAG, CLERK

▲ COURT USE ONLY ▲

**PETITION FOR REVIEW OF FINAL ACTION OF THE TITLE
SETTING BOARD CONCERNING PROPOSED INITIATIVE
2007-2008 #103**

Pursuant to section 1-40-107(2), Robert Golden, though the undersigned counsel, respectfully petitions this court to review the title, ballot title, and submission clause set by the Ballot Title Setting Board for Proposed Initiative 2007-2008 #103 ("Colorado Housing Investment Fund").

I. ACTION OF THE TITLE BOARD

The Title Board conducted its initial public hearing and set the title for Initiative #103 on May 21, 2008. Petitioner subsequently filed a timely Motion for Rehearing on May 28, 2008. The Title Board considered the motion at its May 29, 2008 hearing and, with the exception of making changes to the title not requested by Petitioner, denied the motion. Petitioner now seeks review of the Title Board's action under section 1-40-107(2).

II. ISSUES PRESENTED FOR REVIEW

- A. Initiative #103 contains at least five separate subjects that bear no necessary or proper connection to each other. Did the Title Board err in approving this measure under Colorado's single-subject requirement?
- B. Did the Title Board err in setting a ballot title for Initiative #103 that fails to disclose major provisions of the measure, includes a catch phrase, and is otherwise vague and misleading?

III. SUPPORTING DOCUMENTATION

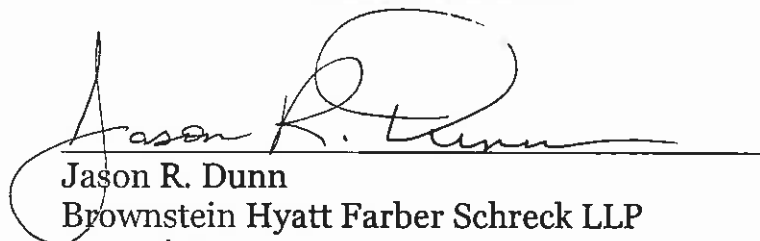
As required by section 1-40-107(2), attached is a certified copy of the petition with the title and submission clause of the proposed measure, a certified copy of the Motion for Rehearing, and final action by the Title Board.

IV. RELIEF REQUESTED

Petitioner respectfully requests that the court reverse the Title Board's denial of the Motion for Rehearing and find that Initiative #103 violates the single subject requirement. Alternatively, Petitioner requests that the court find that the ballot title is impermissibly misleading and vague, and either remand to the Title Board for redrafting or redraft the title consistent with the concerns expressed in Petitioner's forthcoming Opening Brief.

Respectfully submitted this 3rd day of June, 2008

BROWNSTEIN HYATT FARBER SCHRECK LLP

A handwritten signature in black ink, appearing to read "Jason R. Dunn", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

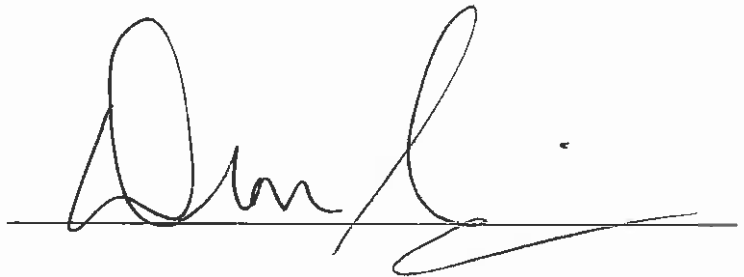
Jason R. Dunn
Brownstein Hyatt Farber Schreck LLP
410 17th Street, #2200
Denver, Colorado 80202
(303) 223-1100
(303) 223-0914
jdunn@bhfs.com
Attorneys for Robert Golden

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2008, a true and correct copy of this PETITION
FOR REVIEW was delivered via U.S. Mail to the following:

Blain Myhre, Esq.
Isaacson Rosenbaum, P.C.
633 17th Street, #2200
Denver, Colorado 80202

Maurice Knaizer, Esq.
Assistant Attorney General
1525 Sherman Street, 7th Floor
Denver, CO 80203

A handwritten signature in black ink, appearing to read "Maurice Knaizer", is written over a horizontal line. The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.



STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **MIKE COFFMAN**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the text, motions for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2007-2008 #103".

.....

..... **IN TESTIMONY WHEREOF** I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 2nd day of June, 2008.

