

DISTRICT COURT FOR THE CITY AND COUNTY OF
DENVER
1437 Bannock Street
Denver, Colorado 80202

**Plaintiff(s): MESA COUNTY BOARD OF COUNTY
COMMISSIONERS, MAIN STREET CAFÉ, EVAN
GLUCKMAN, DONALD SHONKWILER, JOHN
BOZEK, SHARON JOHNSON, and RICK NEVIN,
and all similarly situated Colorado Taxpayers and
Registered Voters,**

vs.

**Defendant(s): COLORADO DEPARTMENT OF
EDUCATION.**

For Plaintiffs:

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Case Number:

Div.:

Ctrm.:

CLASS ACTION COMPLAINT

Plaintiffs, Mesa County Board of County Commissioners, Main Street Café, Evan Gluckman, Donald Shonkwiler, John Bozek, Sharon Johnson, and Rick Nevin, on behalf of themselves and all others similarly situated, bring this complaint against the Defendant Colorado Department of Education (“Defendant” or “Department”).

Introduction

1. This case challenges an attempt to circumvent the Colorado Constitution – specifically, the Constitution’s requirement that voters first approve any changes in tax policy that will directly increase the monies collected by the government from Colorado taxpayers.

2. Colorado Constitution Article X, Section 20(4)(A),¹ enacted in 1992, requires “voter approval in advance” of “a tax policy change directly causing a net tax revenue gain to any district.” Further, Colo. Const. art. X, § 20(1) provides: “Other limits on district revenue, spending, and debt may be weakened only by future voter approval.”

3. The School Finance Act – which sets forth the formula for funding Colorado’s public schools – was amended in 1993, in response to TABOR’s newly enacted property tax limits, to protect property taxpayers in Colorado school districts from property tax increases related to school funding. That 1993 enactment required that as property values go up in a particular district, the mill levy assessment go down to limit the amount of property tax received from taxpayers in that district.

4. The 1993 amendment was enacted in direct response to TABOR and to implement its taxpayer protections.

5. The 1993 amendment is an “other limit” on district revenue.

6. This year, the General Assembly amended the School Finance Act in Senate Bill 07-199. Under it, tax policy in the State connected to the School Finance Act has been changed directly causing a net tax revenue gain (by latest estimates from the General Assembly’s Legislative Council) of \$114,085,216 from taxpayers in over 100 school districts across the State in Fiscal Year 2007-08 alone.

7. The Colorado Constitution provides that the preferred interpretation of issues involving Colo. Const. art. X, § 20 shall be that interpretation which “shall reasonably restrain most the growth of government.” Colo. Const. art. X, § 20(1).

8. Under Colo. Const. art. X, §§ 20(1) and 4(a), the applicable provision of Senate Bill 07-199 should have been submitted to a vote of the people of this State prior to its implementation.

¹ Article X, Section 20 of the Colorado Constitution is often referred to as the Taxpayer Bill of Rights (“TABOR”). Colorado voters added TABOR to the Colorado Constitution in 1992.

The failure to do so violates the Colorado Constitution, and the provision in Senate Bill 07-199 effectively repealing the 1993 enactment should be enjoined.

Parties

9. Defendant Department is the proper defendant in this TABOR enforcement case. Under C.R.S. § 22-40-102 (as described in Bolt v. Arapahoe County School District Number Six, 898 P.2d 525 (Colo. 1995)), the Department is charged with implementation of the School Finance Act, and the Department “certifies the number of mills to be levied [in each school district] to meet the district’s share of equalization funding pursuant to the Public School Finance Act.” Id. at 538. The Department of Education will, accordingly, implement the effective repeal of the School Finance Act Property Tax Revenue Cap.

10. Plaintiff Board of County Commissioners of Mesa County (“Mesa County Board”) is the statutory body responsible for levying tax assessments against residents in Mesa County for, inter alia, assessments pursuant to the School Finance Act, and it is a proper plaintiff in this action for seeking declaratory relief. The Mesa County Board is obligated under the School Finance Act “to ascertain if [the mill levy is] within the limitations as prescribed by law.” C.R.S. § 22-40-103 (discussed in Bolt, 898 P.2d at 538-539). The Mesa County Board, “[n]o later than December 22 in each year, . . . shall, by an order to be entered in the record of its proceedings, levy against the valuation for assessment of all taxable property located in the county . . . the requisite property taxes for all purposes required by law,” C.R.S. § 39-1-111 (see id. at 538) including the levy for school funding in Mesa County. The Mesa County Board believes that the mill levy it will be obligated by statute to levy against its residents is illegal, and that, under the statutory scheme presented (see Bolt, 898 P.2 at 538), its only recourse is to seek declaratory relief from this Court on the legality of the assessment.

