

RESOLUTION No. 8 (2018)

A RESOLUTION OPPOSING “AMENDMENT 74”, AN ATTEMPT TO AMEND THE COLORADO CONSTITUTION TO DRASTICALLY LIMIT STATE AND LOCAL GOVERNMENT SERVICES AT A HIGH COSTS TO TAXPAYERS

WHEREAS, local government services are essential to the citizens of [name of municipality]; and

WHEREAS, Amendment 74 has been written by certain out-of-state corporate interests to change the text of the Colorado Constitution, Article II, Section 15, which dates back to 1876 and threatens basic governmental services; and

WHEREAS, Amendment 74 declares that any state or local government law or regulation that “reduces” the “fair market value” of a private parcel is subject to “just compensation;” and

WHEREAS, while Amendment 74 is shrouded in simple language, it has far reaching and complicated impacts; and

WHEREAS, under the current Colorado Constitution, a property owner already has the right to seek compensation from state or local governments; and

WHEREAS, Amendment 74 would expand this well-established concept by requiring the government – i.e., the taxpayers – to compensate private property owners for virtually any decrease whatsoever in the fair market value of their property traceable to any government law or regulation; and

WHEREAS, Amendment 74 would create uncertainty because it is not clear what the language actually means or how it can be applied; and

WHEREAS, Amendment 74 would severely limit the ability of Colorado’s state and local governments to do anything that might indirectly, unintentionally, or minimally affect the fair market value of any private property; and

WHEREAS, Amendment 74 would drastically diminish the ability of our state and local governments to adopt – let alone attempt to enforce – reasonable regulations, limitations, and restrictions upon private property; and

WHEREAS, Amendment 74 would place laws, ordinances, and regulations designed to protect public health and safety, the environment, our natural resources, public infrastructure, and other public resources in jeopardy; and

WHEREAS, Amendment 74 would directly impact zoning, density limitations, and planned development; and

WHEREAS, Amendment 74 would make inherently dangerous or environmentally damaging activities prohibitively costly to attempt to limit or regulate, even in the interest of the public; and

WHEREAS, any arguable impact upon fair market value – however reasonable or justified or minimal or incidental or temporary – resulting from state or local government action could trigger a claim for the taxpayers to pay; and

WHEREAS, governments would be vulnerable to lawsuits for almost every decision to regulate or not to regulate, making regular government function prohibitively expensive for the taxpayer; and

WHEREAS, similar efforts have been attempted and defeated in other states, such as the states of Washington and Oregon; and

WHEREAS, the fiscal impact for similar language in Washington was estimated at \$2 billion dollars for state agencies and \$1.5 billion for local governments over the first six years; and

WHEREAS, individuals filed billions of dollars in claims in Oregon before the residents repealed the takings initiative three years after its passage.

NOW, THEREFORE, City Council of the City of Craig, Colorado opposes Amendment 74 and strongly urges a vote of NO this November.

Resolved this _____ day of October 2018.

John Ponikvar, Mayor

Attest

Liz White, City Clerk



To: Interested Municipal Officials
From: Sam Mamet, Executive Director
Date: September 2018
Subject: Amendment 74 Introductory Memo

What follows is a brief summary of a significant statewide ballot measure on the November ballot, Amendment 74, “Just Compensation for Reduction in Fair Market Value by Government Law or Regulation.” Amendment 74 could have dramatic impacts on state and local governments. Your careful analysis of this measure is strongly encouraged, as well as communication with county commissioners, neighboring municipal leaders, business interests like your chamber, neighborhood groups, and the community at large. This packet contains several important documents and we urge careful review. Please go to www.cml.org for more information or contact me directly at smamet@cml.org. **We need your help to defeat Amendment 74.**

PROPOSED AMENDMENT 74

Amendment 74, drafted by out-of-state corporate interests seeks to amend Section 15 of Article II of the Colorado Constitution to require just compensation if private property has “reduced fair market value by government law or regulation”. Shrouded in simple language, Amendment 74 will have far reaching and potentially disastrous consequences.