SECRETARY OF STATE

RECEIVED

MAY 09 2008

ELECTIONS
SECRETARY OF STATE

FINAL

#103

Be it Enacted by the People of the State of Colorado:

SECTION 1. The constitution of the state of Colorado is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE XXX
COLORADO HOUSING INVESTMENT FUND**

Section 1. Purpose and findings. AS SAFE, DECENT, ACCESSIBLE, AND AFFORDABLE HOUSING CREATES A FOUNDATION FOR FAMILY STABILITY, EDUCATIONAL ACHIEVEMENT, PERSONAL HEALTH, COMMUNITY SUSTAINABILITY, AND ECONOMIC DEVELOPMENT, IT IS THE INTENT OF THE VOTERS OF COLORADO TO ESTABLISH A HOUSING INVESTMENT FUND TO PROVIDE A DEDICATED, STATEWIDE SOURCE OF REVENUE TO SUPPORT THE CREATION AND PRESERVATION OF AFFORDABLE HOUSING OPPORTUNITIES FOR RESIDENTS OF THE STATE FROM VERY LOW-INCOME HOUSEHOLDS, LOW-INCOME HOUSEHOLDS, AND WORKFORCE HOUSEHOLDS, INCLUDING, BUT NOT LIMITED TO, PERSONS WITH SPECIAL NEEDS AND THE HOMELESS.

Section 2. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AFFORDABLE HOUSING" MEANS HOUSING WHERE TOTAL HOUSING COSTS, COMPRISED OF EITHER RENT, RENTER'S INSURANCE, AND UTILITIES OR MORTGAGE PAYMENTS, HOMEOWNER'S INSURANCE, PROPERTY TAXES, DUES TO A HOMEOWNERS' ASSOCIATION, LAND LEASE PAYMENTS, AND UTILITIES, REPRESENT NO MORE THAN THIRTY PERCENT OF GROSS HOUSEHOLD INCOME.

(2) "AFFORDABLE HOUSING STOCK" MEANS SAFE AND SANITARY SHELTERS, TRANSITIONAL HOUSING, PERMANENT SUPPORTIVE HOUSING, AFFORDABLE RENTAL OR AFFORDABLE OWNERSHIP UNITS, AND HOUSING FOR PEOPLE WITH SPECIAL NEEDS.

(3) "AREA MEDIAN INCOME" HAS THE SAME DEFINITION AS MAY BE PROMULGATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY SUCCESSOR AGENCY.

(4) "FUND ADMINISTRATOR" MEANS THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS OR ANY SUCCESSOR AGENCY.

(5) "HOUSEHOLD" MEANS ALL THE PERSONS WHO OCCUPY A HOUSING UNIT.

(6) "LOW-INCOME HOUSEHOLD" MEANS A HOUSEHOLD WHOSE INCOME IS AT OR BELOW EIGHTY PERCENT OF THE AREA MEDIAN INCOME OR SUCH OTHER DEFINITION AS MAY BE PROMULGATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY SUCCESSOR AGENCY.

(7) "VERY LOW-INCOME HOUSEHOLD" MEANS A HOUSEHOLD WHOSE INCOME IS AT OR BELOW FIFTY PERCENT OF THE AREA MEDIAN INCOME OR SUCH OTHER DEFINITION AS MAY BE

PROMULGATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR ANY SUCCESSOR AGENCY.

(8) "WORKFORCE HOUSEHOLD" MEANS A HOUSEHOLD WITH AT LEAST ONE PRIMARY WAGE EARNER WORKING IN A COMMUNITY OR REGION WITH A DOCUMENTED SHORTAGE OF HOUSING THAT IS AFFORDABLE TO ITS WORKERS AND WHOSE HOUSEHOLD INCOME IS AT OR BELOW ONE HUNDRED TWENTY PERCENT OF THE AREA MEDIAN INCOME.

Section 3. Colorado housing investment fund – creation – use and allocation of moneys from the fund. (1) TO PROVIDE AFFORDABLE HOUSING OPPORTUNITIES FOR RESIDENTS OF THE STATE FROM VERY LOW-INCOME HOUSEHOLDS, LOW-INCOME HOUSEHOLDS, AND WORKFORCE HOUSEHOLDS, THE COLORADO HOUSING INVESTMENT FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND SHALL BE ADMINISTERED BY THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS OR ANY SUCCESSOR AGENCY. THE FUND SHALL CONSIST OF ALL MONEYS TRANSFERRED INTO THE FUND PURSUANT TO SECTION (4) OF THIS ARTICLE AND ANY MONEYS RECEIVED FOR THE FUND FROM ANY OTHER PUBLIC OR PRIVATE SOURCE. ANY MONEYS IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND.

