

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203</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. _____</p>
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**PETITION FOR REVIEW OF FINAL ACTION OF
BALLOT TITLE SETTING BOARD CONCERNING
PROPOSED INITIATIVE 2013-2014 #138
("NAMING OF GAMBLING LOCATIONS")**

Petitioners, Vickie L. Armstrong and Bob Hagedorn (jointly, “Petitioners”), registered electors of the State of Colorado, respectfully petition this Court pursuant to C.R.S. § 1-40-107(2) (2013), to review the action of the Title Board with respect to the title, ballot title, and submission clause (the “Title”) set for Initiative 2013-2014 #138 (“Naming of Gambling Locations”).

STATEMENT OF THE CASE

A. Procedural History of Proposed Initiative #138

Richard Evans and Stephen Roark (jointly, “Proponents”) filed Initiative 2013-2014 #138 (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.

On April 23, 2014, Petitioners filed a motion for rehearing (the “Motion”) regarding 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) 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). On April 24, 2014, the Title Board denied the Motion.

B. Jurisdiction

Petitioners are entitled to a review of the Title before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2) (2013). Petitioners timely filed the Motion with the Title Board. *See* C.R.S. § 1-40-107(1) (2013). Additionally, Petitioners timely filed this Petition for Review within seven days from April 28, 2014, the date on which the Secretary of State furnished Petitioners with certified copies of the Proposed Initiative, the Title, the Motion, and the Title Board’s ruling on the Motion. *See* C.R.S. § 1-40-107(2) (2013).

As required by C.R.S. § 1-40-107(2) (2013), attached to this Petition for Review are certified copies of: (1) the draft, amended, and final versions of the Proposed Initiative; (2) the original Title; (3) the Motion; and (4) the ruling on the Motion as reflected by the title and ballot title and submission clause that the Board set. Petitioners respectfully submit that the Title Board erred in denying the Motion.

ADVISORY STATEMENT OF GROUNDS FOR APPEAL

The Title Board erred in finding that the Proposed Initiative concerns a single subject, pursuant to article V, section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5 (2013). In addition, in violation of C.R.S. §§ 1-40-106 and 1-40-107 (2013), the Title is misleading, does not fairly and correctly express the true meaning of the Proposed Initiative, and will lead to voter confusion.

The following is an advisory list of issues that Petitioners expect to address in their brief:

1. The Proposed Initiative relates to the following multiple subjects, among others:
 - (a) Prohibiting licensing of “casino-style gambling” at any specific geographic site named in a ballot measure;
 - (b) Limiting the scope of future initiatives;
 - (c) Potentially nullifying Initiatives 2013-2014 #80, #81, #134, and #135; and
 - (d) Prohibiting the expansion of “casino-style gambling,” including limited gaming under the Colorado Constitution, article XVIII, section 9, anywhere beyond the three mountain towns already approved for limited gaming;

2. In addition, the Title does not fairly express the true meaning and intent of the Proposed Initiative, and, therefore, violates C.R.S. §§ 1-40-106 and 1-40-107 (2013), for the reasons set forth below:

- (a) The Title does not disclose the multiple subjects of the Proposed Initiative set forth in Paragraph 1 above;
- (b) The word “exclusive” is undefined, vague, and misleading to voters;
- (c) The phrases “specific geographic site,” “existing license type,” “casino-style gambling,” and “video lottery terminals” are undefined, vague, and misleading to voters;
- (d) “Casino-style gambling” is an impermissible catch phrase or slogan;
- (e) The Title does not 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”; and
- (f) The Title misleadingly states that the Proposed Initiative prohibits the granting of a license “to conduct . . . video lottery terminals,” which is a physical impossibility and not what the Proposed Initiative states.

PRAYER FOR RELIEF

Petitioners respectfully request that this Court determine (a) that no title for the Proposed Initiative may be set because the Proposed Initiative 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, that 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 1st day of May, 2014.

MCKENNA LONG & ALDRIDGE
LLP

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CO-COUNSEL FOR PETITIONERS,
VICKIE L. ARMSTRONG AND BOB
HAGEDORN

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2013-2014 #138 (“NAMING OF GAMBLING LOCATIONS”)** was sent this 1st day of May, 2014, via first class U.S. mail, postage prepaid, to the proponents and their counsel and to counsel for the Title Board at:

Mr. Richard Evans
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Office of the Attorney General
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/s/ Lisa F. King

Lisa F. King

DN 32267964.1

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue
Denver, CO 80203

Original Proceeding Pursuant to C.R.S. § 1-40-107(2) (2013)
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and
Submission Clause for Proposed Initiative 2013-2014 #138

Petitioners:

Vickie L. Armstrong and Bob Hagedorn,

v.