11. Plaintiffs Main Street Café and its owner, Evan Gluckman, are property taxpayers in Mesa County, Mr. Gluckman is a registered voter, and they are proper plaintiffs pursuant to Colo. Const. art. X, § 20(1).

12. Plaintiff Donald Shonkwiler is a property taxpayer and registered voter in Boulder County, and he is a proper plaintiff under Colo. Const. art. X, § 20(1). Plaintiff Shonkwiler is also a former member of the Board of the Boulder Valley School District.

13. Plaintiff John Bozek is a property taxpayer and registered voter in Archuleta County, and he is a proper plaintiff under Colo. Const. art. X, § 20(1).

14. Plaintiffs Sharon Jonhson and Rick Nevin are property taxpayers and registered voters in Denver County, and they are proper plaintiffs under Colo. Const. art. X, § 20(1).

15. The named individual plaintiffs are taxpayers and registered voters in Colorado, and they are proper representative parties acting on behalf of similarly situated Colorado taxpayers and voters.

Jurisdiction

16. This is an enforcement suit authorized by Colo. Const. art. X, § 20(1), and an action for declaratory and injunctive relief under C.R.C.P. 57 and 65, and C.R.S. §§ 13-51-101 to 115.

17. This action is an appropriate class action pursuant to Colo. Const. art. X, § 20(1) and C.R.C.P. 23.

18. Pursuant to Colo. Const. art. X, § 20(1), this action “shall have the highest civil priority of resolution.”

Venue

19. Venue is proper in this court pursuant to C.R.C.P. 98.

20. The offices of Defendant are headquartered in the City and County of Denver, and this case seeks, inter alia, injunctive relief. Pursuant to C.R.C.P. 98, as interpreted, inter alia, in City of Colorado Springs v. Board of County Comm’rs, 147 P.3d 1 (Colo. 2006), actions for injunctive relief must be brought in the county in which a defendant public body has its official residence, which, in this case, is the City and County of Denver.

Background

21. In 1992, the voters of Colorado enacted TABOR, which, among other things, caps the growth in total revenues a school district in Colorado can receive. Colo. Const. art. X, §§ 7 (b) and (c) (hereinafter “TABOR Revenue Cap”).

22. In 1993, the General Assembly amended the School Finance Act to ensure that the property taxes raised for the local share of “total program funding” for public-school education in each school district not violate the TABOR Revenue Cap.

23. The General Assembly recodified this provision in 1994 at C.R.S. § 22-54-106(2)(a)(III), hereinafter the “School Finance Act Property Tax Revenue Cap”) in House Bill 94-1001.

24. Section 1 of House Bill 94-1001 provides:

The General Assembly hereby finds and declares that school finance funding for the 1994-95 budget year and budget years thereafter under the new "Public School Finance Act of 1994", Article 54 of this title, *is affected by the limits on the growth of spending for schools imposed by section 20 of article X of the state constitution* for the 1993-94 budget year. (Emphasis added).

25. The School Finance Act Property Tax Revenue Cap, C.R.S. § 22-54-106(2)(a)(III), protected property owners in each school district from the impacts from increased valuations by capping the amount of revenue a school district could receive from property taxes pursuant to TABOR's Property Tax Revenue Cap in Colo. Const. art. X, § 20(7)(c). As it existed pre-2007 amendment, school districts were required, inter alia, to impose

[t]he number of mills that may be levied by the district under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution. . . .

26. Under the School Finance Act Property Tax Revenue Cap, mill levies to be assessed against property owners in each school district are required to be adjusted downward if property values rise to make the local property tax portion of "total program funding" revenue compliant with section 7(c) of TABOR.

27. Subsequent to TABOR's enactment, school districts across the State realized that they could not take full advantage of the funding made available to them by the General Assembly under the School Finance Act and through state grants and other outside sources that counted against their TABOR Revenue Cap.

