

Legislation Text

File #: Resolution 60-2018, **Version:** 1

Agenda Date: 10/02/2018

Subject:

A resolution opposing Amendment 74, an attempt to amend the Colorado Constitution to limit state and local government services at a high cost to taxpayers

Presented By: Mark Relph, City Manager
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REQUESTED COUNCIL ACTION:

Does city council support approving Resolution 60, opposing Amendment 74?

BACKGROUND:

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.

Under the 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 in the fair market value of their property due to any government law or regulation.

Just about any municipal action could cause a lawsuit 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 government.

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, ultimately 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 payouts from state and local governments, which means higher taxes for citizens and a reduction in essential government services such as parks, police, utilities, etc. It is unknown how far reaching this Amendment will be; only that it has potential to be disastrous for state and local governments.

PRIOR ACTIONS OR DISCUSSIONS:

None

STAFF ANALYSIS:

This measure could cripple local budgets through both increased legal costs and payouts 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
- Maintenance of land-use codes to protect the structure and character of neighborhoods

OPTIONS/ALTERNATIVES:

Approval of Resolution 60 would support the Colorado Municipal League and other municipalities opposing Amendment 74.

FISCAL IMPACTS:

This measure could decimate municipal budgets.

Two 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 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.

Affordable Housing. Municipal leaders continue to struggle with how to best address the affordable housing challenges many 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.

STAFF RECOMMENDATION:

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.

Staff recommends approval of Resolution 60, Series 2018

PROPOSED MOTION:

I move to approve the resolution opposing Amendment 74, an attempt to amend the Colorado Constitution to limit state and local government services at a high cost to taxpayers