Key Highlights (Not Comprehensive)

- Under the current Colorado Constitution, a property owner already has the right to seek compensation from state or local governments. Amendment 74 expands this well-established concept by requiring the government – i.e., the taxpayers – to compensate private property owners for virtually any decrease whatsoever in the fair market value of their property due to any government law or regulation.
- Just about any municipal action could result in a lawsuit. Any inaction could as well, if the effect is even the slightest drop in an individual property’s “fair market value.”
- The obligation to compensate is triggered without regard to how long someone has owned the property or what the intentions or actions of the property owner are.
- There are no exceptions for health, safety, and general welfare regulations or those actions mandated by the federal or state governments.
- Once passed, there is no flexibility granted to the General Assembly to implement this measure; only the Colorado Supreme Court will be left to interpret the Amendment, including what “fair market value” and “reduced” means. This litigation will come at a high cost to state and local governments, paid for by taxpayers. Decisions on key matters will come to a halt while awaiting further clarification from the courts.
- The bottom line: Amendment 74 will require large pay outs from state and local governments, which means higher taxes for citizens and a reduction in essential government services such as parks, police, utilities, etc. We don’t yet know how far reaching this Amendment will be, only that has potential to be disastrous for our state and local governments.

Municipal Impacts

- This measure will cripple local budgets through both increased legal costs and pay outs to individual property owners. Any decision by a government body would be vulnerable to lawsuits, with the cost borne by taxpayers.
- Municipal services under threat of being reduced include:
 - Parks, recreation centers, and neighborhood pools;
 - Police officers and police services;
 - Trash collection;
 - Maintenance of gas and water main lines;
 - Maintenance of streets and sidewalks;
 - Licensure of businesses; and

- Maintenance of land use codes to protect the structure and character of neighborhoods.
- The State of Oregon briefly enacted a similar statute, and in a few short years the measure led to thousands of individual claims, totaling in excess of several billion dollars. Three years after the statute passed, Oregon voters realized the extent of the statute on the economic vitality of the state and effectively repealed the statute. Our communities—and our state—simply cannot afford the impacts of this measure.

Examples of Potential Municipal Impacts

- *Infrastructure Improvements.* Colorado's population is expected to nearly double by 2050. State and local governments will have to expand public roads to accommodate new residents. Under Amendment 74, governments could be sued by nearby property owners affected by any infrastructure improvements due to loss in the fair market value of their homes caused by construction, busier streets, noise, and general changes to the character of neighborhoods. This Amendment will make it extremely difficult for state and local governments to improve or replace all kinds of public improvements such as storm water, electric utilities, sewage, rights of ways, easements, and transportation infrastructure because of potential liability.
- *Regulation of Airbnb.* Airbnb is a way for homeowners to make income on their private property by renting their properties for a per night fee. However, utilizing Airbnb has caused neighboring homeowners to raise concerns about crime and safety; noise levels, especially when the short term rentals are used for large parties; and a general loss of community in their neighborhoods. Under Amendment 74, any action a city council or town board decides to take under this scenario could leave them vulnerable to lawsuits from individual property owners: either lawsuits over the loss in rental income if a municipality forbids short term rentals in a certain area or lawsuits over the loss in fair market value to individual property because of a decrease in the character, safety, and sound quality of a neighborhood.
- *Broadband.* Voters in over 100 counties and municipalities across Colorado have told their local leaders to explore public private partnerships for better broadband access. State law has allowed this process since 2005. An incumbent provider could sue the local government for reducing the business investment previously made, even though the service has been inferior, causing such a vote to occur in the first place. The efforts to improve rural broadband access may be threatened.
- *Adult Entertainment Establishments.* Municipalities use zoning to form the character of neighborhoods and ensure a well-balanced community. As part of this, many municipalities limit the location of adult entertainment establishments. If a municipality regulates where an adult entertainment establishment can be, an owner could sue for loss in fair market value as one particular location may attract more business than another. If the municipality moves to allow adult entertainment establishments to conduct business anywhere, then property owners adjacent to these establishments may sue for loss in fair market value of their property if, for example, the crime rate rises.
- *Economic Development.* Incentives to attract new industry or retain existing businesses are done as a matter of course in many jurisdictions across the state. It is a contributing factor to Colorado's strong economy. If Amendment 74 passes, this practice may be stifled by an individual who sues a local government that is providing incentives, claiming their property's fair market value is reduced. Local governments will have to weigh the benefit of bringing in businesses with the detriment of paying for individual lawsuits. Statewide economic development groups are rightly concerned about this aspect of the proposal. Urban renewal and redevelopment projects may similarly be impacted by the negative effects of Amendment 74.
- *Affordable Housing.* Municipal leaders continue to struggle with how to best address the affordable housing challenges many of our communities face. One way communities address the problem is through a rezoning to allow for affordable housing. However, under Amendment 74, an individual may sue because the policy reduces the fair market value of their neighboring property. Suddenly, a project that has wide support in a community has been thwarted, at the expense of all the taxpayers in that city or town.
- *Land Use.* The decision making around land use and zoning is complicated enough. An already complex process to approve a new development will now take even longer and will be more costly because municipal decision makers will have to ensure their decisions cause the least amount of liability. Every action may have a new consequence and inaction may result in legal exposure under Amendment 74.

