

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED: May 15, 2014 5:14 PM</p>
<p>Original Proceeding Pursuant to C.R.S. § 1-40-107(2) (2013) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2013- 2014 #138</p> <p>Petitioners: Vickie L. Armstrong and Bob Hagedorn,</p> <p>v.</p> <p>Respondents: Richard Evans and Stephen Roark, and</p> <p>Title Board: Suzanne Staiert, David Blake, and Jason Gelender</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No. 2014SA142</p>
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PETITIONERS' OPENING BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules.

Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

It does not exceed 30 pages.

The brief complies with C.A.R. 28(k).

It contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record, not to an entire document, where the issue was raised and ruled on.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 32.

/s/ Lino S. Lipinsky de Orlov

Lino S. Lipinsky de Orlov

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STATEMENT OF THE ISSUES

Whether the Title Board erred in finding that Initiative 2013-2014 #138 (the “Proposed Initiative”) concerns a single subject.

Whether the title (the “Title”) that the Title Board set for the Proposed Initiative is impermissibly misleading for one or more of the following reasons:

- (a) The Title fails to disclose the various subjects of the Proposed Initiative;
- (b) The Title includes the undefined and vague words, phrases, and catch phrases “specific geographic site,” “casino-style gambling,” and “video lottery terminals”; and
- (c) The Title fails to disclose that the Proposed Initiative not only prohibits the granting of an exclusive license to conduct “casino-style gambling” based on the identification of a discrete location, but also based on the identification of an “existing license type.”

STATEMENT OF THE CASE

Respondents, Richard Evans and Stephen Roark (jointly, “Proponents”), filed the Proposed Initiative with the directors of the Legislative Council and the Office of Legislative Legal Services on March 21, 2014. The legislative staff provided Proponents with its review and comment memorandum for the Proposed Initiative on April 2, 2014, and conducted the associated review and comment meeting on April 4, 2014.

Proponents filed an amended version of the Proposed Initiative with the Secretary of State’s office on April 4, 2014. At a hearing conducted on April 17, 2014, the Title Board found that the Proposed Initiative contained a single subject and set the Title.

The Title for the Proposed Initiative reads:

An amendment to the Colorado constitution prohibiting the granting of an exclusive license to conduct casino-style gambling, including video lottery terminals, at any specific geographic site identified in a statewide ballot measure adopted on or after November 4, 2014.

Ex. A to Pet. for Review of Final Action of Ballot Title Setting Bd. Concerning Proposed Initiative 2013-2014 #138, at 5.

On April 23, 2014, Petitioners filed a motion for rehearing (the “Motion”) regarding the Title Board’s decision as to the Proposed Initiative and the Title. In the Motion, Petitioners explained that the Proposed Initiative (a) improperly addresses multiple subjects, in violation of article V, section 1(5.5) of the Colorado

Constitution and C.R.S. § 1-40-106.5 (2013), and (b) the Title is misleading, does not fairly and correctly express the true meaning of the Proposed Initiative, and will lead to voter confusion, in violation of C.R.S. §§ 1-40-106 and 1-40-107 (2013). The Title Board denied the Motion on April 24, 2014. Petitioners timely commenced this appeal on May 1, 2014.

STATEMENT OF THE FACTS

The Proposed Initiative would prohibit any state licensing authority from granting “an exclusive license to conduct casino-style gambling at a specific geographic site which is identified, by discrete location or existing license type, in any statewide initiated or referred ballot measure.” The Proposed Initiative does not define “specific geographic site,” “discrete location,” or “existing license type,” however. The public officials who would be responsible for enforcing the Proposed Initiative could only guess whether a “specific geographic site” means a building, a particular piece of land, or some or all of the city, town, or county in which the proposed “casino-style gambling” is to take place.

The Proposed Initiative defines “casino-style gambling” as “the use of slot machines, poker, blackjack, craps, roulette, or video lottery terminals, or any combination thereof, as those terms are used in article XVIII of the Colorado constitution.” But article XVIII makes no reference to “video lottery terminals.”

The Proposed Initiative would apply only to statewide votes conducted on or after November 4, 2014. It would therefore not apply to the existing licenses for the limited gaming conducted in Black Hawk, Central City, and Cripple Creek pursuant to section 9 of article XVIII of the Colorado Constitution.