(2) AFTER COSTS OF ADMINISTERING THE COLORADO HOUSING INVESTMENT FUND ARE DEDUCTED, MONEYS IN THE FUND SHALL BE USED FOR GRANTS AND LOANS TO SUPPORT THE STATEWIDE CREATION AND PRESERVATION OF AFFORDABLE HOUSING STOCK THROUGH:

- (a) NEW CONSTRUCTION;
- (b) ACQUISITION OF REAL PROPERTY;
- (c) PREDEVELOPMENT;
- (d) DEFRAYING COSTS OF COMPLIANCE WITH LOCAL ORDINANCES;
- (e) BUILDING REHABILITATION;
- (f) ASSISTANCE WITH DOWN PAYMENTS AND CLOSING COSTS;
- (g) ENERGY EFFICIENCY IMPROVEMENTS;
- (h) ACCESSIBILITY MODIFICATIONS AND CONSTRUCTION; AND
- (i) FORECLOSURE AND HOMELESSNESS PREVENTION.

(3) THE FUND ADMINISTRATOR SHALL CONDUCT PUBLIC HEARINGS AND COMPLETE NEEDS ASSESSMENTS TO DETERMINE THE ANNUAL FUNDING PRIORITIES FOR THE ALLOCATION OF MONEYS PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION. THE FUND ADMINISTRATOR SHALL BE AUTHORIZED TO AMEND THE ANNUAL FUNDING PRIORITIES

WITHOUT PUBLIC HEARING AFTER THE OCCURRENCE OF ONE OR MORE NATURAL DISASTERS THAT CREATE NEW NEEDS FOR AFFORDABLE HOUSING.

(4) (a) THE MONEYS IN THE COLORADO HOUSING INVESTMENT FUND SHALL BE ALLOCATED AS FOLLOWS:

(I) FORTY PERCENT OF THE MONEYS IN THE FUND SHALL BE AVAILABLE ON A COMPETITIVE BASIS TO ANY LOCAL HOUSING AUTHORITY, PUBLIC NONPROFIT CORPORATION, PRIVATE FOR-PROFIT OR NONPROFIT CORPORATION, LOCAL GOVERNMENT, OR SPECIAL DISTRICT. MONEYS THAT ARE MADE AVAILABLE TO SUCH ENTITIES AND ARE NOT ENTIRELY OBLIGATED IN THE FISCAL YEAR IN WHICH THEY WERE RECEIVED MAY BE CARRIED FORWARD AND OBLIGATED IN THE NEXT FISCAL YEAR. MONEYS MADE AVAILABLE THROUGH THE STATEWIDE ALLOCATION SHALL BE OBLIGATED IN ACCORDANCE WITH ANNUAL FUNDING PRIORITIES ESTABLISHED BY THE FUND ADMINISTRATOR PURSUANT TO SECTION 3 (3) OF THIS ARTICLE. PAYMENT OF PRINCIPAL AND INTEREST ON ANY LOAN MADE FROM MONEYS ALLOCATED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE DEPOSITED IN THE COLORADO HOUSING INVESTMENT FUND; AND

(II) SIXTY PERCENT OF THE MONEYS IN THE FUND SHALL BE AVAILABLE TO LOCAL GOVERNMENTS FOR DISTRIBUTION TO ANY LOCAL HOUSING AUTHORITY, PUBLIC NONPROFIT CORPORATION, PRIVATE FOR-PROFIT OR NONPROFIT CORPORATION, LOCAL GOVERNMENT, OR SPECIAL DISTRICT. MONEYS SHALL BE MADE AVAILABLE BY APPLICATION TO THE FUND ADMINISTRATOR FOR USE IN ACCORDANCE WITH A LOCAL OR REGIONAL HOUSING PLAN BASED ON LOCAL OR REGIONAL NEEDS ASSESSMENTS. PAYMENT OF PRINCIPAL AND INTEREST ON ANY LOAN MADE FROM MONEYS ALLOCATED PURSUANT TO THIS SUBPARAGRAPH (II) SHALL BE DEPOSITED WITH THE LOCAL GOVERNMENT THAT DISTRIBUTED THE LOAN FOR REDISTRIBUTION IN ACCORDANCE WITH A LOCAL OR REGIONAL HOUSING PLAN BASED ON LOCAL OR REGIONAL NEEDS ASSESSMENTS AS DETERMINED BY THE LOCAL GOVERNMENT.

