

SUPREME COURT OF COLORADO  
2 East 14th Ave.  
Denver, CO 80203

Original Proceeding  
Pursuant to Colo. Rev. Stat. § 1-40-107(2)  
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative  
2017-2018 #4 (“Limit on Local Housing  
Growth”)

**Petitioner: Scott E. Smith**

v.

**Respondents: Dan Hayes and Julianne  
Page**

and

**Title Board: SUZANNE STAIERT;  
SHARON EUBANKS; and GLENN  
ROPER**

▲ COURT USE ONLY ▲

Attorney for Petitioner:

Mark G. Grueskin, #14621  
RECHT KORNFELD, P.C.  
1600 Stout Street, Suite 1400  
Denver, CO 80202  
Phone: 303-573-1900  
Facsimile: 303-446-9400  
Email: [mark@rklawpc.com](mailto:mark@rklawpc.com)

Case No. \_\_\_\_\_

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE  
SETTING BOARD CONCERNING PROPOSED INITIATIVE 2017-  
2018 #4 (“LIMIT ON LOCAL HOUSING GROWTH”)**

Scott E. Smith (“Petitioner”), registered elector of the State of Colorado, through undersigned counsel, respectfully petitions this Court pursuant to C.R.S. § 1-40-107(2), to review the actions of the Title Setting Board with respect to the title, ballot title, and submission clause set for Initiative 2017-2018 #4 (“Limit on Local Housing Growth”).

## **STATEMENT OF THE CASE**

### **A. Procedural History of Proposed Initiative 2017-2018 #4**

Dan Hayes and Julianne Page (hereafter “Proponents”) proposed Initiative 2017-2018 #4 (the “Proposed Initiative”). Review and comment hearings were held before representatives of the Offices of Legislative Council and Legislative Legal Services. Thereafter, the Proponents submitted final versions of the Proposed Initiative to the Secretary of State for purposes of submission to the Title Board, of which the Secretary or his designee is a member.

A Title Board hearing was held on December 7, 2016, at which time title setting was denied for 2017-2018 #4 on the basis that the measure did not constitute a single subject. The Proponents resubmitted 2017-2018 #4, having removed the second subject that was identified by the Board at the December 7 meeting. Thereafter, a Title Board hearing was held on December 21, 2016 to establish the single subject of the Proposed Initiative and set its title. On

December 28, 2016, Petitioner filed a Motion for Rehearing, alleging that #4 contained multiple subjects and the titles set were prejudicial, incomplete, and misleading and failed to reflect the complete intent of the Proponents and the central features of the Proposed Initiative. The rehearing was held on January 4, 2017, at which time the Title Board granted in part and denied in part the Motion for Rehearing.

### **B. Jurisdiction**

Petitioner is entitled to a review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed the Motion for Rehearing with the Title Board. *See* C.R.S. § 1-40-107(1). Additionally, Petitioner timely filed this Petition for Review within five days from the date of the hearing on the Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) the draft, amended, and final versions of the initiatives filed by the Proponents; (2) the original ballot titles set for this measure; (3) the Motion for Rehearing filed by the Petitioner; and (4) the rulings on the Motion for Rehearing as reflected by the titles and ballot title and submission clauses set by the Board. Petitioner believes that the Title Board erred in denying certain aspects

of the Motion for Rehearing. Consequently, this matter is properly before this Court.

### **GROUNDS FOR APPEAL**

The ballot title and submission clause set, as well as the abstract approved, by the Title Board violates the legal requirements that apply to the Board's decisions regarding the title and abstract. The following is an advisory list of issues to be addressed in Petitioner's brief:

1. Initiative #4 contains multiple subjects in violation of Colo. Const., art. V, § (1)(5.5), including:
  - a. The first and only constitutional right of initiative and referendum at the county level, which right applies in all counties of the State;
  - b. Restrictions on growth in residential housing that apply to only ten (10) named counties in the State, including a 1% mandatory growth limit and a two-year deferral of the right of initiative and referendum on housing growth;
  - c. The transfer of certain traditional municipal powers, including powers that are reserved to home rule jurisdictions, to county governments acting through county voters;

- d. The specification of certain initiative and referendum procedures.
2. The Board-approved abstract fails to comply with C.R.S. § 1-40-107(1)(a)(II), and specifically:
- a. The abstract is misleading or prejudicial;
  - b. The abstract does not comply with the requirements of C.R.S. § 1-40-105.5(3), as it fails to include: (i) an estimate of the amount of any state and local revenues, expenditures, taxes, and fiscal liabilities if the measure is enacted; (ii) a statement of the measure's economic benefits for all Coloradans; or (iii) an estimate of the amount of any state and local government recurring expenditures.

