

<p>SUPREME COURT, STATE OF COLORADO</p> <p>2 East 14th Avenue Denver, Colorado 80203</p>	<p style="text-align: center;">FILED IN THE SUPREME COURT</p> <p style="text-align: center; border: 1px solid black;">MAY 27 2008</p> <p style="text-align: center;">OF THE STATE OF COLORADO SUSAN J. FESTAG, CLERK</p>
<p>ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2007)</p> <p>Petitioner: Robert M. Moody, Objector</p> <p>v.</p> <p>Respondents: Earnest Duran, Jr. and Irene Goodell, Proponents,</p> <p>v.</p> <p>Title Board: William Hobbs, Sharon Eubanks, and Daniel Domenico</p>	
<p>Attorneys for Petitioner:</p> <p>Jason R. Dunn, #33011 BROWNSTEIN HYATT FARBER SCHRECK, LLP 410 17th Street, #2200 Denver, CO 80202 303.223.1100 fax: 303.223.0914 jdunn@bhfs.com</p>	
<p>PETITION FOR REVIEW OF FINAL ACTION OF THE TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2007-2008 #95</p>	

Pursuant to section 1-40-107(2), Robert Moody, through 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 #95 ("Taxable Values and Taxes on Property").

I. ACTION OF THE TITLE BOARD

The Title Board conducted its initial public hearing and set the title for Initiative #95 on May 7, 2008. Petitioner subsequently filed a timely Motion for Rehearing on May 14, 2008. The Title Board considered and denied the Motion on May 21, 2008. Petitioner now seeks review of the Title Board's decision under section 1-40-107(2).

II. ISSUES PRESENTED FOR REVIEW

- A. Is the ballot title and submission clause misleading because it erroneously states that residential property taxes cannot be impacted by the measure?

- B. Is the ballot title and submission clause misleading and vague because it uses overly technical terms and descriptions of property tax formulas despite a simple and accurate alternative being presented at the rehearing?

III. SUPPORTING DOCUMENTATION

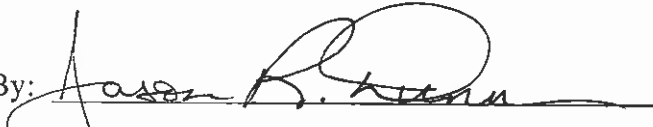
As required by section 1-40-107(2), attached is a certified copy of the petition with the title and submission clause of the proposed measure, a certified copy of the Motion for Rehearing, and final action by the Title Board.

IV. RELIEF REQUESTED

Petitioner respectfully requests that the Court reverse the Title Board's denial of the Motion for Rehearing and remand the measure to the Board with direction to set a complete and accurate title as requested in the Petitioner's forthcoming Opening Brief.

Respectfully submitted this 27th day of May, 2008.

BROWNSTEIN HYATT FARBER SCHRECK LLP

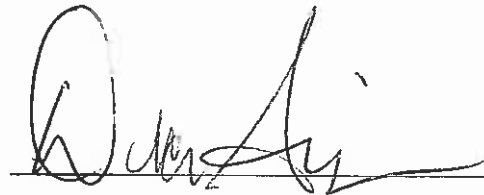
By: 
Jason R. Dunn

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2008, a true and correct copy of the foregoing PETITION FOR REVIEW was placed in the United States mail, postage prepaid, to the following:

Michael Belo, Esq.
Berenbaum, Weinshienk & Eason P.C.
370 17th Street, #4800
Denver, CO 80202

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



Proposed Initiative
Text #95
Final

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

Section 3(1)(b) of article X of the constitution of the state of Colorado is amended, and the said section 3 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