Respondents:

Richard Evans and Stephen Roark, and

Title Board:

Suzanne Staiert, David Blake, and Jason Gelender

▲ COURT USE ONLY ▲

Case No. _____

**EXHIBIT A
TO
PETITION FOR REVIEW OF FINAL ACTION OF
BALLOT TITLE SETTING BOARD CONCERNING
PROPOSED INITIATIVE 2013-2014 #138
("NAMING OF GAMBLING LOCATIONS")**



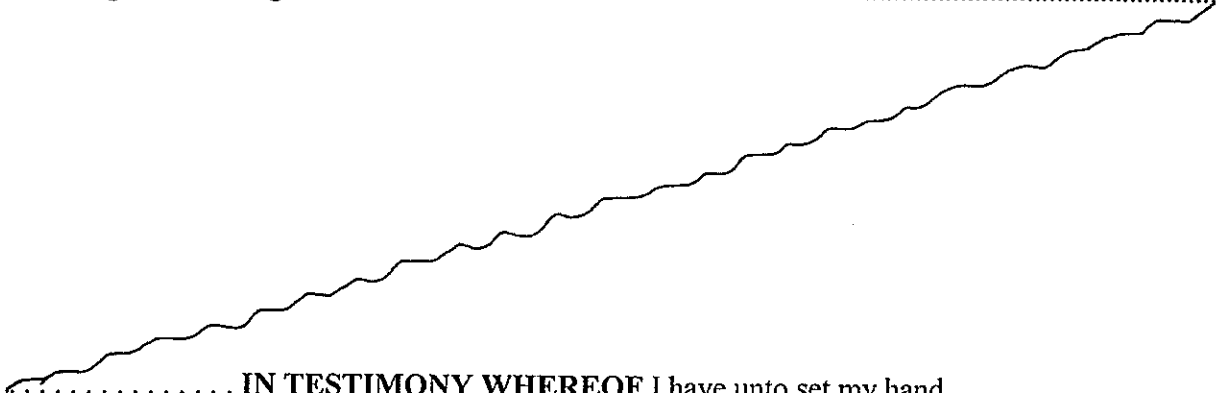
STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **SCOTT GESSLER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the original text, amended text, final text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2013-2014 #138 'Naming of Gambling Locations'"



..... 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 28th day of April, 2014.



A handwritten signature in cursive script, reading "Scott Gessler".

SECRETARY OF STATE

RECEIVED

APR 04 2014

Colorado Secretary of State

S.WARD 1:54 P.M.

#138 Original

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

Section 1. In the constitution of the state of Colorado, add section 18 to article XVIII as follows:

Section 18. Naming of certain gambling locations in the constitution -- prohibited.

(1) NO STATE LICENSING AUTHORITY SHALL GRANT AN EXCLUSIVE ABILITY TO CONDUCT CASINO-STYLE GAMBLING AT A SPECIFIC GEOGRAPHIC SITE WHICH IS IDENTIFIED, BY DISCRETE LOCATION OR EXISTING LICENSE TYPE, IN AN INITIATIVE APPROVED AT ANY GENERAL ELECTION.

(2) "CASINO-STYLE GAMBLING" MEANS THE USE OF SLOT MACHINES, POKER, BLACKJACK, CRAPS, ROULETTE, OR VIDEO LOTTERY TERMINALS, OR ANY COMBINATION THEREOF, AS THOSE TERMS ARE DEFINED IN ARTICLE XVIII OF THE CONSTITUTION.

(3) THIS PROHIBITION IS EFFECTIVE NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SHALL APPLY TO ANY INITIATIVE ADOPTED AT:

- (a) THE GENERAL ELECTION CONDUCTED ON NOVEMBER 4, 2014; OR
- (b) ANY STATEWIDE ELECTION CONDUCTED THEREAFTER.

RECEIVED

APR 04 2014

Colorado Secretary of State

S.WARD 1:54 P.M.

#138 Amended

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

Section 1. In the constitution of the state of Colorado, **add** section 18 to article XVIII as follows:

Section 18. Naming of certain gambling locations in the constitution — prohibited -- definition.

(1) ~~NO A~~ STATE LICENSING AUTHORITY SHALL NOT GRANT AN EXCLUSIVE ~~ABILITY~~ LICENSE TO CONDUCT CASINO-STYLE GAMBLING AT A SPECIFIC GEOGRAPHIC SITE WHICH IS IDENTIFIED, BY DISCRETE LOCATION OR EXISTING LICENSE TYPE, ~~IN AN INITIATIVE APPROVED AT ANY GENERAL ELECTION ANY STATEWIDE INITIATED OR REFERRED BALLOT MEASURE.~~

(2) "CASINO-STYLE GAMBLING" MEANS 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.

(3) THIS PROHIBITION IS EFFECTIVE NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND ~~SHALL APPLY~~ APPLIES TO ANY ~~INITIATIVE~~ STATEWIDE INITIATED OR REFERRED BALLOT MEASURE ADOPTED AT:

- (a) THE GENERAL ELECTION CONDUCTED ON NOVEMBER 4, 2014; OR
- (b) ANY STATEWIDE ELECTION CONDUCTED THEREAFTER.

#138 Final

RECEIVED

APR 04 2014

Colorado Secretary of State

S.WARD 1:54 P.M.

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

Section 1. In the constitution of the state of Colorado, **add** section 18 to article XVIII as follows:

Section 18. Naming of certain gambling locations in the constitution – prohibited – definition.