### **PRAYER FOR RELIEF**

Petitioner respectfully requests that, after consideration of the parties' briefs, this Court determine that:

(1) the Proposed Initiative contains multiple subjects and should be returned to the Proponents; and

(2) the abstract set by the Title Board does not comply with the requirements of state law.

Respectfully submitted this 11th day of January, 2017.

*/s/ Mark Grueskin*

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Mark G. Grueskin, #14621  
RECHT KORNFELD, P.C.  
1600 Stout Street, Suite 1400  
Denver, CO 80202  
Phone: 303-573-1900  
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Email: [mark@rklawpc.com](mailto:mark@rklawpc.com)

**ATTORNEY FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I, Erin Holweger, hereby affirm that a true and accurate copy of the **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2017-2018 #4 (“LIMIT ON LOCAL HOUSING GROWTH”)** was sent this day, January 11, 2017, via first class U.S. mail, postage pre-paid to the proponents and to counsel for the Title Board at:

LeeAnn Morrill  
Office of the Attorney General  
1300 Broadway, 6th Floor  
Denver, CO 80203

Dan Hayes  
5115 Easley Rd  
Golden, CO 80403

Julianne Page  
3565 Kline Street  
Wheat Ridge, CO 80033

*/s Erin Holweger*

---



DATE FILED: January 11, 2017 5:34 PM

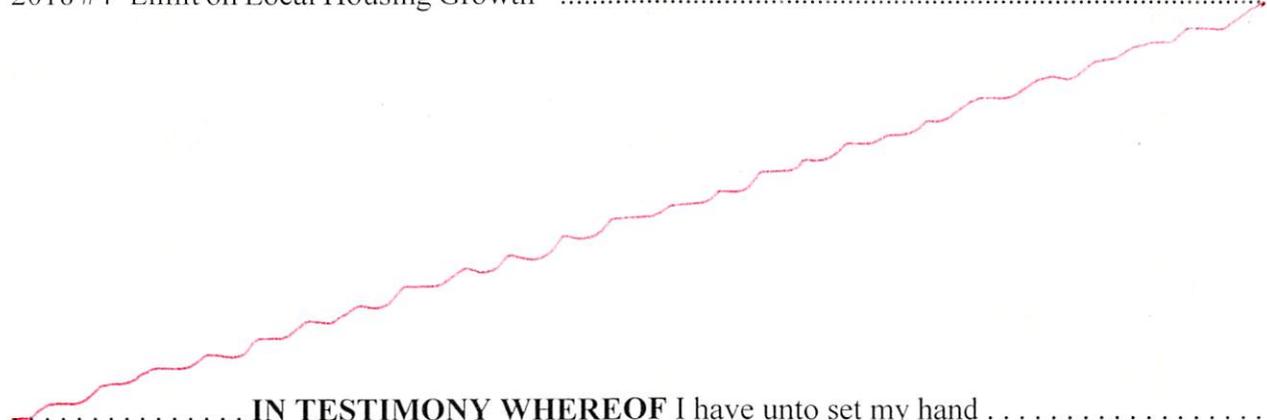
# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

I, **WAYNE W. WILLIAMS**, 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 with strikeouts, amended text with additions, final text, and the rulings thereon of the Title Board for Proposed Initiative "2017-2018 #4 'Limit on Local Housing Growth'".....



..... **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 10th day of January, 2017.

