



Legislation Text

File #: 18-0508, **Version:** 1

A Resolution opposing “Amendment 74”, a proposal to amend the Colorado Constitution which would drastically limit state and local government services at a high cost to taxpayers

Presenter:

Jill Gaebler, Council President Pro Tem

Summary:

Amendment 74 is a proposed amendment to the Colorado Constitution that is on the November 2018 statewide ballot. Amendment 74 would require the City to award just compensation to owners of private property when a City law (ordinance) or regulation reduces the fair market value of the property. The proposed language is extremely broad in its application and may have profound impacts on municipal operations.

Per this request, City Council is to consider passage of a resolution opposing Amendment 74 to the Colorado Constitution.

Previous Council Action:

N/A

Background:

Amendment 74 is a proposed amendment to the Colorado Constitution that is on the November 2018 statewide ballot. Amendment 74 would require the City to award just compensation to owners of private property when a City law (ordinance) or regulation reduces the fair market value of the property. Amendment 74 is supported by the Colorado Farm Bureau and the oil and gas industry in order to prevent governments from increasing drilling setbacks that would diminish the accessibility of mineral resources. However, the proposed language is extremely broad in its application and may have profound impacts on municipal operations.

The ballot language does not specify whether it applies to real or personal property, and it does not define “regulation.” Therefore, the amendment may apply to both real and personal property, and could arguably encompass any government action outside of the simplest ministerial tasks.

Virtually every law or regulation could be construed to affect the value of property.

Barring a legislative fix or judicial clarification, each claim would have to be litigated in order to determine if it is a compensable taking or not. If challenged, the City would bear the costs of litigation and trial, even when it wins. Further, regulatory takings are considered inverse condemnations, which allow permit a plaintiff to request attorneys’ fees in addition to damages.

Finally, Amendment 74 does not address the fact that City ordinances and regulations often increase property values on a broad scale. Good roads and thoughtful planning and zoning generally increase property values throughout the City. Amendment 74 may penalize the approval of sound zoning ordinances or regulations that might trigger minor fluctuations in property values on individual lots, while the vast majority of property owners would retain the benefits of development.

Financial Implications:

Undetermined

Board/Commission Recommendation:

N/A

Stakeholder Process:

N/A

Alternatives:

City Council could decide not to adopt the resolution.

Proposed Motion:

Move to adopt a resolution opposing "Amendment 74", a proposal to amend the Colorado Constitution which would drastically limit state and local government services at a high cost to taxpayers.

N/A