SUMMARY OF THE ARGUMENT

The Title Board’s first error was to set any title at all, when it lacked jurisdiction to do so because the Proposed Initiative contains multiple subjects. In addition to its visible subject of prohibiting the granting of “an exclusive license to conduct casino-style gambling at a specific geographic site which is identified, by discrete location or existing license type, in any statewide initiated or referred ballot measure,” the Proposed Initiative has two surreptitious – and prohibited – additional subjects: (1) the intended potential nullification of Petitioners’ competing proposed initiatives to authorize video lottery terminals or limited gaming at authorized locations in three Colorado counties; and (2) the prohibition of any expansion of limited gaming in Colorado.

The Title Board further erred in setting a misleading title that does not fairly express the true intent and meaning of the Proposed Initiative. The Title fails to describe the measure’s multiple subjects; the phrases “specific geographic site,” “casino-style gambling,” and “video lottery terminals” are vague, undefined, and misleading, and “casino-style gambling” is a prohibited catch phrase. In addition,

by omitting any reference to the phrase “existing license type” as used in the Proposed Initiative, the Title does not disclose the full extent of the Proposed Initiative’s prohibition on the future licensing of “casino-style gambling.”

These errors led the Title Board to set a title for a ballot measure having multiple subjects, in violation of Colorado law, and to set a title that is rife with misleading text. This Court should reverse.

STANDARD OF REVIEW

The Title Board cannot set a title for a proposed initiative unless the initiative contains only “one subject, which shall be clearly expressed in its title.” Colo. Const. art. V, §1(5.5); C.R.S. § 1-40-106.5 (2013). In evaluating titles, the Court ensures that the proposed initiative contains only a single subject and that the subject “is clearly expressed in its titles.” *Garcia v. Chavez (In re Title, Ballot Title & Submission Clause, & Summ. for 1999–2000 No. 258(A))*, 4 P.3d 1094, 1097 (Colo. 2000) (“*Garcia I*”).

The single-subject requirement is violated when a proposed initiative joins “two distinct and separate purposes that are not dependent upon or connected with each other.” *Id.* While the Court typically “will not interpret or construe the future legal effects of a proposed initiative . . . , [the Court] will engage in a limited inquiry if necessary to ascertain whether the single-subject requirement has been violated.” *Garcia v. Montero (In re Title, Ballot Title & Submission Clause for*

Proposed Initiatives 2001-2002 #21 & #22) (“*English Language Educ.*”), 44 P.3d 213, 215-16 (Colo. 2002) (“*Garcia II*”).

In addition, the Court must ensure the titles “fairly reflect the proposed initiative so that petition signers and voters will not be misled into support for or against a proposition by reason of the words employed by the Board.” *Dibble v. Bruce* (*In re Title, Ballot Title & Submission Clause, & Summ. Adopted Feb. 3, 1993*), 852 P.2d 28, 32 (Colo. 1993). In setting titles, the Title Board has a statutory duty to “consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a ‘yes/for’ or ‘no/against’ vote will be unclear.” C.R.S. § 1-40-106 (2013). Titles must “correctly and fairly express the true intent and meaning” of a proposed initiative. *Id.* In addition, titles must be brief and cannot conflict with the titles set for any petitions previously filed in the same election. *Id.*

When the Title Board’s statutory duty to be brief conflicts with its duty to fairly describe a proposed initiative, “the decision must be made in favor of full disclosure to the registered electors.” *Dibble*, 852 P.2d at 33. When a proposed initiative is complex, the title “cannot be abbreviated by omitting references to the measure’s salient features.” *Id.* While titles are not required to state every detail

of a proposed initiative, an omission that would mislead or confuse voters is a fatal defect. *See Garcia I*, 4 P.3d at 1099.

A title does not fairly express a proposed initiative by merely including the language used in the proposed initiative. *See Garcia II*, 44 P.3d at 221. Rather, the title must inform voters of the intention of the proposed initiative when all provisions of the proposed initiative are taken into consideration. *Id.*

ARGUMENT

I. THE TITLE BOARD ERRED IN FINDING THAT THE PROPOSED INITIATIVE CONCERNS A SINGLE SUBJECT.

A. The Proposed Initiative Would Prohibit the Granting of an Exclusive License to Conduct “Casino-Style Gambling” at a Specific Geographic Site.

The first subject of the Proposed Initiative, as reflected in the Title, is the prohibition against the “granting of an exclusive license to conduct casino-style gambling, including video lottery terminals, at any specific geographic site identified in a statewide ballot measure adopted on or after November 4, 2014.” *See supra* p. 2. This is only one of the three subjects of the Proposed Initiative that appears in the Title, however.