(b) NOT LESS THAN FIFTY PERCENT OF THE MONEYS MADE AVAILABLE FOR LOANS OR GRANTS FROM THE FUND IN A FISCAL YEAR SHALL BENEFIT VERY LOW-INCOME HOUSEHOLDS.

(c) ANY MONEYS DISTRIBUTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION NOT EXPENDED WITHIN THREE YEARS OF THE DATE OF APPROVAL OF SUCH DISTRIBUTION SHALL REVERT TO THE COLORADO HOUSING INVESTMENT FUND. IN THE YEAR OF A REVERSION, SUCH MONEYS SHALL BE ALLOCATED AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION.

Section 4. Revenue for Colorado housing investment fund – real estate transfer tax.

(1) NOTWITHSTANDING SECTION 20 (8) (a) OF ARTICLE X OF THIS CONSTITUTION, AND IN ADDITION TO ANY DOCUMENTARY FEE PROVIDED BY LAW, ON AND AFTER JULY 1, 2009, WHEN THE TOTAL CONSIDERATION PAID BY THE PURCHASER, INCLUSIVE OF THE AMOUNT OF ANY LIEN OR ENCUMBRANCE AGAINST THE REAL PROPERTY GRANTED OR CONVEYED AND ALL CHARGES AND EXPENSES REQUIRED TO BE PAID FOR THE MAKING OF SUCH GRANT OR CONVEYANCE, EXCEEDS FIVE HUNDRED DOLLARS, A REAL ESTATE TRANSFER TAX SHALL BE IMPOSED AT THE RATE OF FOUR CENTS FOR EACH ONE HUNDRED DOLLARS, OR MAJOR FRACTION THEREOF, OF CONSIDERATION PAID FOR THE REAL PROPERTY. ALL REVENUE FROM THE REAL ESTATE TRANSFER TAX IMPOSED BY THIS SECTION SHALL BE TRANSFERRED INTO THE COLORADO HOUSING INVESTMENT FUND.

(2) WITH REGARD TO THE STATE AND ANY DISTRICT THAT COLLECTS OR SPENDS THE REVENUE GENERATED PURSUANT TO THIS SECTION, ALL SUCH PROCEEDS SHALL BE COLLECTED AND SPENT AS A VOTER-APPROVED REVENUE CHANGE AND SHALL NOT BE CONSTRAINED BY ANY LIMITATION CONTAINED IN SECTION 20 OF ARTICLE X OF THIS CONSTITUTION OR ANY OTHER LIMIT ON REVENUE OR SPENDING UNDER COLORADO LAW.

Section 5. Authority of general assembly. THE GENERAL ASSEMBLY SHALL ENACT ON OR BEFORE JUNE 30, 2009 LEGISLATION AS NECESSARY TO FURTHER THE PURPOSE OF THIS ARTICLE, INCLUDING BUT, NOT LIMITED TO, ESTABLISHING A MAXIMUM PERCENTAGE OF THE COLORADO HOUSING INVESTMENT FUND THAT CAN BE SPENT ON ADMINISTRATION, DESIGNATING REQUIRED REPORTS BY LOCAL GOVERNMENTS AND THE FUND ADMINISTRATOR CONCERNING THE USES AND EFFECTS OF MONEYS RECEIVED FROM THE FUND, ESTABLISHING FORMULAS FOR ALLOCATING MONEYS FROM THE FUND TO DESIGNATED CLASSES OF LOCAL GOVERNMENTS, AND ESTABLISHING THE MEANS FOR THE COUNTIES' COLLECTION OF REVENUE AS PROVIDED IN SECTION 4 OF THIS ARTICLE AND ITS TIMELY TRANSMISSION TO THE FUND.

Section 6. Effective date. SECTIONS 5 AND 6 OF THIS ARTICLE SHALL TAKE EFFECT ON JANUARY 14, 2009. SECTIONS 1, 2, 3, AND 4 OF THIS ARTICLE SHALL TAKE EFFECT ON JULY 1, 2009.