Section 3. Uniform taxation – exemptions. (1)(b) Residential real property, which shall include all residential dwelling units and the land, as defined by law, on which such units are located, and mobile home parks, but shall not include hotels and motels, shall be valued for assessment at twenty-one percent of its actual value. For the property tax year commencing January 1, 1985, the general assembly shall determine the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property. For each subsequent year, the general assembly shall again determine the percentage of the aggregate statewide valuation for assessment which is attributable to each class of taxable property, after adding in the increased valuation for assessment attributable to new construction and to increased volume of mineral and oil and gas production. For each year in which there is a change in the level of value used in determining actual value, the general assembly shall adjust the ratio of valuation for assessment for residential real property which is set forth in this paragraph (b) as is necessary to insure that the percentage of the aggregate statewide valuation for assessment which is attributable to residential real property shall remain the same as it was in the year immediately preceding the year in which such change occurs. Such adjusted ratio shall be the ratio of valuation for assessment for residential real property for those years for which such new level of value is used. In determining the adjustment to be made in the ratio of valuation for assessment for residential real property, the aggregate statewide valuation for assessment that is attributable to residential real property shall be calculated as if the full actual value of all owner-occupied primary residences that are partially exempt from taxation pursuant to section 3.5 of this article was subject to taxation. ~~All other taxable property shall be valued for assessment at twenty-nine percent of its actual value.~~ ALL TAXABLE PROPERTY OTHER THAN RESIDENTIAL REAL PROPERTY SHALL BE VALUED FOR ASSESSMENT AT THIRTY-FOUR (34) PERCENT OF ITS ACTUAL VALUE. However, the valuation for assessment for producing mines, as defined by law, and lands or leaseholds producing oil or gas, as defined by law, shall be a portion of the actual annual or actual average annual production therefrom, based upon the value of the unprocessed material, according to procedures prescribed by law for different types of minerals. Non-producing unpatented mining claims, which are possessory interests in real property by virtue of leases from the United States of America, shall be exempt from property taxation.

(3) ANY ADDITIONAL REVENUES, APPROPRIATIONS, OR EXPENDITURES ATTRIBUTABLE TO THE INCREASE IN THE VALUATION FOR ASSESSMENT OF NON-RESIDENTIAL PROPERTY FROM TWENTY-NINE TO THIRTY-FOUR PERCENT SHALL NOT BE SUBJECT TO THE LIMITATIONS OF SECTION 20 OF ARTICLE X OF THIS CONSTITUTION, OR ANY OTHER REVENUE OR SPENDING LIMITATION EXISTING IN CURRENT LAW OR SUBSEQUENTLY ENACTED BY THE GENERAL ASSEMBLY.

(4) THE INCREASE IN VALUATION FOR ASSESSMENT OF NON-RESIDENTIAL PROPERTY SPECIFIED IN SUBSECTION 1(B) SHALL TAKE EFFECT IN THE FIRST PROPERTY TAX YEAR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT.



Berenbaum, Weinshienk & Eason P. C. Attorneys at Law

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Michael J. Belo
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April 25, 2008

BY E-MAIL AND FIRST CLASS MAIL

Kirk Mlinek, Director
Colorado Legislative Council Staff
Room 029, State Capitol Building
Denver, CO 80203

RECEIVED
APR 25 2008
ELECTIONS
SECRETARY OF STATE
D&B
1:25 P.M.
KW

Re: Revised Proposed Initiative Measure 2007-2008 #95,
concerning taxable value and taxes of property

Dear Mr. Mlinek:

On behalf of the proponents, I am submitting the revised form of the attached initiative in the form it is being submitted today, by hand-delivery, to the Secretary of State for a Title Board Hearing. This initiative was originally filed on March 31, 2008, with Legislative Council Staff. The review and comment hearing was held on April 14, 2008.

We believe the revisions are in accordance with the comments made by Legislative Council Staff and do not raise any new issues warranting a further review and comment hearing. Therefore, we request that a waiver letter be issued. In any event, should you determine that a further hearing is necessary, I understand that it would be on May 9, 2008.