*Wayne W. Williams*  
SECRETARY OF STATE



BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:  
ARTICLE XVIII OF THE CONSTITUTION OF THE STATE OF COLORADO IS AMENDED BY THE  
ADDITION OF A NEW SECTION TO READ:

**Section 17. Colorado growth limitation**

(1) THE ELECTORS OF EVERY CITY, TOWN, CITY AND COUNTY, OR LOCAL COUNTY, WHETHER STATUTORY OR HOME RULE, RESERVE THE RIGHT TO LIMIT HOUSING GROWTH BY INITIATIVE AND REFERENDUM WITHOUT LEGISLATIVE INHIBITION OR PENALTY. THIS RIGHT IS FURTHER RESERVED ON A COUNTYWIDE BASIS WHEREBY ELECTORS THROUGHOUT A COUNTY MAY ELECT TO LIMIT HOUSING GROWTH UNIFORMLY IN ALL LOCAL GOVERNMENTS AND ANY PART OF SUCH, WHETHER STATUTORY OR HOME RULE, WITHIN SUCH COUNTY BY INITIATIVE AND REFERENDUM.

(2) PRIVATELY OWNED RESIDENTIAL HOUSING GROWTH IN THE CITY AND COUNTIES OF BROOMFIELD AND DENVER, AND COUNTYWIDE IN THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, DOUGLAS, EL PASO, JEFFERSON, LARIMER, AND WELD, INCLUDING ALL LOCAL GOVERNMENTS WITHIN SUCH COUNTIES, SHALL NOT EXCEED ONE PERCENT ANNUALLY FOR THE YEARS 2019 AND 2020. IN SAID COUNTIES EACH LOCAL GOVERNMENT AND ANY PART OF SUCH, WHETHER STATUTORY OR HOME RULE, AND EACH SAID CITY AND COUNTY SHALL ALLOT BUILDING PERMITS SO THAT HOUSING GROWTH DOES NOT EXCEED A ONE PERCENT ANNUAL GROWTH RATE IN THE TOTAL NUMBER OF HOUSING UNITS IN EACH SAID YEAR. BEGINNING 2021 SUCH GROWTH LIMITATIONS MAY BE AMENDED OR REPEALED BY INITIATIVE AND REFERENDUM OR OTHERWISE SHALL REMAIN IN EFFECT.

(3) AT LEAST THIRTY PERCENT OF THE HOUSING SUBJECT TO THE LIMITATION SHALL BE AFFORDABLE HOUSING AND AFFORDABLE SENIOR HOUSING.

(4) NO PERMITS TO BUILD NEW PRIVATELY OWNED RESIDENTIAL HOUSING UNITS SHALL BE ISSUED WITHIN SAID COUNTIES INCLUDING ALL LOCAL GOVERNMENTS CONTAINED WITHIN OR ANY PART OF SUCH AND SAID CITY AND COUNTIES BEGINNING WITH THE DECLARATION OF VOTER APPROVAL OF THIS SECTION UNTIL JANUARY 1, 2019.

(5) INITIATIVE AND REFERENDUM FOR THIS SECTION:

(a) SIGNATURE REQUIREMENTS FOR INITIATIVE AND REFERENDUM FOR ENACTING, REPEALING, OR AMENDING, PROPOSALS TO REGULATE THE GROWTH OF PRIVATELY OWNED RESIDENTIAL HOUSING FOR LOCAL GOVERNMENTS, WHETHER STATUTORY OR HOME RULE, SHALL BE AT LEAST FIVE PERCENT OF THE TOTAL NUMBER OF VOTERS PARTICIPATING IN THE MOST RECENT GENERAL ELECTION IN SUCH LOCAL GOVERNMENT. SUCH PROPOSALS ON A COUNTYWIDE BASIS SHALL BE A SUMMATION OF SUCH REQUIREMENT FROM EACH LOCAL GOVERNMENT ANY PART OF A LOCAL GOVERNMENT NOT GOVERNED WITHIN SUCH COUNTY.

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(c) A SINGLE CHALLENGE FOR THE FORM AND CONTENT OF A PETITION MAY BE FILED WITHIN TEN BUSINESS DAYS FOLLOWING APPROVAL BY THE CLERK OF A LOCAL GOVERNMENT OR BY THE COUNTY CLERK IN THE CASE OF COUNTYWIDE PETITIONS AND BEFORE SIGNATURE GATHERING COMMENCES. AN EXPEDITED JUDICIAL DECISION FOR SUCH A CHALLENGE SHALL BE FINAL.