B. The Proposed Initiative, if Approved, May Nullify Proposed Initiatives #80, #81, #134, and #135.

The Proposed Initiative contains an improper second subject – the possible nullification of Proposed Initiatives 2013-2014 #80, #81, #134, and #135 (the “Competing Initiatives”) if the Proposed Initiative were to obtain more votes than

did the Competing Initiatives. A voter could approve both the Proposed Initiative and the Competing Initiatives, without realizing that the Proposed Initiative could prevent the Competing Initiatives from taking effect. For example, if passed, the Competing Initiatives would authorize video lottery terminals (Competing Initiatives #80 and #134) or limited gaming (Competing Initiatives #81 and #135) (jointly, “New Gaming”) at a single horse racetrack in each of Arapahoe, Mesa, and El Paso Counties. The Proposed Initiatives, however, may prohibit those very same horse racetracks from obtaining authorization for New Gaming.

This Court has stricken ballot titles containing as a second subject the invalidation of another measure. For example, in *Jones v. Polhill (In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-02 #43)*, 46 P.3d 438, 446 (Colo. 2002), the Court found that the proposed initiative at issue contained more than a single subject because, by voting for the “seemingly innocuous initiative,” the voters could “inadvertently nullify” a constitutional amendment the voters had recently approved. As in *Jones*, the Proposed Initiative contains as an improper second subject the possible nullification of the Competing Initiatives.

C. The Proposed Initiative Would Surreptitiously Prohibit the Expansion of Limited Gaming in Colorado.

Beyond potentially nullifying the voters’ wishes if a majority of the electorate approves any of the Competing Initiatives at the November 2014

election, the Proposed Initiative has the surreptitious purpose and effect of prohibiting the future expansion of limited gaming beyond the three mountain towns in which limited gaming is currently allowed. That is another impermissible additional subject.

The Colorado Constitution permits limited gaming in Central City, Black Hawk, and Cripple Creek. Colo. Const. art. XVIII, § 9(3)(a). Expansion of limited gaming to additional locales would require amendment of the Constitution. *See, e.g., In re Title, Ballot Title, & Submission Clause, Respecting the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito*, 873 P.2d 733 (Colo. 1994). Any proposed amendment to article XVIII, section 9(3)(a) would need to identify the city, town, or unincorporated portion of a county in which expanded limited gaming would be permitted. *See* Colo. Const. art. XVIII, § 9(3)(a) (“[l]imited gaming shall take place only in the existing Colorado cities of” Central City, Black Hawk, and Cripple Creek”).

Yet, the Proposed Initiative would forbid the expansion of limited gaming to any new city, town, or county because it would prohibit state licensing authorities from approving “casino-style gambling at a specific geographic site which is identified by discrete location . . . in any statewide initiated or referred ballot measure” conducted on or after November 4, 2014. Respondents might argue that the prohibition applies only to the grant of “an exclusive license” to conduct

“casino-style gambling” at a specific geographic site[,]” which would not prohibit Colorado voters from authorizing limited gaming in a new town with multiple licensees. However, as a practical matter, the Proposed Initiative would make it impossible for limited gaming ever to be authorized at a new location because the first new licensee would, by definition, have an “exclusive license.” Under the Proposed Initiative, there could be no second licensee because the grant of the initial license would be prohibited.

This wholesale ban on the expansion of limited gaming in Colorado is a surreptitious provision hidden in the folds of the Proposed Initiative. As such, it is an impermissible additional subject that should have precluded the Title Board from setting any title.

II. THE TITLE IS MISLEADING TO VOTERS.

The Title does not fairly express the true meaning and intent of the Proposed Initiative, in violation of C.R.S. §§ 1-40-106 and 1-40-107 (2013). The Title (1) fails to disclose the multiple subjects set forth in the previous section; (2) uses undefined, vague, and misleading words, phrases, and catch phrases; and (3) does not disclose the full extent of the Proposed Initiative’s prohibition on the licensing of “casino-style gambling.”

A. The Title Fails to Disclose the Multiple Subjects of the Proposed Initiative.

Section I above describes the two subjects of the Proposed Initiative that are absent from the Title. The Title does not disclose to voters that the Proposed Initiative (a) could potentially nullify the Competing Initiatives, or (b) would surreptitiously prohibit the expansion of limited gaming in Colorado. These are salient features of the Proposed Initiatives that should have been included in the Title. *Dibble*, 852 P.2d at 33. Even if the Court does not strike down the Proposed Initiative on single subject grounds, at the very least, the Title Board erred in failing to disclose these additional features in the Title.