Government actions affect every area of a citizen's daily life from collecting trash, to employing police officers, to keeping communities safe. Requiring governments to pay for any reduction in fair market value will **cripple** state and local governments in Colorado, with the burden paid by taxpayers who must also contend with a reduction of government services.

Vote "NO" on Amendment 74. Protect our neighborhoods. Urge your friends and associates to do the same.

Talking Points for Local Elected Officials on Amendment 74

Amendment 74 – “Just Compensation for Reduction in Fair Market Value by Government Law or Regulation”

Amendment 74 seeks to amend Section 15 of Article II of the Colorado Constitution to require just compensation if private property has “reduced fair market value by government law or regulation”. As this Amendment will have negative impacts on local governments if passed, CML encourages local elected officials to speak to their communities. Below are some suggested talking points.

- The ability of elected officials to act on behalf of the collective health, safety, and welfare of their community is a core function of government. Amendment 74 undermines the ability of state and local governments to effectively represent their constituents and protect their interests in vital areas such as clean water and air, zoning enforcement, and infrastructure improvements.
- Under the current Colorado Constitution, a property owner already has the right to seek compensation from state or local governments. Amendment 74 expands this well-established concept by requiring the government – i.e., the taxpayers – to pay private property owners for virtually any decrease in the “fair market value” of their property due to a government law or regulation.
- No one truly knows how this proposed expansion of Section 15 could impact Colorado or local governments... But adding this language to the Constitution will add new layers of ambiguity to the Constitution and leave local governments and taxpayers with unprecedented levels of legal exposure.
- This ambiguity will result in taxpayer dollars going towards lawsuits, which either means a rise in taxes or a reduction in government services for neighborhoods, including parks, police, and utilities.
- Any change in law or regulation, even those broadly desired by a community or those in the interest of health, safety, and welfare, could be challenged by private land owners. Governments will be reluctant to address important policy issues.
- Amendment 74 will undoubtedly lead to increased legal exposure and costly litigation that will increase costs for government programs and services. These will be paid for at the taxpayers' expense.
- Municipalities will become collateral damage in private property disputes between owners who feel their property rights have been diminished at the behest of another. Any action by a local government could require that these property owners be compensated.
- In sum, Amendment 74 has unintended consequences which will cost Colorado communities too much money, while at the same time putting Colorado citizens in danger. It is a very risky proposition for our communities, our families, and our Colorado.
- [Cite a positive project in your city or town which could be impacted under Amendment 74.]

Elected Official Opposition to Amendment 74

Purpose: A sample letter to the editor, a social media post, or speech remarks

I oppose Amendment 74 and respectfully request you to **vote “no”** on this ballot measure in November. If Amendment 74 passes, it will obstruct our ability to make local decisions, reduce government services, and increase taxes.

Under the current Colorado Constitution, a property owner has the right to seek compensation from state or local governments for any property taken. Amendment 74 expands this well-established concept by requiring the government – i.e., the taxpayers – to compensate private property owners if a state or local government law or regulation “reduces” the “fair market value” of their property.