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Colorado Secretary of State

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S. WARD

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**Proponents:**

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5115 Easley Rd  
Golden CO 80403  
720 581 2851  
[futuredenver@gmail.com](mailto:futuredenver@gmail.com)

**Julianne Page**  
3565 Kline St.  
Wheat Ridge CO 80033  
720 891 7346  
[julipage13@gmail.com](mailto:julipage13@gmail.com)

2017-2018 #4  
Amended (Insertions)

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Colorado Secretary of State

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**Ballot Title Setting Board**

**Proposed Initiative 2017-2018 #4<sup>1</sup>**

*Hearing December 7, 2016:*

*Title setting denied on the basis that the measure does not constitute a single subject.*

*Hearing adjourned 2:23 p.m.*

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<sup>1</sup> Unofficially captioned “Limit on Local Housing Growth” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.



# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

I, **WAYNE W. WILLIAMS**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the original text, resubmitted amended text, resubmitted final text, motions for rehearing, and the rulings thereon of the Title Board for Proposed Initiative "2017-2018 #4 'Limit on Local Housing Growth'" .....

.....

**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 10th day of January, 2017.

*Wayne W. Williams*

SECRETARY OF STATE



BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:  
ARTICLE XVIII OF THE CONSTITUTION OF THE STATE OF COLORADO IS AMENDED BY THE  
ADDITION OF A NEW SECTION TO READ:

**Section 17. Colorado growth limitation**

(1) THE ELECTORS OF EVERY CITY, TOWN, CITY AND COUNTY, OR LOCAL COUNTY, WHETHER STATUTORY OR HOME RULE, RESERVE THE RIGHT TO LIMIT HOUSING GROWTH BY INITIATIVE AND REFERENDUM WITHOUT LEGISLATIVE INHIBITION OR PENALTY. THIS RIGHT IS FURTHER RESERVED ON A COUNTYWIDE BASIS WHEREBY ELECTORS THROUGHOUT A COUNTY MAY ELECT TO LIMIT HOUSING GROWTH UNIFORMLY IN ALL LOCAL GOVERNMENTS AND ANY PART OF SUCH, WHETHER STATUTORY OR HOME RULE, WITHIN SUCH COUNTY BY INITIATIVE AND REFERENDUM.

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(3) AT LEAST THIRTY PERCENT OF THE HOUSING SUBJECT TO THE LIMITATION SHALL BE AFFORDABLE HOUSING AND AFFORDABLE SENIOR HOUSING.

(4) NO PERMITS TO BUILD NEW PRIVATELY OWNED RESIDENTIAL HOUSING UNITS SHALL BE ISSUED WITHIN SAID COUNTIES INCLUDING ALL LOCAL GOVERNMENTS CONTAINED WITHIN OR ANY PART OF SUCH AND SAID CITY AND COUNTIES BEGINNING WITH THE DECLARATION OF VOTER APPROVAL OF THIS SECTION UNTIL JANUARY 1, 2019.

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Colorado Secretary of State

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2017-2018 #4  
Amended (Resubmitted)

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Colorado Secretary of State

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2017-2018 #4  
Final (Resubmitted)

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## Ballot Title Setting Board

### Proposed Initiative 2017 2018 #4<sup>1</sup>

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

An amendment to the Colorado constitution concerning limitations on the growth of housing, and, in connection therewith, permitting the electors of every city, town, city and county, or county to limit housing growth by initiative and referendum; permitting county voters by initiative and referendum to limit housing growth uniformly within the county, including all or parts of local governments within the county; establishing procedural requirements for initiatives for local governments, whether statutory or home rule, concerning limits on housing growth; limiting the growth of privately owned residential housing units in the city and counties of Broomfield and Denver, and in the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld, to one percent annually for the years 2019 and 2020; permitting such growth limitations to be amended or repealed commencing in 2021 by initiative and referendum; and prohibiting the issuance of new permits for privately owned housing units by local governments located in whole or in part within such counties and such cities and counties until January 1, 2019.