B. The Title Uses Undefined, Vague, and Misleading Words, Phrases, and Catch Phrases.

The Title states that the Proposed Initiative would “prohibit[] the granting of an exclusive license to conduct casino-style gambling, including video lottery terminals, at any specific geographic site identified in a statewide ballot measure adopted on or after November 4, 2014.” This short statement packs a number of independently and cumulatively misleading words and phrases.

1. “Specific geographic site.”

This language comes straight from the Proposed Initiative, which does not define this phrase. “Specific geographic site” is ambiguous because a “site” could mean a specific existing building, piece of land, or an entire town or city. *See, e.g., Merriam-Webster’s Collegiate Dictionary* 1166 (11th ed. 2005) (“the spatial

location of an actual or planned structure or set of structures (as a building, town, or monuments)"); *The New Oxford American Dictionary* 1596 (2001) ("an area of ground on which a town, building, or monument is constructed"). But voters will not know which meaning the Title (and the Proposed Initiative) uses. A voter could only guess at the type of future "casino-style gambling" initiatives that the Proposed Initiative would ban. Accordingly, "the general understanding of the effect of a 'yes/for' or 'no/against' vote will be unclear." C.R.S. § 1-40-106 (2013). In short, the Title is confusing and, so long as it can be read in ways that depart from the intended meaning of the Proposed Initiative, it is misleading.

2. "Casino-style gambling."

The Proposed Initiative defines "casino-style gambling" as "the use of slot machines, poker, blackjack, craps, roulette, or video lottery terminals, or any combination thereof, as those terms are used in article XVIII of the Colorado constitution." This definition is flawed inasmuch as it assumes that "video lottery terminals" is a "term[] used in article XVIII of the Colorado constitution." It is not.

In any event, the Title's omission of the Proposed Initiative's definition of "casino-style gambling" leads to multiple problems. *First*, the undefined phrase is misleading because many voters will mistakenly assume that the Proposed Initiative would prohibit only Las Vegas-style casino gaming, when, in fact, it

would also prohibit the more limited scope of gaming within the measure’s definition. Specifically, voters would not know that the Proposed Initiative would prohibit gaming subject to a \$100 bet limit (as distinguished from the unlimited bets in true “casino-style gambling”), and that it would prohibit gaming venues that offer a limited choice of games (as distinguished from the fuller array of games available in true “casino-style gambling”).¹ The Title’s tendency to mislead on this issue is critical because the electorate would not understand what the Proposed Initiative would actually prohibit. *See In re Title, Ballot Title & Submission Clause Adopted April 4, 1990, Pertaining to the Proposed Initiative on Parental Notification of Abortion for Minors*, 794 P.2d 238, 242 (Colo. 1990) (reversing the Title Board where the title did not include the initiative’s definition of “abortion,” and “[w]ithout this definition, [the title and summary] do not fully inform the signors of the initiative petition and the persons voting on the initiative”).

Second, “casino-style gambling” is a catch phrase: “words which could form the basis of a slogan for use by those who expect to carry out a campaign for or against an initiated constitutional amendment.” *Rice v. Brandon (In re Title, Ballot Title, Submission Clause, & Summ. for 1997-1998 #105 (Payments by*

¹ For example, Las Vegas casinos offer Baccarat, Sports Book, Keno, Bingo, and Pai Gow Tiles. *See, e.g.*, <https://www.bellagio.com/casino/table-games.aspx>.

Conservation Dist. to Pub. Sch. Fund & Sch. Districts)), 961 P.2d 1092, 1100 (Colo. 1998). “Gambling” alone is right up there with drinking, drug use, and adultery in the eyes of many voters. Unless specifically authorized by law or subject to another exception in the statutory definition, “gambling” is a crime in Colorado. *See* C.R.S. § 18-10-103.