The proponents of this initiative are Ernest L. Duran, Jr., and Irene Goodell. Their addresses and other information are as follows:

Ernest L. Duran, Jr., President
United Food & Commercial Workers, Local 7
7760 West 38th Avenue, Suite 400
Wheat Ridge, CO 80033
Telephone: (303) 425-0897
E-mail: eduran@ufcw7.com

Irene Goodell
2873 Calkins Place
Broomfield, CO 80020
Telephone: (303) 465-5392
E-mail: irinagood@msn.com

Berenbaum, Weinshienk & Eason P. C.

Kirk Mlinek, Director
Colorado Legislative Council Staff
April 25, 2008
Page 2 of 2

Please direct all correspondence related to this initiative to me. Thanks for your cooperation and consideration.

Sincerely,

BERENBAUM, WEINSHIENK & EASON, P.C.



Michael J. Belo

Enclosure: Revised Proposed Initiative Measure 2007-2008 #95

cc: Ernest L. Duran, Jr.
Irene Goodell

RECEIVED

APR 25 2008

ELECTIONS
SECRETARY OF STATE

1:25 P.M.
DJB

RECEIVED

MAY 14 2008 DJB

ELECTIONS 4:36 p.m.

SECRETARY OF STATE

COLORADO TITLE SETTING BOARD

ORIGINAL

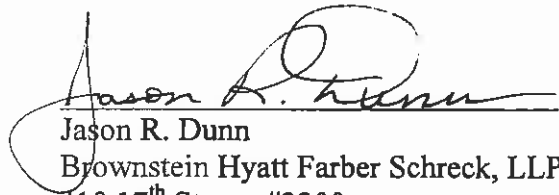
IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION CLAUSE
FOR INITIATIVE 2007-2008 #95

MOTION FOR REHEARING

On behalf of Robert Moody, a registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing on Initiative 2007-2008 #95 and as grounds therefore states as follows:

1. The title fails to conform with the required language of article X, section 20(3)(c), of the Colorado Constitution.
2. The title is misleading because the fiscal analysis prepared by the Office of State Planning and Budgeting makes erroneous assumptions as to the effective date of the measure and understates first year revenues.
3. The title inaccurately states that residential property taxes will not be impacted.

Respectfully submitted May 14, 2008.



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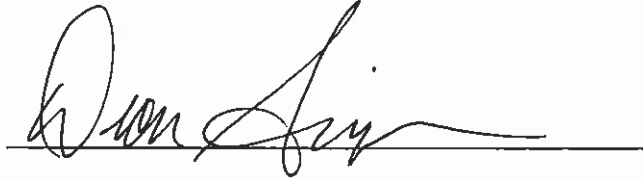
Attorneys for Robert Moody

Address of Petitioner:
1720 South Bellaire
Denver, CO 80222

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2008, a true and correct copy of the foregoing MOTION FOR REHEARING was placed in the United States mail, postage prepaid, to the following:

Michael Belo, Esq.
Berenbaum, Weinshienk & Eason P.C.
370 17th Street, #4800
Denver, Colorado 80202



Ballot Title Setting Board

Proposed Initiative 2007-2008 #95¹

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

Local taxes shall be increased \$577.3 million annually in the statewide aggregate on non-residential property by an amendment to the Colorado constitution concerning an increase in the valuation for assessment of all taxable property other than residential real property from 29% to 34% of the property's actual value for property tax purposes, and, in connection therewith, exempting additional revenues, appropriations, or expenditures resulting from the increase in valuation for assessment from all constitutional or statutory revenue or spending limitations.

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

Shall local taxes be increased \$577.3 million annually in the statewide aggregate on non-residential property by an amendment to the Colorado constitution concerning an increase in the valuation for assessment of all taxable property other than residential real property from 29% to 34% of the property's actual value for property tax purposes, and, in connection therewith, exempting additional revenues, appropriations, or expenditures resulting from the increase in valuation for assessment from all constitutional or statutory revenue or spending limitations?

Hearing May 7, 2008:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 4:17 p.m.

Hearing May 21, 2008:

Motion for Rehearing denied.

Hearing adjourned 2:30 p.m.

¹ Unofficially captioned "Taxable Values and Taxes of Property" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.