28. Responding to this limitation, approximately 175 school districts across the State submitted similar ballot questions to the voters in those districts asking them to allow those districts to keep revenues in excess of the TABOR Revenue Cap as referred to in Colo. Const. art. X, § 20(7).

29. In virtually every one of the measures submitted to voters requesting voter approval to retain revenues in excess of the TABOR Revenue Cap, voters were told that a "Yes" vote would not raise taxpayers' property taxes, and that the taxpayers' right to vote on future tax increases was being preserved.

30. For example, the 1999 Denver measure seeking voter approval to retain revenues in excess of the TABOR Revenue Cap provides:

With no new tax and no increase in any mill levy or other tax rate without the approval of district voters pursuant to this question, shall Denver Public Schools (School District No. 1) be authorized to collect, retain and expend all revenues and

other funds collected in the 1999 fiscal year and each subsequent fiscal year without further voter approval, notwithstanding the limitations of Article X, Section 20 of the Colorado Constitution or any other law? (Emphasis added.)

31. The text of this measure and the others submitted to the voters in no way contemplated local taxpayers paying additional property taxes for voting “Yes.” Moreover, the text of the Denver measure (and the texts of virtually all if not all of the other similar measures in other school districts) does not mention any adjustment of the property tax revenue growth cap under Colo. Const. art. X, § 20(7)(c). In fact, nearly all measures promised voter their taxes would not be increased and their constitutional right to vote on any future tax increase would be preserved.

32. In contrast to votes for mill levy overrides and other increased property taxes, nowhere in the measures submitted to voters, asking them to allow the districts to keep revenues in excess of the TABOR Revenue Cap, appears any discussion that a “Yes” vote could cause an increase in property taxes, nor is there any quantification whatsoever of any increased amount property taxpayers would have to pay if the particular measures passed.

33. Indeed, every measure asking voters in each district to allow that district to keep revenues in excess of the TABOR Revenue Cap was based upon the then-existing statutory scheme that preserved the protections for property taxpayers in each district under the School Finance Act Property Tax Revenue Cap, C.R.S. § 22-54-106(2)(a)(III), enacted in 1993 and described above.

34. A review of the resolutions by the school boards of the various school districts authorizing submission of the measures to the voters, and the notices sent to voters explaining the measures, reveals that the voters were told that the “additional revenues” that the voters were being asked to approve were “*non-tax revenues*,” and that a “Yes” vote would simply allow the districts to keep additional monies made available to the districts from the State (predominantly under the School Finance Act) and other sources (such as grants), *not* additional property taxes paid by voters.

35. For example:

- a. The resolution from the Mesa County District 51 Board, authorizing the 1999 TABOR revenue cap measure, describes TABOR’s limitations that “will continue to impair the District’s ability to apply for or accept state-funded grants and lottery funds, and to receive other *non-tax revenues* such as fees collected and interest earned on investments,” and notes that “the inability to accept state grant funding and other *non-tax revenue does not reduce the tax burden on District residents*.” (Emphasis added.)
- b. A “Question and Answer” document prepared for Denver voters accompanying the Denver Public Schools’ 1999 TABOR Revenue Cap measure states in answer to the

question whether property taxes will be raised: “No. This \$700,000 (that will be made available that exceeded the then-existing cap) already exists in state coffers and would be transferred to DPS.” In response to the question of whether taxpayers would receive a refund if they voted no, voters in Denver were told: “No. The state would keep the money, but it would not be returned to taxpayers.”

- c. In the TABOR notice in Archuleta County in 1998, voters there were told: “The TABOR amendment to the State Constitution prohibits school districts from receiving funding increases (including grants from state agencies) that exceed the Denver-Boulder inflation rate. Due to this limitation, the school district may not be able to accept available grants for technology, gifted-talented, expelled students, library, day treatment for special needs students, vocational, or any other grant money that becomes available. This will affect monies that are given *free of charge to the school district without any cost to the taxpayer.*” (Emphasis added.)
- d. Clear Creek County voters were told in 1999: “Currently the school district will soon be in the position to give back money raised through grants and donations because they are near the limit,” and that “[t]he money is not through taxes, but through *other sources.*” (Emphasis added.)
- e. The voters in Delta County were told in 1999 that a “Yes” vote was required to keep “funds, *other than taxes*, available to the District.” (Emphasis added.)
- f. Douglas County voters were told in 1998 that “approving the TABOR ballot question will allow the school district to retain money needed to keep pace with rapid growth. Failure will mean that the state keeps our money. *None of these withheld funds could be refunded to Douglas County residents.*” (Emphasis added.)
- g. The Roaring Fork School District (Garfield County) voters were told in 1997 that “[a]n unexpected limitation of the Bruce amendment can restrict annual increases in revenues *even when the funds received are NOT from local property tax revenues.* Any excess revenues are returned to the state” (Emphasis added, all caps emphasis in original.)
- h. In 1998 in the East Grand School District in Grand County, voters were told that a “Yes” vote was needed “to keep revenue in excess of the TABOR limit which has been gained through successful grant applications and the collection of money in lieu of land real estate development within the school district. The sources *other than property taxes* have been the ones that have exceeded the TABOR limit regarding revenues and contribute to the capital and building improvements or special projects regarding school-to-career assessments and health programs. In order to retain *these*