Names and Addresses of Proponents:

Nedra San Filippo
649 Milwaukee Street
Denver, Colorado 80206
Phone: 720-308-6488
Email: agira@4dv.net

Kenneth Hoagland
1060 S. Ogden Street
Denver CO 80209

May 9, 2008

RECEIVED
MAY 09 2008 12:22 PM
ELECTIONS
SECRETARY OF STATE

via HAND DELIVERY

Ms. Cesi Gomez
Colorado Secretary of State
Elections Division
1700 Broadway, Suite 270
Denver, Colorado 80290

Re: Initiative 2007-2008 #103

Dear Ms. Gomez:

Attached please find the required drafts of Initiative 2007-2008 #103 which our office is filing on behalf of the Proponents for this measure.

Sincerely,



Amy Knight
Legal Assistant to Blain D. Myhre

aak
enclosure
1830502_1.doc

Cesiah Gomez

From: Douglas Bruce [taxcutter@msn.com]
Sent: Thursday, May 29, 2008 12:55 PM
To: Cesiah Gomez
Cc: taxcutter@email.msn.com
Subject: Re: Title Board Rehearing 05-29-08 and 05-30-08

On the rehearing on initiative petition #103, I wish to add to my motion an added basis, that the title should be amended to add the phrase

"repealing the current constitutional prohibition in the Taxpayer's Bill of Rights n such taxes;"

Please convey this to the Title Board.

Douglas Bruce

26 May 2008

State Title Board
Secretary of State
1700 Broadway #270
Denver CO 80290

RECEIVED

MAY 26 2008

ELECTIONS
SECRETARY OF STATE

*CL
5/30/08*

Re: motions for rehearing

Dear Board,

As a registered elector in the state of Colorado, I hereby move for a rehearing on initiatives 91(a), 103, 113, and 128 on the grounds that the ballot title is not lawful. Among other faults, Article X, section 20 (3) (c) requires those titles to be in all capital letters. That requirement was upheld in Denver District Court in a 1993 case filed against the state regarding the tourism tax issue. That was a final, binding judgment that was not reversed.

The C.R.S. requires ballot titles be printed in the petition. Therefore, it is not lawful to wait until the ballots are printed to correct this constitutional violation.

I further request that the secretary of state require that the printer's proof and printed sections for petition 95 list its ballot title in all capital letters.

Please let me know the date and time for the rehearings. In view of the distance I must travel, I request that it be no earlier than 10 a.m.

Thank you for your cooperation.

Sincerely,

Douglas Bruce
Box 26018
Colo. Spgs. CO 80936
(719) 550-0010
taxcutter@msn.com

Cesiah Gomez

From: Douglas Bruce [taxcutter@msn.com]
Sent: Monday, May 26, 2008 9:50 AM
To: Cesiah Gomez
Cc: taxcutter@email.msn.com
Subject: REHEARING MOTIONS
Attachments: 2008 title appeals.doc

RECEIVED

MAY 26 2008

SELECTIONS
SECRETARY OF STATE

See attached and below-printed motions for rehearing of title board actions.
A paper copy will be mailed tomorrow.

Douglas Bruce

(719) 550-0010
taxcutter@msn.com

26 May 2008

State Title Board
Secretary of State
1700 Broadway #270
Denver CO 80290

Re: motions for rehearing

Dear Board,

As a registered elector in the state of Colorado, I hereby move for a rehearing on initiatives 91(a), 103, 113, and 128 on the grounds that the ballot title is not lawful. Among other faults, Article X, section 20 (3) (c) requires those titles to be in all capital letters. That requirement was upheld in Denver District Court in a 1993 case filed against the state regarding the tourism tax issue. That was a final, binding judgment that was not reversed.

The C.R.S. requires ballot titles be printed in the petition. Therefore, it is not lawful to wait until the ballots are printed to correct this constitutional violation.

I further request that the secretary of state require that the printer's proof and printed sections for petition 95 list its ballot title in all capital letters.

Please let me know the date and time for the hearings. In view of the distance I must travel, I request that it be no earlier than 10 a.m.

5/27/2008

Thank you for your cooperation.

