

SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, Colorado 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 2021- 2022 #102 Petitioners: STEVEN WARD and LEVI MENDYK v. Respondents/Proponents: ROBERT SCHRAEDER and JOEL ALLEN CATHEY and Title Board: THERESA CONLEY; DAVID POWELL; and JULIE PELEGRIN	▲ COURT USE ONLY ▲
<i>Attorneys for Respondents</i> Martha M. Tierney, No. 27521 Tierney Lawrence LLC 225 E.16 th Ave, Suite 350 Denver, CO 80203 Phone: (303) 356-4870 E-mail: mtierney@tierneylawrence.com	Case No.: 2022SA137
RESPONDENTS' ANSWER 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 contains 588 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 #102 (“Initiative”).

SUMMARY OF ARGUMENT

The Title Board properly exercised its broad discretion drafting the title for Initiative #102. The Initiative contains a single subject by expanding alcohol beverage retail licenses.

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. Petitioners’ concerns about the effects that Initiative #102 could have on other laws, or its application if enacted on tastings or damaged or defective open containers are not appropriate for review at this stage.

The text of the measure is plain and sets forth its provisions clearly. The Title fairly and accurately sets forth the major features of the Initiative and is not misleading.

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

ARGUMENT

I. 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). Here, the Title thoroughly but succinctly captures the key features of the measure, is not likely to mislead voters as to the Initiative’s purpose or effect, nor does the Title conceal some hidden intent.

Petitioners claim that the title is misleading because it does not explain that the new licensees would be allowed to serve both fermented malt beverages and wine at tastings, and because it does not explain an effect on a damaged or defective open container, not addressed in the measure. *Pet. Op. Brief*, p. 4.

When considering a challenge to a title, the Court does not “consider whether the Title Board set the best possible title.” *Bruce v. Hedges (In re Initiative for 2019-2020 #3)*, 454 P.3d 1056, 1060 (Colo. 2019). Rather, the Court only “ensure[s] that the title fairly reflects the proposed initiative such that voters

will not be misled into supporting or opposing the initiative because of the words that the Title Board employed.” *Id.* Here, the Title thoroughly but succinctly captures the key features of the measure and is not likely to mislead voters as to the Initiative’s purpose or effect.

Any change in the measure affecting tastings or damaged or defective open containers is not a central feature of Initiative #102, and thus, is not required to be included in the title. *In re Initiative for 2013-2014 #90*, 328 P.3d at 159. The title is clear and understandable as the Title Board set it. The Title Board “is given discretion in resolving interrelated problems of length, complexity, and clarity in setting a title[.]” *Id.*, at 162.

The title for Initiative #101 satisfies the clear title requirement because it is not misleading, and it fairly reflects the central purpose of the measure.

CONCLUSION

The Proponents respectfully request the Court to affirm the actions of the Title Board for Proposed Initiative 2021-2022 #102 .

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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