non-tax revenues, the district needs a ‘Yes’ vote from taxpayers regarding the limitations of the taxpayers bill of rights (TABOR) on *non-tax revenues*.” (Emphasis added.)

- i. In 1998 in Larimer-Poudre, voters were told that the measure there did not repeal TABOR, and that it did “not allow any increase in taxes without a special vote as required by the TABOR amendment. It simply removes the cap on revenue that PSC can collect from the state formula, grants and other sources.”
- j. In 2000, the voters in Larimer-Thompson were told: “This is not a request for a new tax and does not increase existing tax rates; it preserves local school district revenue *at no cost to either local or state taxpayers*.” (Emphasis added.)
- k. Voters in Arapahoe County-Littleton in 1998 were told that the measure relieving the TABOR revenue cap in that district “is not a request for a tax increase. Instead, it asks voters to approve retaining revenues that the state legislature has already allocated for Littleton Public Schools (LPS), even though these dollars exceed Taxpayer’s Bill of Rights (TABOR) Amendment limitations.”

**Senate Bill 07-199 and the Effective Repeal of the School Finance Act
Property Tax Revenue Cap**

36. In the 2007 legislative session, the General Assembly essentially repealed the School Finance Act Property Tax Revenue Cap set forth in C.R.S. § 22-54-106(2)(a)(III).

37. The manner in which this effective repeal was accomplished was by adding language to C.R.S. § 22-54-106(2)(a)(III) (added language appearing in all caps):

(2)(a) Except as provided in paragraph (c) for this subsection (2), for reorganized districts, for 2007² property tax year and property tax years thereafter, each district shall levy the lesser of:

...

(III) FOR A DISTRICT THAT HAS NOT OBTAINED VOTER APPROVAL TO RETAIN AND SPEND REVENUES IN EXCESS OF THE **PROPERTY TAX REVENUE LIMITATION** IMPOSED ON THE DISTRICT BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, the number of mills that may be

² The 2007 amendment changed 1994 to 2007.

levied by the district under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution (Emphasis added.)

38. The effect of adding this language is to, in most districts, freeze the mill levy calculation for each school district (which, pre-amendment, required a downward adjustment when property values increased to make the property-tax portion of district revenues compliant with the TABOR cap), **thereby raising additional property tax revenue from taxpayers in those districts.**

39. As noted above in paragraphs 30 and 31, the measures submitted to the voters did not contain any express approval “to retain and spend revenues in excess of the property tax limitation imposed,” Senate Bill 07-199 (quoted immediately above), under Colo. Const. art. X, § 20(7)(c).

40. In the fiscal note accompanying Senate Bill 07-199, the General Assembly’s Legislative Council observed: “As amended, the bill freezes school finance mill levies, allowing a **greater portion** of school finance act funding **to be paid from local property taxes** in districts where voters have approved a ballot question allowing the district to retain revenue in excess of its constitutional limit.” (Emphasis added.)

41. The fiscal note shows a direct impact of increased revenues to the General Fund. Not one school district will receive an additional dollar as a result of the effective repeal of the School Finance Act Property Tax Revenue Cap.

42. The most recent estimate of the additional amounts that will be raised from taxpayers in most school districts from additional property taxes under Senate Bill 07-199 (according to the General Assembly’s Legislative Council) is \$114,085,216.00 in the next fiscal year alone.