By pairing “gambling” with “casino-style,” the Title permits opponents of the Proposed Initiative to appeal (misleadingly) to fears of Las Vegas casinos, “based not on the content of the proposal itself, but merely on the wording of the catch phrase.” *Garcia I*, 4 P.3d at 1100. The title and text of the 1990 ballot measure that turned historic buildings in three mountain towns into flashy casinos used the innocuous term “limited gaming,” undoubtedly because such language was more palatable to the voters than the loaded term, “casino-style.” The Title is neither fair nor balanced because “the Title Board tip[ped] the substantive debate surrounding the issue to be submitted to the electorate” through its use of the Proposed Initiative’s charged language, particularly without including the definition of that phrase. *Id.*

3. “Video lottery terminals.”

Neither the Proposed Initiative nor the Title defines “video lottery terminals.” Nor is the phrase used, much less defined, in any existing constitutional provision or statute. Respondent Evans opposed the original title for

2013-2014 Proposed Initiative #80 (“Proposed Initiative #80”), which used the phrase “video lottery terminals.” According to his counsel, who also represents him in this appeal, “most people don’t really know what a lottery terminal would be, other than a device where you buy tickets[,]” and “frankly, a video lottery terminal isn’t descriptive at all.” Tr. of Reh’g on Proposed Initiative #80, at 21:21-23, Apr. 2, 2014 (Ex. A). As one member of the Title Board stated in setting the title for Proposed Initiative #80, “video lottery terminal, undefined, is I think probably misleading.” *Id.* at 22:1-2. That member explained that “the typical voter would think it has something to do with playing the lottery on a computer, which is not what it is.” *Id.* at 22:3-5; *see id.* at 19:19-21 (the phrase “video lottery terminal” is “not something I really think most people understand”); *id.* at 19:23-24 (voters “might think of it [video lottery terminals] as something different from what it actually is”).

For that reason, the title set for Proposed Initiative #80 defined “video lottery terminals” as “electronic game machines.” For the same reason that the Title Board required a definition of “video lottery terminal” in the title for Proposed Initiative #80, it should have required one in the title for Initiative #138.

C. The Title Does Not Disclose the Full Extent of the Proposed Initiative’s Prohibition on the Licensing of “Casino-Style Gambling.”

The Proposed Initiative precludes the granting of a license to conduct “casino-style gambling” at “a specific geographic site which is identified, by discrete location *or existing license type*,” in any statewide ballot measure. (Emphasis added.) The Title does not use the entire quoted phrase from the Proposed Initiative, however. Instead, it refers to “any specific geographic site identified in a statewide ballot measure.” One problem with this language is discussed above: it is so ambiguous as to be misleading to voters, because a “specific geographic site” could refer to a building, a piece of land, or part or all of a jurisdiction.

But there is an additional problem. The Proposed Initiative purports to apply even when a ballot measure authorizes gaming at a location described only by license type (and not by specific geographic site) – for example, “any licensed Class B horse racetrack” in the state. Yet, the Title refers only to “a specific geographic site identified in a statewide ballot measure.” This fundamental mismatch between the scope of the Proposed Initiative and the Title is misleading and warrants reversal.

CONCLUSION

Petitioners respectfully request that this Court determine that (a) no title may be set for the Proposed Initiative because it improperly addresses multiple subjects, in violation of article V, section 1(5.5) of the Colorado Constitution and C.R.S. §1-40-106.5 (2013), or (b) alternatively, the Title is neither fair nor accurate, and remand the Proposed Initiative to the Title Board with instructions to redraft the Title to represent the text of the Proposed Initiative accurately and fairly.

Respectfully submitted this 15th day of May, 2014.

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CERTIFICATE OF SERVICE

I hereby affirm that, on their 15th day of May, 2014, a true and accurate copy of the **PETITIONERS' OPENING BRIEF** was sent via UPS overnight delivery service to the Respondents and their counsel and to counsel for the Title Board, and by Integrated Colorado Courts E-filing System (ICCES) to counsel of record, at:

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DATE FILED: May 15, 2014 5:14 PM

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In the Matter of the Title, Ballot Title, and
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▲ COURT USE ONLY ▲

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**EXHIBIT A
TO
PETITIONERS' OPENING BRIEF**

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD
Secretary of State Aspen Conference Room
1700 Broadway
Denver, Colorado
Wednesday, April 2, 2014

Motion for Rehearing
2013-2014 #80 - Proceeds from Video Lottery Terminals for
K-12 Education

Richard Evans, Objector

vs.

Vicki Armstrong and Bob Hagedorn, Proponents.

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1 that are in their future, but not really.

2 Secondly, as a matter of public service, if you
3 wanted to change the -- if you want save some words and take
4 out the names of the towns, you could just put Gilpin and
5 Pueblo counties, because you referred to the other three
6 counties by their locations by county as well.

