

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street, Rm. 256 Denver, CO 802020	DATE FILED: January 3, 2018 4:54 PM FILING ID: D0BSD463C4351 CASE NUMBER: 2017CV34617 ▲ COURT USE ONLY ▲
Plaintiffs: COLORADO UNION OF TAXPAYERS FOUNDATION and TABOR COMMITTEE v. Defendant: CITY OF DENVER COLORADO	Case No.: 2017CV34617 Div.: 259
DENVER’S ANSWER AND AFFIRMATIVE DEFENSES	

The City of Denver Colorado [*sic*] (“Denver”), through its undersigned counsel, submits the following Answer and Affirmative Defenses to the corresponding numbered paragraphs of Plaintiffs’ Complaint for Declaratory and Injunctive Relief.

1. Denver admits that this lawsuit challenges an ordinance requiring disclosure, including the names and some personal information of certain donors to issue committees as defined by the Denver Revised Municipal Code (“DRMC”). Denver does not have sufficient information to admit or deny the remainder of paragraph 1 and, therefore, denies the remaining allegations.

2. Denver admits the DRMC contains an ordinance, amended on September 12, 2017, requiring issue committees, as defined in the ordinance, to disclose the identities of certain donors and that, when those certain donors gave more than \$200.00, the organization must also disclose the donor's occupation and employer. *See* DRMC § 15-35(c) and (d). Denver further admits that failure to file the necessary disclosures can result in a fine of up to \$500.00, pursuant to DRMC § 15-40.5(a). Denver denies the remaining allegations of this paragraph, including any allegations that are inconsistent with the DRMC.

3. Denver denies that its ordinance violates either the United States or the Colorado Constitutions. Denver admits that Plaintiffs seek only an injunction and declaratory judgment. Denver denies the remaining allegations contained in this paragraph.

4. Denver admits that this paragraph recites generally Plaintiffs' claims here, but denies that Plaintiffs are entitled to the relief they seek.

PARTIES

5. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

6. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

7. Admitted. Denver asserts that it, under the correct name City and County of Denver, is a home rule municipality under the Colorado Constitution, Art. XX, a municipal corporation, and a county.

STATEMENT OF FACTS

8. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

9. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

10. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

11. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

12. Admitted.

13. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

14. Admitted.

15. Denver states that the Colorado Constitution, Art. X, § 20 speaks for itself, and denies any allegation that is inconsistent with this provision.

16. Denver states that the Colorado Constitution, Art. X, § 20 speaks for itself, and denies any allegation that is inconsistent with that provision. Denver does not have sufficient information to admit or deny the remaining allegations of this paragraph and, therefore, denies them.

17. Denied.

18. Denver admits that DRMC § 15-35(c) and (d) speak for themselves and denies any allegation that is inconsistent with those provisions and the ordinance that revised or enacted them.

Denver affirmatively states that DRMC § 15-35(c) and (d) apply to issue committees as defined in the ordinance and not to “non-profit organizations” *per se*.

19. Denver admits that DRMC § 15-35(c) speaks for itself and denies any allegation that is inconsistent with that ordinance. Denver affirmatively states that if any entity or group of persons meets the ordinance’s definition of “issue committee,” the entity or group must comply with the ordinance.

20. Denver admits that DRMC § 15-35(d) speaks for itself and denies any allegation that is inconsistent with that ordinance. Denver affirmatively states that if an entity or group of persons meets the ordinance’s definition of “issue committee,” the entity or group must comply with the ordinance.

21. Denver admits that DRMC § 15-35(d) speaks for itself and denies any allegation that is inconsistent with that ordinance. Denver affirmatively states that if an entity or group of persons meets the ordinance’s definition of “issue committee,” the entity or group must comply with the ordinance.

22. Denver admits that DRMC § 15-35(d) speaks for itself and denies any allegation that is inconsistent with that ordinance. Denver affirmatively states that if an entity or group of persons meets the ordinance’s definition of “issue committee,” the entity or group must comply with the ordinance.