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 concerning limitations on the growth of housing, and, in connection therewith, permitting the electors of every city, town, city and county, or county to limit housing growth by initiative and referendum; permitting county voters by initiative and referendum to limit housing growth uniformly within the county, including all or parts of local governments within the county; establishing procedural requirements for initiatives for local governments, whether statutory or home rule, concerning limits on housing growth; limiting the growth of privately owned residential housing units in the city and counties of Broomfield and Denver, and in the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld, to one percent annually for the years 2019 and 2020; permitting such growth limitations to be amended or repealed commencing in 2021 by initiative and

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<sup>1</sup> Unofficially captioned “**Limit on Local Housing Growth**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

referendum; and prohibiting the issuance of new permits for privately owned housing units by local governments located in whole or in part within such counties and such cities and counties until January 1, 2019?

*Hearing December 21, 2016:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 2:45 p.m.*

RECEIVED

DEC 28 2016

S. WARD

3:00 P.M.

COLORADO TITLE SETTING BOARD

Colorado Secretary of State

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IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION  
CLAUSE FOR INITIATIVE 2017-2018 #4

---

**MOTION FOR REHEARING**

---

On behalf of D. Michael Kopp, registered elector of the State of Colorado, the undersigned counsel hereby submits this Motion for Rehearing for Initiative 2017-2018 #4 pursuant to C.R.S. § 1-40-107, and as grounds therefore states as follows:

**I. INITIATIVE #4 IMPERMISSIBLY CONTAINS MULTIPLE SEPARATE AND DISTINCT SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT.**

While the measure, in the abstract, concerns limiting housing growth, it contains multiple separate subjects, in violation of section 1 (5.5) of article V of the Colorado Constitution and section 1-40-106.5, C.R.S., that allow the proponents to strategically combine separate proposals into a single measure to alleviate their potential concern that one of the subjects might fail if presented to voters alone. *See In Re Title, Ballot Title, Submission Clause for 2011-2012 #3*, 274 P.3d 562, 566 (Colo. 2012). The following separate components of the measure are distinct and without a necessary or proper connection. *See, e.g., In re Title, Ballot Title and Submission Clause for 2007-2008 #17*, 172 P.3d 871, 878 (Colo. 2007).

1. While the majority of the measure's text provides the processes and procedures through which local governments may limit housing growth, subsection (2) of the amended measure is a separate subject that directly imposes certain housing growth limits, rather than processes and procedures, on specific Front Range counties and city and counties.
2. The measure includes a fundamental change to the constitutional home rule relationship in Colorado by giving counties authority over home rule municipalities, which in essence alters the home rule provisions in article XX of the Colorado Constitution.
3. The measure contains changes to the election process as they pertain to limiting housing growth by permitting only one challenge on the petition and only one challenge for sufficiency of signatures, which alters the petition challenge and protest processes contained in article 40 of title 1, C.R.S. The changes, except for the one person who

challenges the petition or signatures, abrogate all others' rights to challenge the petitions. Therefore, these changes are such a departure from the current petition protest processes that they constitute separate subjects.

**II. THE TITLE DOES NOT ADEQUATELY DESCRIBE THE MEASURE.**

1. Because the measure's one percent limit on housing growth on specific Front Range counties and city and counties is the predominant feature of the measure, it should appear upfront in the title and before the initiative process changes.

**III. THE TITLE AS DRAFTED IS AMBIGUOUS.**

1. The title as drafted is impermissibly ambiguous because:
  - a. It is unclear in the title whether the phrase describing the prohibition on the issuance of new permits for privately owned housing units by local governments refers to: (i) the Front Range counties and city and counties in subsection (2); or (ii) all counties and city and counties in Colorado.
  - b. Highlighting the title's ambiguity, it likewise is unclear whether subsection (3) in the amended measure (subsection (4) of the original measure), which concerns prohibitions on permits to build new privately owned residential housing refers to: (i) the Front Range counties and city and counties in subsection (2); or (ii) all counties and city and counties in Colorado.

Therefore, because the title and measure use the phrase "such cities and counties" without clarity as to the specific cities and counties they are referring to, the title is ambiguous and must be redrafted.