7 MS. EUBANKS: I think I'm fine with the town names
8 with the limited gaming --

9 MS. STAIERT: Yeah. I think the voters are going
10 to recognize the town names more than they're going to
11 recognize what county they're in necessarily.

12 MS. EUBANKS: That's all I had.

13 MS. STAIERT: Do you want to talk about the
14 95 percent, or are you okay with that?

15 MR. DOMENICO: Yeah. Well, like I said, I
16 wouldn't have added all of that, but -- no, I'm not going to
17 make you guys debate it anymore.

18 We can talk about the 95 percent. Or the one
19 other thing I thought was worth discussing was whether video
20 lottery terminals needed a little more explanation. That's
21 not something I really think most people understand.

22 To the extent they read it, Mr. Grueskin might
23 have a point, that they might not -- that they might think
24 of it as something different from what it actually is. You
25 know, it's not just lottery, which is a phrase people

1 connect with the government.

2 MS. EUBANKS: And I understand that, but, I mean,
3 going back to limited gaming, when the limited gaming
4 measure was first proposed for the three towns, it just said
5 "limited gaming" in the title. It didn't specify what games
6 it had or bet limits or anything else.

7 It just said, "Shall there be limited gaming?"
8 And so I think that's one of those features that if people
9 want more information, then there's other information, and
10 the blue book gives them that detail.

11 MR. GRUESKIN: This is a matter of clarification.
12 Actually, in Amendment 50, where there were new games that
13 were being introduced to an existing gaming facility, we
14 specified -- you specified the games.

15 MS. EUBANKS: With the original.

16 MR. GRUESKIN: Right. But this is more analogous
17 to Amendment 50. This is taking a facility where gaming of
18 some sort already occurs and expanding the kind of gaming
19 that it does. And it is adding games to, assuming that they
20 continue to operate as a racetrack, their pari-mutuel
21 wagering.

22 As I said, I'm not sure the measure requires that.
23 But that's neither here nor there. This is much more
24 analogous to Amendment 50 where you listed what was being
25 added to the existing gaming activity at facilities that

1 were licensed and operating.

2 MS. STAIERT: And you don't think we do that by
3 saying "video lottery"? Don't we say what is going to be
4 added?

5 MR. GRUESKIN: If all the people who were here on
6 fracking were polled of what video lottery was, I doubt very
7 few of them -- or very many of them would know that it was
8 virtual slot machines and virtual poker, black jack, and
9 craps.

10 That's what's written in the measure. Not my take
11 on it. That's what's written in the measure.

12 MS. STAIERT: But when we get to fracking, do you
13 really think we're going to describe what that is? Are we
14 going to describe that it's pumping hydraulic -- I mean,
15 we're at the other side of that same issue, right? Don't
16 people know what fracking is, or don't they need to go to
17 the blue book?

18 MR. GRUESKIN: Please don't make me weigh in on
19 the fracking. Please.

20 All I can tell you is that video lottery terminal,
21 most people don't really know what a lottery terminal would
22 be, other than a device where you buy tickets. And,
23 frankly, a video lottery terminal isn't descriptive at all.

24 MR. DOMENICO: That's more my problem with it.

25 It's not necessarily that we need an extensive definition,

1 but that video lottery terminal, undefined, is I think
2 probably misleading.

3 I mean, the typical voter would think it has
4 something to do with playing the lottery on a computer,
5 which is not what it is.

6 MS. STAIERT: Do you want to say "electronic
7 gaming"?

8 MR. DOMENICO: Well, yeah, or a video slot machine
9 or something like that. I mean, the lottery is the key
10 problem I have, I think, with it.

11 MS. STAIERT: Well, I mean, the initiative itself
12 uses electronic game machine. It doesn't --

13 MR. DOMENICO: Right. That's probably not
14 misleading in the same way, but it's also not helpful.

15 MR. HOBBS: Madame Chair.

16 MS. STAIERT: Yeah.

17 MR. HOBBS: I don't know that I can add to the
18 discussion very much, but, you know, I'm surprised that
19 there would be that much difficulty with knowing what a
20 video lottery terminal is.

21 I understand lottery may be a stumbling block for
22 you, but video lottery terminal, I'm not sure it's that
23 difficult, and especially because video lotteries are
24 permitted in a number of states. It's actually a fairly
25 common term.