While this language may appear harmless, Amendment 74 would severely limit local governments from making regulatory or land use decisions without taxpayers bearing the burden of significant costs from individual property owners suing in response to those decisions. In such an environment, government would have difficulty accomplishing even its most basic functions. Unfortunately, Amendment 74 would lock the language into the Colorado Constitution, making it virtually impossible to change.

Amendment 74 is unnecessary. Court remedies already exist, under established principles, when an individual believes government regulation has unreasonably impacted property values. Amendment 74 would expand those principles without any limitations or standards by which claims could be measured due to vague language. The result would be that every decision by government bodies will be vulnerable to lawsuits, with the cost borne by taxpayers. Every municipal policy decision which focuses on zoning, land use, liquor, marijuana and other forms of licensing, ordinance enforcement to protect public safety, affordable housing initiatives, environmental protection (especially when mandated by state or federal regulation), urban renewal and redevelopment, and prohibitions of undesirable uses such as an adult entertainment business in a neighborhood, right to farm ordinances, governmental decision making moratoria on certain industrial uses all will be subject to attack when a plaintiff alleges such a governmental action or regulation reduces a property’s fair market value. This will have a chilling effect on the ability of local governments to exercise their authority, if passed.

Amendment 74 may also cripple our local budget through both increased legal costs and pay-outs to individual landowners. The State of Oregon briefly enacted a similar statute, and in just three years, thousands of claims were filed in state courts totaling billions of dollars in claims. Three years after the passage of the statute, once voters realized the extent of this economic calamity, they effectively repealed it. Our communities—and our state—simply cannot afford the impacts of this measure. Now is a time when local governments need to be investing in police services, fighting wildfires, transportation infrastructure, and other critical government functions especially with the projected increase in our population.

If Amendment 74 passes, it would impede state and local government ability to **provide critical services while increasing the cost of government at the taxpayers’ expense.**

As a local official, my primary responsibility is to serve you and to protect your health, safety, and welfare. Our local government should be able to exercise this duty without **the constant threat of costly litigation that undermines the quality of life and economic health of our communities.** This Amendment has far too many unintended consequences.

I respectfully ask you to **vote “No” on Amendment 74.**

https://www.gjsentinel.com/opinion/editorials/two-for-the-scrap-heap/article_87570c62-a343-11e8-a8ff-10604b9f7e7c.html

5 hrs ago

Two for the scrap heap

GRAND JUNCTION
By THE DAILY SENTINEL 8-19-18

Of the seven proposed citizens' initiatives that are trying to qualify for the November ballot, two stand out for their dangerous repercussions and should be rejected if voters are forced to decide the measures' fate.

If the next Colorado governor inherits either Initiative 97 or Initiative 108 or both, catastrophic results await state and local governments.

Let's start with Initiative 97. It's a statutory proposal to create a 2,500-foot setback from occupied structures or other "vulnerable areas" for new oil and gas development. That's a significant increase from the 500-foot setback currently in place.

According to the Colorado Oil and Gas Conservation Commission, this initiative would eliminate new drilling on 95 percent of the surface land in the state's top five oil and gas producing counties and 85 percent of the state's non-federal land.

It would cost the state, local governments and schools proceeds from billions of dollars in lost oil and gas revenues, said Diane Schwenke, president and CEO of the Grand Junction Area Chamber of Commerce, which has joined a coalition of business groups in the state opposing the initiative.

"We are a state that already has some of the most stringent regulations on the energy industry, which are developed through a public process under the purview of the Colorado Oil and Gas Conservation Commission," Schwenke said. "That is where rules should be made, not at the ballot box."

Because it's essentially a de facto ban on new drilling, Initiative 97 is among the most contentious to arise this year, rivaled only by Initiative 108, which appears to be a counter-measure to 97's implications for the energy industry, but goes much farther. As bad as 97 is, 108 may be worse.

For one thing it proposes changing the state constitution to enable property owners to seek compensation if a law or regulation reduces their land's "fair market value." Embedding policy in the state constitution is never a good idea and always rife with unintended consequences for which there are no easy fixes.