(1) A STATE LICENSING AUTHORITY SHALL NOT GRANT 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.

(2) "CASINO-STYLE GAMBLING" MEANS 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.

(3) THIS PROHIBITION IS EFFECTIVE NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND APPLIES TO ANY STATEWIDE INITIATED OR REFERRED BALLOT MEASURE ADOPTED AT:

- (a) THE GENERAL ELECTION CONDUCTED ON NOVEMBER 4, 2014; OR
- (b) ANY STATEWIDE ELECTION CONDUCTED THEREAFTER.

Ballot Title Setting Board

Proposed Initiative 2013-2014 #138¹

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

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.

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

Shall there be 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?

*Hearing April 17, 2014:
Single subject approved; staff draft amended; titles set.
Hearing adjourned 11:16 a.m.*

¹ Unofficially captioned “Naming of Gambling Locations” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

RECEIVED

APR 23 2014

Colorado Secretary of State
SWARD 12:44 P.M.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

In re Title and Ballot Title and Submission Clause for Initiative 2013-2014 #138 ("Naming of Gambling Locations")

**MOTION FOR REHEARING
ON INITIATIVE 2013-2014 #138**

Objectors, Vickie L. Armstrong and Bob Hagedorn (jointly, "Objectors"), move (a) for a finding that no title can be set for Initiative 2013-2014 #138 ("Naming of Gambling Locations") (the "Proposed Initiative"), on the grounds that the Proposed Initiative violates the single-subject requirement set forth in Article V, Section 1(5.5) of the Colorado Constitution and in C.R.S. § 1-40-106.5, or, alternatively, (b) for correction and clarification of the title set for the Proposed Initiative, for the reasons set forth below:

1. At a hearing conducted on April 17, 2014, the Title Board found it had jurisdiction to set a title for the Proposed Initiative and that the Proposed Initiative addressed a single subject. Accordingly, the Title Board set the following title (the "April 17 Title") for the Proposed Initiative:

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.

2. For the following reasons, the Proposed Initiative contains more than a single subject, in violation of Article V, Section 1(5.5) of the Colorado Constitution and C.R.S. § 1-40-106.5. The Proposed Initiative relates to the following multiple subjects, among others:

- (a) Prohibiting licensing of "casino-style gambling" at any specific geographic site named in a ballot measure;
- (b) Limiting the scope of future initiatives;
- (c) Potentially nullifying Initiatives 2013-2014 #80, #81, #134, and #135; and
- (d) Prohibiting the expansion of "casino-style gambling," including limited gaming under the Colorado Constitution, Article XVIII, Section 9, anywhere beyond the three mountain towns already approved for limited gaming.

3. The April 17 Title does not fairly express the true meaning and intent of the Proposed Initiative and, therefore, violates C.R.S. § 1-40-106(3)(b), for the reasons set forth below:

- (a) The April 17 Title does not disclose the multiple subjects of the Proposed Initiative set forth in Paragraph 2 above;
- (b) The word “exclusive” is undefined, vague, and misleading to voters;
- (c) The phrase “specific geographic site” is undefined, vague, and misleading to voters;
- (d) The phrase “existing license type” is undefined, vague, and misleading to voters;
- (e) “Casino-style gambling” is an impermissible catch phrase;
- (f) The use of the phrase “casino-style gambling” is confusing because the April 7 Title does not define or otherwise explain what is meant by that phrase;
- (g) The April 17 Title does not 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”; and
- (h) The April 17 Title misleadingly states that the Initiative prohibits the granting of a license “to conduct . . . video lottery terminals,” which is a physical impossibility and not what the Proposed Initiative states.

4. For these reasons, Objectors request that the Title Board conduct a rehearing for the purpose of (a) striking the April 17 Title, and declining to set a new title for the Proposed Initiative, on the grounds that the Proposed Initiative violates the single-subject requirement set forth in Article V, Section 1(5.5) of the Colorado Constitution and in C.R.S. § 1-40-106.5, or, alternatively, (b) revising the April 17 Title to fairly express the true meaning and intent of the Proposed Initiative.

Respectfully submitted this 23rd day of April, 2014.

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*Co-Counsel for Objectors, Vickie L.
Armstrong and Bob Hagedorn*

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Bob Hagedorn
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Aurora, CO 80011

CERTIFICATE OF SERVICE

I hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2013-2014 #138** was sent this 23rd day of April, 2014, via first class U.S. mail, postage prepaid, to the proponents of the Proposed Initiative and their counsel of record at:

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Denver, CO 80231

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Recht Kornfeld, P.C.
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Denver, CO 80202

Mr. Stephen Roark
2732 S. Fillmore St.
Denver, CO 80210

/s/ Sally Kline

Sally Kline

DN 32267553.4

Ballot Title Setting Board

Proposed Initiative 2013-2014 #138¹

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

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.

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

Shall there be 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?

Hearing April 17, 2014:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 11:16 a.m.

Hearing April 24, 2014:

Motion for Rehearing denied.

Hearing adjourned 8:59 a.m.

¹ Unofficially captioned “Naming of Gambling Locations” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.