

<p>SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, Colorado 80203</p>	<p>DATE FILED: May 15, 2022 7:00 PM</p>
<p>Original Proceeding Pursuant to Colo. Rev. Stat. §1-40-107(2) Appeal from the Ballot Title Board</p>	
<p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2021- 2022 #97</p> <p>Petitioners: STEVEN WARD and LEVI MENDYK</p> <p>v.</p> <p>Respondents/Proponents: ROBERT SCHRAEDER and JOEL ALLEN CATHEY</p> <p>and</p> <p>Title Board: THERESA CONLEY; DAVID POWELL; and JULIE PELEGRIN</p>	<p>▲ COURT USE ONLY ▲</p>
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<p>RESPONDENTS' ANSWER BRIEF</p>	

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 contains 1,062 words.

Further, the undersigned certifies that the brief complies with C.A.R. 28(k).

For the party raising the issue:

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 (R. __, p. __), not to an entire document, where the issue was raised and ruled on.

For the party responding to the issue:

It contains, under a separate heading, a statement of whether such party agrees with the opponent's statements concerning the standard of review and preservation for appeal, and if not, why not.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

By: s/Martha M. Tierney

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Robert Schraeder and Joel Allen Cathey (jointly “Proponents” or “Respondents”), registered electors of the State of Colorado, through their undersigned counsel, respectfully submit this Answer Brief in support of the title, ballot title and submission clause that the Title Board set for Proposed Initiative 2021-2022 #97.

SUMMARY OF ARGUMENT

The Title Board properly exercised its broad discretion drafting the title for Initiative #97. The Initiative contains a single subject by changing the number of retail liquor licenses in which a person may hold an interest.

Initiative #97 does not combine an array of disconnected subjects into the measure for the purpose of garnering support from various factions; and voters will not be surprised by, or fraudulently led to vote for, any surreptitious provisions coiled up in the folds of a complex initiative. The text of the measure is short and plainly written. The Title fairly and accurately sets forth the major features of the Initiative and is not misleading.

The Title Board is only obligated to fairly summarize the central points of a proposed measure and need not refer to every nuance and feature of the proposed measure. While a title must be fair, clear, accurate and complete, it is not required to set out every detail of an initiative.

There is no basis to set aside the Title, and the decision of the Title Board should be affirmed.

ARGUMENT

I. The Initiative Complies with the Single Subject Requirement.

A. Initiative 2021-2022 #97 Contains a Single Subject.

The Initiative contains a single subject by changing the number of retail liquor licenses in which a person may hold an interest. The Initiative increases the number of retail liquor store licenses and decreases the number of liquor-licensed drugstore licenses, including licenses for sale of liquor in grocery stores, that a person may own or hold an interest in, on and after January 1, 2027, to a maximum of 12 licenses for each type of retail establishment. The text of Initiative #97 is short, and its provisions are directly tied to the measure's central focus.

Petitioners contend that Initiative #97 violates the single subject requirement because it increases retail liquor store licenses and decreases liquor-licensed drugstore licenses. To the contrary, the Title Board correctly determined that Initiative #97 contains a single subject: changing the total number of retail alcohol licenses that may be held by two types of licensees until the same maximum number of licenses applies to each. While the changes to Colorado law effectuated by the Initiative work to increase the maximum number of licenses for one type of

licensee and lower the maximum number of licenses for another type of licensee—neither constitutes an impermissible second subject because each is tied to Initiative #97's central purpose of changing the total number of retail alcohol licenses that may be held by two types of licensees until the same maximum number of twelve applies to each. Where a proposed initiative "tends to effect or to carry out one general objective or purpose," it presents only one subject. *In re Title, Ballot Title and Submission Clause, and Summary for 1999-00 #256*, 12 P.3d 246, 253 (Colo. 2000); *accord In re Initiative for 2013-2014 #90*, 328 P.3d 155, 159 (Colo. 2014).

Initiative #97 does not combine an array of unconnected subjects into the measure for the purpose of garnering support from groups with different, or even conflicting interests. *In re Initiative for 2013-2014 #89*, 328 P.3d 172, 177 (Colo. 2014). Rather, each subsection of Initiative #97 is tied to the central purpose of the measure: changing the number of retail liquor licenses in which a person may hold an interest. While the Initiative increases retail liquor store licenses slightly from a cap of three to a cap of twelve after January 1, 2027, it decreases liquor-licensed drugstore licenses from an unlimited number after 2037, to a maximum of twelve after January 1, 2027. These changes create parity in the number of retail liquor licenses a person may hold. Initiative #97 will pass or fail on its merits and does

not run the risk of garnering support from factions with different or conflicting goals. *See id.* at 178.

The Title Board correctly determined that Initiative #97 complies with the single subject rule.

II. The Title Board Set a Clear Title That Fairly Summarizes the Key Components of the Initiative.

A. The Title Is Not Misleading.

The Title is clear and does not mislead the voters. “While titles must be fair, clear, accurate and complete, the Title Board is not required to set out every detail of an initiative.” *In re Initiative for 2013-2014 #90*, 328 P.2d at 164. (citations omitted). Petitioners claim that the title is misleading because it does not provide a description of the features of a liquor-licensed drugstore and explain to voters that a liquor-licensed drugstore may be a grocery store or other retailer that sells items beyond those found in a typical drugstore.” *Pet. Op. Brf.*, p. 8.

Yet, the title already “enable[s] the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal.” *In re Title, Ballot Title, & Submission Clause for 2009-2010 #24*, 218 P.3d 350, 356 (Colo. 2009) (quotation omitted). That is all that is required here, because the Board “need not include every detail” of the measure. *In re Title, Ballot Title, & Submission Clause for 2001-2002 #22 &*

#23, 44 P.3d 213, 222 (Colo. 2002). Petitioners' complaint that the Board's title for #97 should have been longer and more exhaustively detailed is without merit and should be rejected. The title set by the Board should be affirmed because it adequately summarized the central features of Initiative #97 and was well-within the substantial discretion this Court gives the Title Board. *See In re #90*, 328 P.3d at 162.

The Court is not to "consider whether the Title Board set the best possible title; rather, [its] duty is to ensure that the title "fairly reflect[s] 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." *In re Initiative for 2007-2008 #62*, 184 P.3d 52, 58 (Colo. 2008).

CONCLUSION

The Proponents respectfully request the Court to affirm the actions of the Title Board for Proposed Initiative 2021-2022 #97.

Respectfully submitted this 15th day of May 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May 2022 a true and correct copy of the foregoing **RESPONDENTS' ANSWER BRIEF** was filed and served via the Colorado Courts E-Filing System to the following:

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