

COLORADO SUPREME COURT

2 East 14th Avenue,
Denver, Colorado 80203

Original Proceeding
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 2021-
2022 #102

Petitioners: STEVEN WARD and LEVI MENDYK

v.

Respondents/Proponents: ROBERT SCHRAEDER
and JOEL ALLEN CATHEY, Proponents,

and

Ballot Title Setting Board: THERESA CONLEY,
JULIE PELEGRIN, and DAVID POWELL

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Case No.: 2022SA137

Petitioners' Answer Brief

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with all requirements of Colorado Appellate Rules 28 and 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with the applicable word limits set forth in Colorado Appellate Rule 28(g).

It contains **213** words (opening brief does not exceed 9,500 words).

The brief complies with the standard of review requirements set forth in Colorado Appellate Rule 28(a)(7)(A).

For each issue raised by Petitioner, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of Colorado Appellate Rules 28 and 32.

s/ Suzanne Taheri

Suzanne Taheri

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Petitioners Steven Ward and Levi Mendyk (Petitioners) hereby respectfully submit this Answer Brief opposing the title, ballot title, and submission clause (the “Title”) set by the Title Board for Proposed Initiative 2021-2022 #102 (“Proposed Initiative”).

ARGUMENT

I. The Petitioners sufficiently described their objection in their motion for rehearing.

The Petitioners motion for rehearing sufficiently set forth with particularity the grounds for rehearing as required by § 1-40-107(1)(b), C.R.S. “[S]ubstantial compliance is the appropriate standard to apply in the context of the right to initiative and referendum. *Armstrong v. O'Toole (In re Title, Ballot Title & Submission Clause, & Summary for the Proposed Initiated Constitutional Amendment "1996-3")*, 917 P.2d 1274, 1276 (Colo. 1996) (citations and footnote omitted).

The Petitioner’s did not identify specific language *in* the Title being challenged, because the objection was made regarding language *missing* from the Title, specifically, that the title failed to include a “description of any operational changes that also apply to fermented malt beverage licenses.” Therefore, the Title

does not fairly, accurately, and completely describe the central features of the Proposed Initiative, and is insufficient and misleading.

CONCLUSION

For these reasons and the reasons presented in Petitioner's Opening Brief, Petitioners respectfully request that the Court should vacate the titles and remand with instructions to correct the deficient titles.

Dated: May 16, 2022

Respectfully submitted,

s/Suzanne Taheri

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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2022, I electronically filed a true and correct copy of this **Petitioners' Opening Brief** with the Clerk of Court via the Colorado Courts E-Filing System which will send notification of such filing upon counsel of record:

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