

Senate Local Government & Housing

03/06/2025 01:30 PM

HB25-1093 Limitations on Local Anti-Growth Land Use Policies

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
<p>Lenore Herskovitz Against themselves</p>	<p>I question the legality of this bill. You are asking the Court to rule on something before it becomes a law. It is ironic that you want a judge to intervene before any predicted damage can be done while in Lakewood the City Council turned a blind eye to a potential legal challenge to the SOS Initiative for 5 months. Early in signature gathering for this petition someone from the Lakewood legislative committee most likely gave a heads up to the State legislature</p> <p>about this citizen initiative which would eliminate the “fee-in lieu” option to ensure parkland dedication. Interestingly, Representative Stewart was on that Lakewood legislative committee so I am sure she was aware of the amendment added to HB24-1313 in the last week of the legislative session that stated a “fee-in-lieu” option had to be offered. The passage of the bill with this amendment would pose a legal challenge to the initiative. Representative Stewart, who at the time was still a City Councilor, never publicly mentioned this until months later. It seemed to many petition supporters that the City’s silence for all those months invited a lawsuit.</p> <p>Now your bill wants to involve the courts in “seeking a judicial determination as to the legality of a proposed municipal initiative for a land use ordinance.....”</p> <p>Courts should be a last resort not something an elected legislative body uses because they have concerns about the legality of a citizen initiated petition. If you decide to proceed with this poorly conceived bill, at least incorporate a provision that requires attempts to mitigate the problem such as collaborating with citizens to rectify the legal concerns before directing it to the Court.</p> <p>Another aspect of this bill addresses concerns about what is deemed to be “anti-growth” initiatives or any other density limiting legislation. Two things we probably all can agree on: 1. There is a finite amount of land. 2. There is an affordability problem. The false narrative declares we have a housing shortage. The reality is we have an excess of market rate/ luxury units but we are not providing the types of residences that are wanted and needed. Encouraging density without specificity absorbs the limited land available without resolving the root problem. Perhaps you could focus on smart growth which meets the communities’ needs rather than the increase of density at the expense of quality of life.</p>
<p>Cathy Kentner Against Save Open Space Lakewood</p>	<p>HB25-1093 is an assault on the people's right to initiative, appears to be unconstitutional, and effectively bans “downzoning.” It also comes to you as “reactionary” legislation from one municipality rather than a well thought out plan for the entire state.</p>

	<p>Courts have long held that you can't challenge a law before it is passed into law. But this bill proposes to do just that.</p> <p>It also proposes to keep an initiative off the ballot during the time the initiative is in court. This is blatantly unconstitutional and an attempt to interfere with the people's right to initiative, particularly those of limited means. It is a reaction to the initiative petition in Lakewood that garnered enough signatures, with all volunteers, to qualify for the ballot.</p> <p>Lakewood had a similar provision in their municipal code and it was removed when the city, counseled by Mark Grueskin and Scott Gessler, agreed that such a provision is most likely unconstitutional. Have any lawyers specializing in elections been consulted on this?</p> <p>By adding the words "and use" this bill doesn't allow local governments to determine that certain uses are not in the health, safety and welfare of their communities. Lakewood recently reduced the number of parcels where gas stations are allowed. With this bill, sustainability initiatives such as these would not be allowed.</p> <p>Nobody from Save Open Space Lakewood, the group targeted by this bill, was ever contacted by the bill sponsors. I am not able to testify in person because, as a teacher and single parent, I have to work. This bill is heavily lobbied for by big money development groups. Who is lobbying for the working people trying to have a little say in their local government?</p> <p>Marginalizing, misrepresenting, and falsely labeling people "anti-growth" is not good public policy. But it is exactly what this legislation does.</p> <p>The Colorado Constitution guarantees the people's right to Direct Democracy via citizen initiated petitions when elected officials ignore the voices and demands of their constituents.</p> <p>This bill is a direct assault on that guarantee.</p>
--	--



3/06/2025

Don Cameron
Lisa Vitry
Legislative Subcommittee
City of Golden

RE: HB25-1093-Limitations on Local Anti-Growth Land Use Policies

Dear Committee Members,

The Golden Legislative Subcommittee, based on review of our 2025 Legislative Policy Statement, is writing to express the City Council of Golden's Opposition to HB25-1093, concerning limitations on local land use policies that impose conditions that limit growth. While the intention to address housing availability is commendable, this bill's focus on restricting a city's ability to downzone areas without compensatory upzoning raises significant concerns regarding local autonomy.

In its current form, this bill conflicts directly with the City of Golden's opposition to any legislation which adversely affects the City's ability to manage through home rule authority. As stated in the City of Golden's Legislative Policy Statement, it is the position of the City that the current authority and powers of municipal government, such as regulating land use, should not be diminished. Additionally, requiring upzoning in one area when another has been downzoned, has the potential to lead to animosity among neighbors, resulting in community unrest and an erosion of trust in city leadership.

By limiting a municipality's authority to reduce residential density in urban areas, HB25-1093 undermines the principle of local control, stripping municipalities of the ability to make decisions that reflect the values and priorities of their residents. To this end, the City Council of Golden strongly encourages committee members to consider the harmful effects this bill would have on cities like Golden.

Please feel free to share this letter with the various committees or house members who are advancing this bill to indicate our opposition.