43. Of the school districts identified as examples under paragraph 35, above, taxpayers in those school districts (according to the General Assembly’s Legislative Council) are estimated to pay the following **additional** property taxes **in the next fiscal year alone**, as a result of the effective repeal of the School Finance Act Property Tax Revenue Cap:

- a. Mesa County District 51: \$7.8 million.
- b. Denver County: \$32.7 million.
- c. Archuleta County: \$2 million.
- d. Clear Creek County: \$1.7 million.
- e. Delta County: \$1 million.

- f. Douglas County: \$3.1 million.
- g. Roaring Fork School District: \$2.5 million.
- h. East Grand County: \$1.1 million.
- i. Larimer-Poudre: \$.5 million
- j. Larimer-Thompson: \$1.3 million.
- k. Arapahoe County-Littleton: \$2.2 million.

44. The Office of Legislative Legal Services of the General Assembly issued an opinion on March 28, 2007, opining on why the effective repeal of the School Finance Act Property Tax Revenue Cap did not, inter alia, constitute a tax policy change directly causing a net revenue gain under Colo. Const. art. X, § 20(4)(a).

45. In its opinion, the office opined that the effective repeal did not “directly” cause a net revenue gain because, in the office’s view, the votes in the various school districts seeking relief from the TABOR revenue cap were an “intervening factor”: “The independent decision by school districts to exercise their constitutional authority to seek and receive voter approval to exceed their constitutional property tax revenue limits is an intervening factor that prevents the repeal of section 22-54-106(2)(a)(III), C.R.S. from directly causing a net revenue gain.”

46. Prior to enactment, the Attorney General issued an opinion that the effective repeal of the School Finance Act Property Tax Revenue Cap constituted a “tax policy change directly causing a net revenue gain” under Colo. Const. art. X, § 20(4)(a), thereby requiring a vote of the people of Colorado prior to its enactment.

47. Inter alia, the Attorney General opined that the previous votes by the local school districts (which were based upon the then-existing School Finance Act Property Tax Revenue Cap which protected against increasing local property taxes without additional voter approval) did not and could not authorize repealing the School Finance Act Property Tax Revenue Cap. Moreover, the Attorney General opined that the effective repeal of the cap constituted a change in tax policy of the State of Colorado as a “district” under TABOR, requiring a statewide vote.

48. The Attorney General also opined that C.R.S. § 22-54-106(2)(a)(III) is an “[o]ther limit[] on district revenue, spending, and debt [that] may be weakened only by future voter approval.” See Colo. Const. art. X, § 20(1).

49. The General Assembly ignored the Attorney General’s opinion.

50. The clear language of the measures obtaining voter approval from the approximately 175 school districts that obtained voter approval to retain revenues in excess of their TABOR Revenue Caps shows that voters in those districts did not approve:

(a) any change to the property tax revenue caps within those districts;

(b) the effective repeal of a provision that protected them against increases in their property taxes; or

(c) a subsequent, totally unforeseen, legislative act that will require taxpayers in these districts to pay estimated billions of dollars in additional property taxes in coming years without the benefit of voting on these additional taxes.

First Claim for Relief
(Declaratory Judgment-
Ineffectiveness of Local Votes to Approve State Legislative Change)

51. Plaintiffs incorporate all previous allegations.

52. The March 28, 2007, memorandum accompanying Senate Bill 07-199, and the plain language of the amendment itself, demonstrates that the effective repeal of the School Finance Act Property Tax Revenue Cap was based upon the incorrect premise that the local votes by approximately 175 school districts, authorizing those districts to exceed the TABOR Revenue Caps for those districts, constituted sufficient voter approval under TABOR § 4(a), or, in the alternative, were an intervening factor such that Senate Bill 07-199 did not “directly” lead to an increase in revenue.

53. The text of the de-TABORing measures themselves, including and especially the resolutions authorizing the measures by the various Boards of Education in the various school districts and/or the TABOR notices accompanying the measures, demonstrates that voters in those districts did not approve of:

(a) any change to the property tax revenue caps under Colo. Const. art. X, § 20(7)(c) within those districts;

(b) the effective repeal of a provision that protected them against increases in their property taxes;

(c) a subsequent, totally unforeseen, state legislative act; or

(d) a change in tax policy that will cause taxpayers in each of those districts to pay millions of dollars in additional property taxes in the next fiscal year alone.

54. Even if local votes could, theoretically, constitute voter approval of either a change in state tax policy through state legislation, or weakening of an “other limit” contained in state statute, the votes at issue here constituted no such approval.