**IV. THE ABSTRACT IS MISLEADING.**

1. The abstract as drafted is misleading because while the abstract states that "[l]imits on housing permits will also impact the distribution of construction employment, retail trade, and population within Colorado," this language is vague and fails to adequately indicate that the measure's housing growth limitations will necessarily negatively affect construction and retail businesses and employees in the Front Range counties and city and counties where growth would be limited.

Accordingly, the Objector respectfully requests that a rehearing be set pursuant to C.R.S. § 1-40-107(1).

Respectfully submitted this 28th day of December, 2016.

/s/ Jason R. Dunn

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S. WARD  
4:15 P.M.

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

Scott E. Smith, Objector

vs.

Dan Hayes and Julianne Page, Proponents.

**MOTION FOR REHEARING ON INITIATIVE 2017-2018 #4  
("Limit on Local Housing Growth")**

Scott E. Smith, a registered elector of the State of Colorado, through legal counsel, Recht Kornfeld P.C., objects to the Title Board's title and ballot title and submission clause set for Initiative 2017-18 #4 ("Limit on Local Housing Growth"). The Board set the following ballot title and submission clause for Initiative 2017-18 #4 on December 21, 2016:

*Shall there be an amendment to the Colorado constitution concerning limitations on the growth of housing, and, in connection therewith, permitting the electors of every city, town, city and county, or county to limit housing growth by initiative and referendum; permitting county voters by initiative and referendum to limit housing growth uniformly within the county, including all or parts of local governments within the county; establishing procedural requirements for initiatives for local governments, whether statutory or home rule, concerning limits on housing growth; limiting the growth of privately owned residential housing units in the city and counties of Broomfield and Denver, and in the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld, to one percent annually for the years 2019 and 2020; permitting such growth limitations to be amended or repealed commencing in 2021 by initiative and referendum; and prohibiting the issuance of new permits for privately owned housing units by local governments located in whole or in part within such counties and such cities and counties until January 1, 2019?*

**A. Initiative #4 contains multiple subjects, contrary to Colo. Const., art. V, sec. 1(5.5).**

Initiative #4 ("#4") violates the single subject requirement for initiatives. *In re Title for Initiative 2001-2002 #43*, 46 P.3d 438, 448 (Colo. 2002) (changing both petitioning procedures and substantive rights addressing matters of local concern violates single subject requirement).

1. #4 redirects the people's grant of legislative authority by creating the first and only constitutional right of initiative at the county-wide level.
2. #4 restricts traditional municipal powers (including the right of municipal initiatives, granted by Colo. Const., art. V, § 1(9)) by transferring certain binding power over growth to county voters.

3. By setting statewide limits, #4 removes from local government the power to determine the amount and timing of residential housing growth.
4. #4 combines a statewide process for local growth limit initiatives and referenda with local limits on residential housing growth for certain named counties.
5. #4 establishes new procedures and standards for a certain class of initiatives (those dealing with housing growth).
6. #4 changes home rule control over the conduct of certain municipal elections.
7. #4 sets a two-year (2019-2021) mandatory growth limit for 10 named counties.
8. #4 bans the right of initiative dealing with growth in the 10 named counties.
9. #4 limits the applicability of state statutes on the question of local growth.

**B. Initiative #4 contains elements that are not accurately described in the ballot title.**

1. The title fails to state the county, by initiative, “may... uniformly” restrict growth within the county without requiring any such restriction to be uniform.
2. The title fails to state that, for two years (2019-2021), there is no right of initiative or referendum on growth limits in the 10 named counties.
3. The title fails to state the starting date of the moratorium on new permit issuance, as it runs from “declaration of voter approval” until Jan. 1, 2019.
4. The title fails to state which petitioning procedures (signature requirements, petition form challenges, signature sufficiency) are affected by this initiative.

**C. Initiative #4’s fiscal impact statement and abstract are misleading or prejudicial and are contrary to C.R.S. §§ 1-40-105.5, -107(1)(a)(II)(B).**

1. The fiscal impact statement fails to state “whether there is a fiscal impact for the initiated measure.” C.R.S. § 1-40-105.5(2)(c)(II).
2. The abstract’s statement of “Local government revenue and spending” does not provide any current estimate or projected estimates of such revenue and spending.
3. The abstract’s statement, “Limits on housing permits will also impact the distribution of construction employment, retail trade, and population within Colorado”, does not materially inform voters of any actual economic impact of the measure.
4. The statement that “local governments may receive additional property tax revenue” is conjecture and fails to call to voters’ attention the spending and revenue limits of TABOR, Colo. Const., art. X, § 20.