Sincerely,

Douglas Bruce
Box 26018
Colo. Spgs. CO 80936
(719) 550-0010
taxcutter@msn.com

Brownstein | Hyatt
Farber | Schreck

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MAY 28 2008 2:15 PM

ELECTIONS
SECRETARY OF STATE

May 28, 2008

Jason Dunn
Attorney at Law
303.223.1114 tel
303.223.0914 fax
jdunn@bhfs.com

VIA HAND DELIVERY

The Honorable Mike Coffman
Colorado Secretary of State
1700 Broadway
Denver, CO 80290

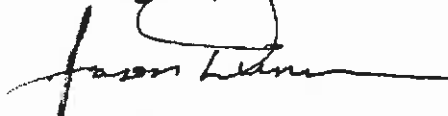
RE: Request for Hearing

Dear Secretary Coffman:

Please find enclosed a Motion for Rehearing on Initiative 2007-2008 #103.

As you know, § 1-40-107(1) requires that the hearing be conducted within 48 hours. I am unavailable on May 30, 2008 and therefore request that the rehearing be held tomorrow, May 29, 2008.

Best regards,



Jason Dunn

Enclosure

cc: Bill Hobbs (via email)
Blain Myhre, Esq., (Counsel to Proponents) (via email)

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MAY 28 2008

ELECTIONS
SECRETARY OF STATE

COLORADO TITLE SETTING BOARD

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IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR INITIATIVE 2007-2008 #103

MOTION FOR REHEARING

On behalf of Robert Golden, a registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing in the above referenced matter, and as grounds therefore states as follows:

I. The proposed measure contains at least five unrelated subjects.

The measure contains at least four additional, distinct subjects that are wholly unrelated to the Proponents stated subject of increasing the quantity of affordable housing units in Colorado. These additional separate subjects include:

1. Funding for a wide range social programs, including mental health services, HIV/AIDS treatment, healthcare, child care, alcohol treatment, and drug treatment;
2. Funding for foreclosure prevention programs and related services;
3. Funding for homelessness prevention programs and related social services;
4. A new constitutional definition of "affordable housing" not used anywhere in the measure nor necessary to its provisions.

II. The title includes impermissible catch phrases.

The phrases "affordable housing" and "affordable housing purposes" in the title are impermissible catch phrases that imply a limited scope to the measure that belies the vast range of social programs covered by the measure.

III. The title is misleading.

1. The title does not communicate that the entire revenue stream may be used to fund social programs such as drug and alcohol treatment, job training, child care, treatment of mental illness, support for people with HIV/AIDS, and support for people with physical disabilities.

2. The title does not disclose that up to 100% of the tax proceeds can be used to fund foreclosure and homelessness prevention programs. Such potential uses are unrelated to

affordable housing and should be disclosed in the title.

3. The title refers to the tax as \$.04 on each \$100, but the vast majority of real estate transactions in Colorado are residential and average \$200,000 to \$300,000. A more appropriate way to describe the tax is being "\$40 per \$100,000 of consideration."

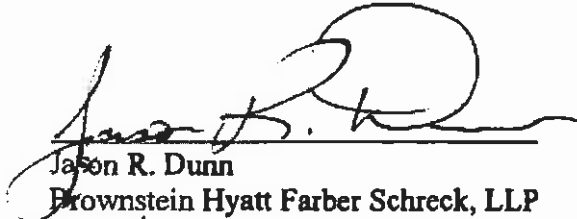
4. The title refers to each \$100 "paid," but the measure contemplates any form of consideration, which might be cash, credit, personal or real property, forbearance, etc. The title should therefore reflect those alternative types of payments.

5. The title does not disclose that up to 100% of the tax proceeds can be used to fund large scale energy efficiency improvements such as solar panel fields, biomass projects or thermal energy projects.

6. The title does not reflect that the measure authorizes the state to enter into loans as a means of subsidizing affordable housing projects and the vast array of social programs covered by the measure. Such lending is typically a high risk venture that voters should be made aware of in the title.

Because the proposed measure contains multiple subjects the Title Board lacks jurisdiction to set a title. To the extent the Board determines that it does have jurisdiction to set a title, the title as set is misleading and contains catch phrases. Accordingly, the petitioner requests that the Motion for Rehearing be granted and the Board reject the measure, or, alternatively, amend the title consistent with the concerns expressed above.

Respectfully submitted May 28, 2008.