Under current law, a government has to compensate for a "total taking," either by eminent domain or when a government action leaves a property with no economic use. Switching just compensation requirements to "fair market value" is a plaintiff's lawyer's wildest dream.

The Colorado Municipal League warns Initiative 108 "could spawn countless and expensive lawsuits over a myriad of basic local land-use decisions such as zoning or the siting of municipal facilities."

It would force local governments to assess the risk of a lawsuit on any action it considers. Sam Mamet, executive director of the CML told Colorado Politics reporter Mark Jaffe, "My advice to counties and municipalities is if this passes, don't do anything ... no zoning, no ordinances."

The cost of defending lawsuits or paying to cover a multitude of small diminutions in property could bankrupt some municipalities or force them to cede their authority to control growth and development. That's a stiff price to pay for a measure that ostensibly seeks to mitigate the impacts of Initiative 97.

Either of these measures is terrible for Colorado. If both pass, this holy war between anti-drilling activists and industry defenders will have achieved a state of mutually assured destruction.

That's why it's important for supporters of both measures to consider withdrawing them from consideration for the ballot. We need a truce on this standoff or voters are going to decide. And if it comes to that, we'll be urging voters to reject both measures as the only sane and reasonable outcome to this madness.

OPINION > EDITORIALS

Reject Amendment 74's threat to good land use policy



Helen H. Richardson, The Denver Post

New townhomes on Vine Street between 19th and 20th avenues on January 29, 2018, in Denver. These newer, large-scale construction projects in which units are oriented inward instead of toward the street are called “slot” homes.

By **THE DENVER POST EDITORIAL BOARD** |

September 16, 2018 at 6:04 am

Colorado voters should soundly reject Amendment 74.

The innocuous sounding ballot initiative promises to ensure Colorado property owners receive just compensation when a government action reduces the “fair market value” of their property.

But adding 11 words to the Colorado Constitution could open up a world of trouble.

It's a risk this board doesn't think the public should take.

The amendment is written in a way to intentionally allow the courts to figure out what it means, as they have by interpreting the existing language in the Constitution that requires the government to compensate people for "taking" their property. That means that there will likely be an increase – the Colorado Municipal League's executive director, Sam Mamet, predicts a flood – of lawsuits against every city that would dare to make changes to land use policies.

The best example we can think of to illustrate the danger of this amendment is Denver City Council's recent decision to change its building code to no longer allow the construction of slot homes – town homes, condos or apartments that are built with the units facing an alley down the middle rather than the street. The building style maximizes the number of units that can be put on a small lot, but they are an eyesore and damage our communities.

The City Council's action was the right thing to do for its constituents, but there's no doubt that it reduced the ability of developers to maximize their profits on land slated for slot homes.

Amendment 74 would encourage developers to sue to see if the court would grant them compensation for the lost "fair market value" of their yet-to-be-developed property.

And it is taxpayers who will foot both the legal costs and the possibility of either a settlement or a monetary award.

Chad Vorthmann, executive vice president of the Colorado Farm Bureau, says the courts would likely continue to interpret the Constitution narrowly, limiting takings claims only to those who had made substantial progress toward development.

Certainly if a city were arbitrary or capricious in its decision making, or had ripped the rug out from under a developer who was already digging the foundations of a slot home that would be unacceptable. But in those cases, developers would have other legal remedies available to them aside from using the "takings clause" something the courts have reserved for eminent domain seizures of property.

We are staunch advocates of property rights, but this amendment is simply too broad. If there are egregious examples of government abuse, we haven't seen many. And even then, we'd advocate for a narrow legislative solution.

And the oil and gas industry has muddied the waters further.

Protect Colorado — a political action group funded by a number of oil and gas companies — spent \$1.2 million to help pay for signature gathering to get the amendment onto the ballot.

Clearly the industry thinks this will help protect their mineral rights, just in case voters in Colorado pass a separate ballot measure that aims to implement 2,500 foot setbacks from homes, schools and water, for oil and gas development.