23. Denver admits that DRMC § 15-35 speaks for itself and denies any allegation that is inconsistent with that ordinance. Denver affirmatively states that DRMC § 15-35(b) applies to candidate committees and political committees as defined in the ordinance. Denver admits that Plaintiffs do not challenge the ordinance as it applies to speech about candidates for office. Denver

does not have sufficient information to admit or deny the remaining allegations of this paragraph and, therefore, denies them.

24. Denver admits that DRMC § 15-32(i)(4) speaks for itself and denies any allegation that is inconsistent with that ordinance. Denver affirmatively states that the definition of “electioneering communication” contained in DRMC § 15-32(i)(4) excludes various types of communications, including those by organizations that can be characterized as “media” organizations. Denver further affirmatively states that “electioneering communication” and DRMC § 15-32(i)(4) are not referenced in the provisions, DRMC § 15-32(c) and (d) challenged by Plaintiffs here.

25. Denver admits that DRMC § 15-32(i)(4) speaks for itself and denies any allegation that is inconsistent with that ordinance.

26. Denver admits that DRMC § 15-40.5 speaks for itself and denies any allegation that is inconsistent with that ordinance.

27. Denver admits that DRMC § 15-32(c) and (d) were revised and that the revised versions took effect on January 1, 2018. Denver affirmatively asserts that, generally, the issue committee provisions pre-existed the revisions. Denver denies any allegation that is inconsistent with DRMC § 15-32(c) and (d) and the Bill, Ordinance No. 20170866, enacting the revisions.

28. Denied.

29. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

30. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

31. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

32. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

33. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

34. Denied.

35. Denver admits that DRMC § 15-35(d) speaks for itself and denies any allegation that is inconsistent with that ordinance.

36. Denied.

37. Denied.

38. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

**CONSTITUTIONAL VIOLATIONS
FIRST CLAIM FOR RELIEF
(First Amendment)**

39. Denver incorporates its Answers to the preceding paragraphs.

40. Denver admits that the First Amendment to the United States Constitution speaks for itself and denies any allegation that is inconsistent with that Amendment.

41. Denver admits that the First Amendment speaks for itself and denies any allegation that is inconsistent with that Amendment. Denver denies any other allegations contained in this paragraph.

42. Denied.

43. Denied.

44. Denver does not have sufficient information to admit or deny the allegations of this paragraph and, therefore, denies them.

45. Denied.

46. Denied.

**SECOND CLAIM FOR RELIEF
(Colorado Free Speech Clause)**

47. Denver incorporates its Answers to the preceding paragraphs.

48. Denver admits that the Colorado Constitution, Art. XX § 10 speaks for itself and denies any allegation that are inconsistent with that Article. Denver denies the remaining allegations contained in this paragraph.

49. Denied.

GENERAL DENIAL

50. Denver denies any allegations not specifically addressed and admitted.

AFFIRMATIVE DEFENSES

51. Plaintiffs fail to state a claim on which relief can be granted.

52. One or both Plaintiffs lack standing.

WHEREFORE, the City of Denver, Colorado respectfully requests that the Court enter judgment in its favor and against Plaintiffs, and award Denver its attorneys' fees and costs, and any other relief the Court deems just and proper.

Dated January 3, 2018.

KRISTIN M. BRONSON,
City Attorney

/s/ Tracy A. Davis

/s/ Victoria Ortega

Tracy A. Davis, # 35058*

Victoria Ortega, #19919*

Attorneys for the City and County of Denver

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of January, 2018 a true and correct copy of the foregoing **DENVER'S ANSWER AND AFFIRMATIVE DEFENSES** was filed and served via Colorado Courts E-Filing to the following parties:

James Manley, Esq.
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Attorneys for Plaintiffs

/s/ Krystal Guerra

Legal Assistant

In accordance with C.R.C.P. 121 §1-26(7) a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the Court upon request.