

February 27, 2014 For Immediate Release

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District Court Sustains Results of Broomfield Election Fracking Question

Today Judge Chris Melonakis of the Colorado 17th Judicial District sustained the results of Broomfield's November 2013 election on Question 300 regarding oil and gas hydraulic fracturing. The ruling means that the Broomfield Charter amendment to ban hydraulic fracturing for five years, which was enacted by voters in the November 2013 election, remains in effect.

The initial results of the election indicated that the measure passed by 17 votes. Question 300 was subject to an automatic recount because state law requires one when the margin of victory for any race is less than 0.05% of the number of votes cast for the prevailing side. Based on the recount, Question 300 passed by 20 votes out of 20,702 votes cast.

Because of the extremely slim margin, the results were subject to extraordinary public scrutiny, which highlighted procedural challenges faced by many counties conducting elections. Evidence at the trial focused on the effects of a new election law, House Bill 13-1303, and the challenges associated with implementing the law. In his ruling, the court found that "the (City and County of Broomfield) substantially complied with the election laws of the State of Colorado and that the election should not be set aside." The court also found, "as a matter of fact, based upon the testimony of the witnesses presented, the election was remarkably transparent."

HB 13-1303 passed in May 2013, and corresponding administrative regulations were not issued until October 2013. The new law created durational residency requirements for voting on different jurisdictional ballot questions (e.g., state, municipal, school district) while eliminating the 30-day voter registration deadline, which had been in place prior to enactment of the new law. These requirements, combined with inadequacies in the state voter registration database for tracking residency duration, caused Broomfield to make mistakes in determining eligibility for 10 voters in the Question 300 election.

While the new residency requirements were the chief problem in the election, post-election activities revealed procedural mistakes made by Broomfield election staff in the administration of the election. However, the ruling underscores that the mistakes did not jeopardize the overall integrity of the election.

About the court's ruling, City and County Manager Charles Ozaki said, "We are very pleased that the court has sustained the results of the election. We are also grateful to all who have participated in the rigorous review of our election and raised good questions about our procedures. Our review will continue, and I am confident that Broomfield's election procedures will be even stronger in the future."

Regarding future review, Ozaki said, "Working with the Mayor and City Council, Broomfield plans to engage a qualified, independent, consultant to perform a comprehensive third-party assessment of its election procedures. When completed, the assessment will be presented to the City Council and will provide a basis for operational improvements and election governance options for the future."

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