55. The failure to obtain voter approval prior to the effective repeal of School Finance Act Property Tax Revenue Cap violates Colo. Const. art. X, § 20.

Second Claim for Relief
(Declaratory Judgment-Requirement to Obtain Vote of All Colorado Voters)

56. Plaintiffs incorporate all previous allegations.

57. As noted in the Attorney General’s opinion, the effective repeal of the School Finance Act Property Tax Revenue Cap constituted a change in state tax policy, requiring a vote of the voters of Colorado.

58. The effective repeal of the School Finance Act Property Tax Revenue Cap will cause a net revenue gain to the State of approximately \$114 million in the next fiscal year alone.

59. Votes by voters in individual school districts are not a substitute for a vote required of all Colorado voters pursuant to a statewide ballot measure.

60. The failure to obtain statewide voter approval prior to the effective repeal of School Finance Act Property Tax Revenue Cap violates Colo. Const. art. X, § 20.

Third Claim for Relief
(Declaratory Judgment-
Failure to Obtain Necessary Approval Under Colo. Const. art. X, §§ 20(3)(b) and (c))

61. Plaintiffs incorporate all previous allegations.

62. The estimated *additional* \$114 million in additional property taxes to be raised in the next fiscal year alone, and the estimated billions of extra dollars in additional property taxes over the coming years, constitute a tax increase under Colo. Const. art. X, § 20(3)(c) that must be approved by specific language set forth in that section of TABOR.

63. Prior to any such vote, moreover, voters must be provided information required under Colo. Const. art. X, § 20(3)(b), which includes information on the specific fiscal impact approval of a measure will have on voters within that district.

64. The increase in property taxes resulting from Senate Bill 07-199's effective repeal of the School Finance Act Property Tax Revenue Cap was nowhere approved by language compliant with TABOR § (3)(c), including the various measures from the local school districts authorizing those districts to exceed the TABOR Revenue Caps for those districts.

65. Moreover, the disclosure that was made to voters accompanying the various measures in the local school districts revealed no such increase in property taxes.

66. The failure to comply with Colo. Const. art. X, §§ 20(3)(b) and (c) prior to the effective repeal of the School Finance Act Property Tax Revenue Cap violates Colo. Const. art. X, § 20.

Fourth Claim for Relief
(Declaratory Judgment - Violation of "Other Limits")

67. Plaintiffs incorporate all previous allegations.

68. As observed by the Attorney General, the School Finance Act Property Tax Revenue Cap, C.R.S. § 22-54-106(2)(a)(III), is an "[o]ther limit[] on district revenue, spending, and debt [that] may be weakened only by future voter approval." Colo. Const. art. X, § 20(1).

69. The failure to obtain state voter approval prior to the effective repeal of the state School Finance Act Property Tax Revenue Cap violates Colo. Const. art. X, § 20(1).

Fifth Claim for Relief
(Permanent Injunction)

70. Plaintiffs incorporate all previous allegations.

71. The Department's mill-levy certification that will take place this December for the next fiscal year will violate Colo. Const. art. X, § 20 because it will not take into account the School Finance Act Property Tax Revenue Cap, C.R.S. § 22-54-106(2)(a)(III), that was effectively repealed without prior voter approval.

72. The effective repeal of the School Finance Act Property Tax Revenue Cap should be enjoined.

Prayer for Relief

Wherefor, the Plaintiffs pray for the Court to enter the following relief.

- A. Declare that the amendment to C.R.S. § 22-54-106(2)(a)(III) violates Colo. Const. art. X, § 20 because it was not approved by Colorado voters in a statewide ballot measure prior to its enactment.
- B. Enjoin the Defendant from certifying any mill levy in a manner that takes into consideration the amendment of C.R.S. § 22-54-106(2)(a)(III) for Plaintiffs and all other similarly situated property taxpayers.
- C. To the extent to which any taxpayer has paid more than he/she/it should pay, award a refund to that taxpayer of the excess property tax payment plus 10% pursuant to Colo. Const. art. X, § 20(1).
- D. Award Plaintiffs their reasonable attorneys fees and costs pursuant to Colo. Const. art. X, § 20(1).
- E. Award Plaintiffs whatever other relief to which Plaintiffs are entitled.

Dated: December 13, 2007.

HALE FRIESEN, LLP

(Original Signature on File)

/s/ Richard A. Westfall

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