Fear of an outcome that hasn't occurred yet is not a good reason to amend our Constitution.

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TAGS: **COLORADO FARM BUREAU,**
COLORADO MUNICIPAL LEAGUE, EMINENT DOMAIN,
LAWSUITS, MINERAL RIGHTS, OIL AND GAS, SLOT HOMES





To: Interested Municipal Officials
From: Laurel Witt, Staff Attorney
Sam Mamet, Executive Director
Date: September 2018
Subject: Examples: Oregon and Washington

In the early 2000s, several states considered ballot measures similar to Amendment 74 including Oregon, Washington, California, Idaho, and Arizona. This memorandum explains experiences in Oregon and Washington—one state who passed a ballot measure and one who did not—to provide examples for Colorado by highlighting the major theme of these ballot measures: more litigation and more payouts at the expense of taxpayers.

OREGON MEASURE 37

Under Measure 37, if a government action reduced a property's fair market value, the owner could sue. If the individual won, Oregon courts required the government to either waive the land use regulation or compensate the individual for the drop in fair market value of their property. Oregon residents **approved** Measure 37 on the November 4, 2004 ballot.

- State and local governments were faced with carrying out a voter-approved mandate with no clear procedures, virtually no legislative guidance, and without the budgetary means to pay for the claims. The measure provided no new revenue source to pay for individual claims.
- Measure 37 had some exceptions such as historic public nuisances, public health and safety regulations, regulations to comply with federal law, and regulations surrounding pornography. Amendment 74 contains no such exemptions and therefore will have far greater negative impacts to Colorado.
- The consequences were enormous in terms of liability – the measure gave property owners the ability to collect monetary compensation unless government acted within 180 days of filing a lawsuit.
- Within three years, thousands of claims were filed with state and local governments with claims costing in excess of **several billion dollars**.

Three years after Measure 37 passed, Oregon voters repealed the majority of Measure 37.

WASHINGTON INITIATIVE 933

Initiative 933 (“I-933”) was a ballot measure in the state of Washington in 2006 that was **defeated** by voters.

- The University of Washington conducted a study on the fiscal impacts of the measure to local and state governments. In the near term, the University concluded I-933 would cost taxpayers **nearly \$8 billion – more than \$1,000 per resident** – to pay compensation claims.
- The text of I-933 was similar to Amendment 74, except that the measure included any government action going back ten years. Amendment 74 is silent as to whether private property owners can sue based on government actions that occurred in the past.
- I-933 also included some exemptions including government actions that “apply equally to all property subject to the agency’s jurisdiction” and actions aimed at preventing “an immediate threat to human health and safety.” Amendment 74 contains no such exemptions, creating more liability than what was at stake in Washington.

Colorado's Fair Campaign Practices Act Restricts Use of Public Funds

Ballots in statewide or local elections often include issues of profound importance to Colorado municipalities. As community leaders, municipal officials can and should become actively involved in the public discussion of these issues. However, the state Fair Campaign Practices Act (FCPA) places significant restrictions on the use of public funds for advocacy purposes or for dispensing information in connection with local or statewide ballot issues (C.R.S. § 1-45-117).

The FCPA restrictions on the use of public funds apply:

- to statutory cities and towns or to those home rule municipalities that have not adopted provisions regarding campaign finance, and
- once a statewide petition has been submitted for title setting, or
- for local ballot issues, once an issue has been submitted for the purpose of having a title fixed or that has had a title fixed, upon final action of the governing body placing a referred measure on the ballot, or
- once the recall election of any officer has been certified to voters.