Jason R. Dunn

Brownstein Hyatt Farber Schreck, LLP
410 17th Street, #2200
Denver, Colorado 80202
(303) 223-1100
(303) 223-0914
jdunn@bhfs.com
Attorneys for Robert Golden

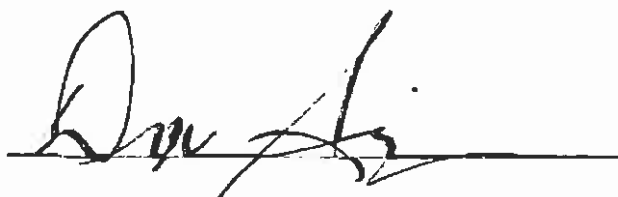
Address of Petitioner:
309 Inverness Way South
Englewood, CO 80112

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2008, a true and correct copy of the foregoing MOTION FOR REHEARING was **emailed** to the following with a hard copy placed in the United States mail, postage prepaid:

Blain Myhre, Esq.
Isaacson Rosenbaum, P.C.
633 17th Street, #2200
Denver, Colorado 80202
bmyhre@ir-law.com

Attorneys for Proponents

A handwritten signature in black ink, appearing to read "Blain Myhre", is written over a horizontal line.

Ballot Title Setting Board

Proposed Initiative 2007-2008 #103¹

The title as designated and fixed by the Board is as follows:

STATE TAXES SHALL BE INCREASED \$38.0 MILLION ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION CONCERNING THE CREATION OF A REAL ESTATE TRANSFER TAX TO FUND AFFORDABLE HOUSING PROGRAMS, AND, IN CONNECTION THEREWITH, COMMENCING JULY 1, 2009, IMPOSING THE TRANSFER TAX AT THE RATE OF FOUR CENTS FOR EACH \$100 PAID IN CERTAIN REAL PROPERTY TRANSACTIONS; CREATING A COLORADO HOUSING INVESTMENT FUND TO WHICH TRANSFER TAX REVENUES ARE CREDITED; REQUIRING MONEYS IN THE FUND TO BE USED FOR HOUSING PROGRAMS RELATING TO CONSTRUCTION, REAL PROPERTY ACQUISITION, PREDEVELOPMENT, ORDINANCE COMPLIANCE COSTS, BUILDING REHABILITATION, ASSISTANCE WITH PURCHASE COSTS, ENERGY EFFICIENCY IMPROVEMENTS, ACCESSIBILITY MODIFICATIONS AND CONSTRUCTION, AND FORECLOSURE AND HOMELESSNESS PREVENTION; AND EXEMPTING REVENUES FROM THE TRANSFER TAX FROM STATE AND LOCAL GOVERNMENT REVENUE AND SPENDING LIMITS.

The ballot title and submission clause as designated and fixed by the Board is as follows:

SHALL STATE TAXES BE INCREASED \$38.0 MILLION ANNUALLY BY AN AMENDMENT TO THE COLORADO CONSTITUTION CONCERNING THE CREATION OF A REAL ESTATE TRANSFER TAX TO FUND AFFORDABLE HOUSING PROGRAMS, AND, IN CONNECTION THEREWITH, COMMENCING JULY 1, 2009, IMPOSING THE TRANSFER TAX AT THE RATE OF FOUR CENTS FOR EACH \$100 PAID IN CERTAIN REAL PROPERTY TRANSACTIONS; CREATING A COLORADO HOUSING INVESTMENT FUND TO WHICH TRANSFER TAX REVENUES ARE CREDITED; REQUIRING MONEYS IN THE FUND TO BE USED FOR HOUSING PROGRAMS RELATING TO CONSTRUCTION, REAL PROPERTY ACQUISITION, PREDEVELOPMENT, ORDINANCE COMPLIANCE COSTS, BUILDING REHABILITATION, ASSISTANCE WITH PURCHASE COSTS, ENERGY EFFICIENCY IMPROVEMENTS, ACCESSIBILITY MODIFICATIONS AND CONSTRUCTION, AND FORECLOSURE AND HOMELESSNESS PREVENTION; AND EXEMPTING REVENUES FROM THE TRANSFER TAX FROM STATE AND LOCAL GOVERNMENT REVENUE AND SPENDING LIMITS?

Hearing May 21, 2008:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 1:26 p.m.

Hearing May 29, 2008:

Motions for Rehearing granted in part to the extent Board amended titles; denied in all other respects.

Hearing adjourned 4:15 p.m.

¹ Unofficially captioned "Colorado Housing Investment Fund" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.