**D. Initiative #4 does not comply with C.R.S. §§ 1-40-105.5(3), -107(1)(a)(II)(C).**

1. The abstract does not contain an estimate of the amount of any state and local government recurring expenditures. C.R.S. § 1-40-105.5(3)(a).
2. The abstract does not include a “statement of the measure’s economic benefits for all Coloradans” as required by C.R.S. § 1-40-105.5(3)(b).
3. The abstract does not contain an “estimate of the amount of any state and local fiscal liabilities if the measure is enacted.” C.R.S. § 1-40-105.5(3)(c).

WHEREFORE, the decision to set such titles should be reversed, due to the single subject violations addressed herein, and further, such titles as well as the fiscal impact statement and abstract should be revised to account for misstatements of Initiative #4 as specified herein.

RESPECTFULLY SUBMITTED this 28th day of December, 2016.

RECHT KORNFIELD, P.C.

  
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Objector's Address:

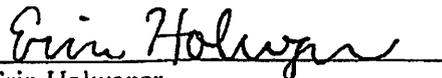
1172 Greenland Forest Dr.  
Monument, CO 80132

#### CERTIFICATE OF SERVICE

I, Erin Holweger, hereby affirm that a true and accurate copy of the MOTION FOR REHEARING ON INITIATIVE 2017-2018 #4 was sent this day, December 28, 2016 via email and first class mail, United States Postal Service, to proponents at:

Dan Hayes  
5115 Easley Rd  
Golden, CO 80403  
futuredenver@gmail.com

Julianne Page  
3565 Kline Street  
Wheat Ridge, CO 80033  
julipage13@gmail.com

  
Erin Holweger

**Ballot Title Setting Board**

**Proposed Initiative 2017 2018 #4<sup>1</sup>**

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

An amendment to the Colorado constitution concerning limitations on the growth of housing, and, in connection therewith, permitting the electors of every city, town, city and county, or county to limit housing growth by initiative and referendum; permitting county voters by initiative and referendum to limit housing growth uniformly within the county, including all or parts of local governments within the county; establishing procedural requirements for initiatives for local governments, whether statutory or home rule, concerning limits on housing growth; and for the city and counties of Broomfield and Denver, and in the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld: 1) prohibiting the issuance of new permits for privately owned housing units by local governments located in whole or in part within such counties and such cities and counties until January 1, 2019, 2) limiting the growth of privately owned residential housing units to one percent annually starting in 2019, and 3) permitting the one percent growth limitation to be amended or repealed by initiative and referendum commencing in 2021.

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 concerning limitations on the growth of housing, and, in connection therewith, permitting the electors of every city, town, city and county, or county to limit housing growth by initiative and referendum; permitting county voters by initiative and referendum to limit housing growth uniformly within the county, including all or parts of local governments within the county; establishing procedural requirements for initiatives for local governments, whether statutory or home rule, concerning limits on housing growth; and for the city and counties of Broomfield and Denver, and in the counties of Adams, Arapahoe, Boulder, Douglas, El Paso, Jefferson, Larimer, and Weld: 1) prohibiting the issuance of new permits for privately owned housing units by local governments located in whole or in part within such counties and such cities and counties until January 1, 2019, 2) limiting the growth of

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<sup>1</sup> Unofficially captioned “**Limit on Local Housing Growth**” by legislative staff for tracking purposes. This caption is not part of the titles set by the Board.

privately owned residential housing units to one percent annually starting in 2019, and 3) permitting the one percent growth limitation to be amended or repealed by initiative and referendum commencing in 2021?

*Hearing December 21, 2016:  
Single subject approved; staff draft amended; titles set.  
Hearing adjourned 2:45 p.m.*

*Rehearing January 4, 2017:  
Motions for Rehearing denied except to the extent that the Board made changes to the titles.  
Hearing adjourned 3:50 p.m.*