These guidelines are intended to provide municipal officials and employees with general guidance concerning what they may or may not do, consistent with the FCPA. However, *your municipal attorney should be consulted, and any home rule provision(s) reviewed, before any action is taken that could be viewed as subject to the public-funds restrictions in the FCPA.*

Permissible activities

It is permissible to do the following in campaigns in support of or in opposition to a proposed measure:

1. The local governing body may take a position of advocacy on the issue. The governing body may pass a resolution and take a public stand urging the electorate to vote for or against any matter. Local governments may report the passage of or distribute such resolutions "through established, customary means, other than paid advertising, by which information about other proceedings of [the governing body] is regularly provided to the public" (such as via a local government newsletter or cable television broadcast).
2. The Act provides that any public official who has "policy-making responsibilities" may spend up to \$50 of public money on phone calls, letters, or other activities "incidental" to expressing his or her opinion on any issue. It is advisable to consult with your municipal attorney before expending public funds in reliance on this provision.
3. Elected officials may speak out on the issues presented on the ballot. There is no limitation in the FCPA on the right of public officials to address any matter before the electorate; the limitations in the Act are on the expenditure of public funds.
4. Public employees and paid elected officials may work on a campaign and speak out on the issues on their own time. Any public employee who becomes involved in the campaign should be prepared to document that such work was done on his or her own time. If the public employee is on a recorded-hour system, make sure the record reflects that the public employee took time off from public duties to engage in campaign activities.
5. Public employees may respond to unsolicited questions or requests for information about a ballot issue; however, the local government should carefully avoid producing information for distribution that is designed to influence the passage or defeat the issue.
6. The local governing body may use public funds to develop and distribute a factual summary on any issue that will appear on a ballot in the jurisdiction. The summary must include arguments for or against the proposal, but the summary itself may not contain a conclusion or opinion in favor of or against the proposal.

Impermissible activities

It is impermissible under the FCPA, except as indicated above, to do the following in campaigns in support of or in opposition to a proposed measure:

1. Use or expend public funds or supplies;
2. Allow employees or paid officers to work on a campaign during their working hours or use any public facility or equipment for the purposes of a campaign;
3. Provide transportation or advertising using public property or funds to influence, directly or indirectly, the passage or defeat of any issue; or
4. Grant an employee or officer leave from his job or office with the local government, with pay, to work on a campaign.

For more information, contact Laurel Witt, CML Staff Attorney, at lwitt@cml.org or 303-831-6411.

RECEIVED

JAN 26 2018

S. WARD

2:16 P.M.

Colorado Secretary of State

2017-2018 #108 – Final Draft

Just Compensation for Reduction in Fair Market Value by Government Law or Regulation

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

SECTION 1. In the constitution of the state of Colorado, amend section 15 of article H as follows:

Section 15. Taking property for public use—compensation, how ascertained. Private property shall not be taken, of damaged, OR REDUCED IN FAIR MARKET VALUE BY GOVERNMENT LAW OR REGULATION for public or private use, without just compensation. Such compensation shall be ascertained by a board of commissioners, of not less than three freeholders, or by a jury, when required by the owner of the property, in such manner as may be prescribed by law, and until the same shall be paid to the owner, or into court for the owner, the property shall not be needlessly disturbed, or the proprietary rights of the owner therein divested; and whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.

AMENDMENT 74

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And these are just a few examples of the implications. For more information, visit the Colorado Municipal League's website at www.cml.org.

Brochure produced by the Colorado Municipal League.



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WHAT YOU NEED TO KNOW BEFORE VOTING ON AMENDMENT 74

You will be making an important decision on November 6.

Amendment 74 will subject your hometown to unprecedented levels of legal exposure at the public's expense.

AMENDMENT 74?

Financed by certain out-of-state special interests as a state constitutional amendment to strengthen "private property rights," Amendment 74 is a **thinly veiled attempt to protect special-interest profits** at the expense of everyday Coloradans.

Amendment 74 will **diminish your city or town's ability to provide basic services** residents depend on **at the taxpayers' expense.**



Amendment 74 will **undermine the ability of local governments to protect their residents and communities** in vital areas such as:

- public safety and crime reduction
- clean air and water
- preserving neighborhood integrity
- transportation, sewer maintenance, and other critical infrastructure
- trash collection
- parks, recreation centers, and other neighborhood amenities

If Amendment 74 passes, it will:

- **hold your community liable** simply for operating in the public interest
- **increase lawsuits and costly litigation** — all financed by you, the taxpayer
- **increase the cost of government** while simultaneously **reducing essential municipal services**
- **decrease the quality of life** for all Coloradans — for the benefit of out-of-state special interests