Thank you for your attention to this matter.

Respectfully,

Don Cameron
Ward 3 Councilor

Lisa Vitry
District 1 Councilor

**Fwd: HB25-1093 Written testimony for Senate hearing at 1:30 p.m. March 6, 2025**

1 message

Lenore Herskovitz <lenoreherskovitz@gmail.com>
To: committees.lcs.ga@coleg.gov

Thu, Mar 6, 2025 at 11:39 AM

Subject: HB25-1093

As I read this bill I questioned the legality of this proposal. You are asking the Court to rule on something before it becomes a law. It is ironic that you want a judge to intervene before any predicted damage can be done while in Lakewood the City Council turned a blind eye to a potential legal challenge to the SOS Green Initiative for 5 months. In the early stages of signature gathering for this petition someone from the Lakewood legislative committee most likely gave a heads up to the State legislature about this citizen initiative which would eliminate the "fee-in lieu" option to ensure parkland dedication. Interestingly, Representative Stewart was on that Lakewood legislative committee so I am sure she was aware of the amendment added to HB24-1313 in the last week of the legislative session that stated a "fee-in-lieu" option had to be offered. Obviously, the passage of the bill with this amendment would pose a legal challenge to the initiative. However, Representative Stewart, who at the time was still a City Councilor, never publicly mentioned this until Nov. 4 (5 months after the amendment to HB24-1313 was passed). I am repeating that time frame because in that period no one from city council reached out to supporters of the initiative to inform them of the new law and try to amend the initiative to eliminate the legal obstacle. It seemed to many petition supporters that the City's silence for all those months invited a lawsuit. Now your bill wants to involve the courts in "seeking a judicial determination as to the legality of a proposed municipal initiative for a land use ordinance....."

Courts should be a last resort not something an elected legislative body uses because they have concerns about the legality of a citizen initiated petition. Isn't that why municipalities have city attorneys on their staff? If you decide to proceed with this poorly conceived bill, at least incorporate a provision that requires attempts to mitigate the problem such as collaborating with citizens to rectify the legal concerns before directing it to the Court.

Another aspect of this bill addresses concerns about what is deemed to be "anti-growth" initiatives or any other density limiting legislation. Two things we probably all can agree on: 1. There is a finite amount of land available. 2. There is an affordability problem in housing. The false narrative declares we have a housing shortage. The reality is we have an excess of market rate/ luxury units but we are not providing the types of residences that are wanted and needed. If you continue to encourage density without specificity you are absorbing the limited land available without resolving the root problem. Yes, there are areas like transit zones that should include affordable housing, yet in Lakewood adjacent to the light rail at 12th and Wadsworth you have two buildings on the east and west side of this street with a combined 400+ units, none of which are affordable. By the way, a Denver Post article just this week mentioned the declining population in our state. Perhaps you could focus on smart growth which meets the communities' needs rather than the increase of density at the expense of quality of life.

I don't doubt that this piece of legislation is well- intentioned. However, I feel it is misguided and I hope the Senate will radically amend it or kill it altogether.

Sent from my iPad



LCS Committees <committees.lcs.ga@coleg.gov>

Written testimony for HB25-1093

1 message

Cathy Kentner <cathykentner@gmail.com>

Thu, Mar 6, 2025 at 11:39 AM

To: "committees.lcs.ga@coleg.gov" <committees.lcs.ga@coleg.gov>

Please accept this written testimony for HB25-1093. The organization is Save Open Space Lakewood. My name is Cathy Kentner, [9475 W. Cedar Ave. Lakewood, CO 80226](#). I was one of the two legal representatives of the Save Open Space Lakewood initiative.

HB25-1093 is an assault on the people's right to initiative, appears to be unconstitutional, and effectively bans "downzoning." It also comes to you as "reactionary" legislation from one municipality rather than a well thought out plan for the entire state.

Courts have long held that you can't challenge a law before it is passed into law. But this bill proposes to do just that.

It also proposes to keep an initiative off the ballot during the time the initiative is in court. This is blatantly unconstitutional and an attempt to interfere with the people's right to initiative, particularly those of limited means. It is a reaction to the initiative petition in Lakewood that garnered enough signatures, *with all volunteers*, to qualify for the ballot.

Lakewood had a similar provision in their municipal code and it was removed when the city, counseled by Mark Grueskin and Scott Gessler, agreed that such a provision is most likely unconstitutional. Have any lawyers specializing in elections been consulted on this?

By adding the words "and use" this bill doesn't allow local governments to determine that certain uses are not in the health, safety and welfare of their communities. Lakewood recently reduced the number of parcels where gas stations are allowed. With this bill, sustainability initiatives such as these would not be allowed.

Nobody from Save Open Space Lakewood, the group targeted by this bill, was ever contacted by the bill sponsors. I am not able to testify in person because, as a teacher and single parent, I have to work. This bill is heavily lobbied for by big money development groups. Who is lobbying for the working people trying to have a little say in their local government?

Marginalizing, misrepresenting, and falsely labeling people "anti-growth" is not good public policy. But it is exactly what this legislation does.

The Colorado Constitution guarantees the people's right to Direct Democracy via citizen initiated petitions when elected officials ignore the voices and demands of their constituents.

This bill is a direct assault on that guarantee.