

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket Number: 45398
Petitioner: RICHMOND AMERICAN HOMES OF COLORADO, INC., v. Respondent: DOUGLAS COUNTY BOARD OF EQUALIZATION.	
ORDER ON WITHDRAWAL	

The Board received Petitioner's request to withdraw the above-captioned appeal on June 22, 2007. The Board has approved Petitioner's request.

FINDINGS OF FACT AND CONCLUSIONS:

1. Subject property is described as follows:

County Schedule No.: R0447211+79

Category: Valuation Property Type: Vacant Land
2. Petitioner is protesting the 2005 actual value of the subject property.

ORDER:

Petitioner's request for withdrawal is granted; therefore, the Board will take no further action on this matter.

DATED AND MAILED this 23rd day of June 2007.

BOARD OF ASSESSMENT APPEALS

This decision was put on record

June 22, 2007

Karen E Hart

Karen E. Hart

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Debra A. Baumbach

Debra A. Baumbach

Heather Wilcox

Heather Wilcox



<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO Address: 1313 Sherman Street, Rm. 315 Denver, CO 80203</p> <hr/> <p>Petitioner:</p> <p>RICHMOND AMERICAN HOMES OF COLORADO, INC.</p> <p>Respondent:</p> <p>DOUGLAS COUNTY BOARD OF EQUALIZATION</p> <hr/> <p>Address: William A. McLain, P.C. 3962 S. Olive Street Denver, CO 80237-2038</p> <p>Phone Number (303) 759-0087</p> <p>E-mail: wamclain@comcast.net</p> <p>Atty. Reg#: 6941</p>	<p style="text-align: right; vertical-align: middle;">2007 JUN 22 09:36</p> <hr/> <p style="text-align: center;">▲ BOARD USE ONLY ▲</p> <p style="text-align: center;">Dockets No. 45398</p>
<p>WITHDRAWAL</p>	

Now comes Petitioner by William A. McLain, P.C., its attorney, and states as follows:

1. After business hours on June 20, 2007, counsel for Petitioner received an email with the attached Respondent's Emergency Motion To Conduct Discovery Pursuant To BAA Rule 11 (d) and C.R.C.P. Rule 26. In the Motion, Respondent requested that Petitioner enter an order compelling the immediate

disclosure of the written report of Witness Ronald Hambrick. Respondent's counsel had been informed prior to June 20, 2007, that there was no such report.

2. The following day, June 21, 2007, and prior to Petitioner having an opportunity to respond to the Motion, Petitioner received the Board of Assessment Appeals Order On Motion To Conduct Discovery Pursuant to BAA Rule 11 (d) & C.R.C.P. Rule 26. In the Order, the BAA ordered Petitioner to provide the documentation requested in Respondent's Motion for Discovery on or before June 22, 2007, that is, a written report of Ronald Hambrick stating Petitioner's alternate valuation of the subject property.

3. Since there is no such written report, it would be impossible for Petitioner to comply with the Board's Order in the one day given to do so.

4. Pursuant to case law, Petitioner is not obligated to provide an alternative value for the subject property, nor has such a written report been necessary under prior BAA policy and procedure.

5. In Board of Assessment Appeals v. Sampson, 105 P.3d 198 (Colo. 2005), the Colorado Supreme Court stated that the taxpayer in a BAA case has the burden of proving that an assessment is incorrect and that relief is available regardless of whether the taxpayer provides an alternative value.

6. BAA Rule 14 (b), provides, in part, that: "Every party to the proceeding shall have the right to present his case or defense by oral and documentary evidence." It is Petitioner's understanding that the BAA has routinely

allowed expert and other witnesses to testify without the strict compliance with the provisions of C.R.C.P., Rule 26 (a) (1) & (2). Petitioner was unaware that the BAA had changed its long-standing policy in this regard.

7. Since Petitioner believes that it has been unfairly prejudiced by the BAA's change of its long-standing policy with regard to written reports and by the BAA's Order giving Petitioner only one day to comply, Petitioner has chosen to withdraw its appeal.

WILLIAM A. McLAIN, P.C.

By: William A. McLain

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was faxed to Michelle Gombas, Esq., Assistant Douglas County Attorney, 100 3rd Street, Castle Rock, CO 80104-2425 at (303) 688-6596, on June 22, 2007.

William A. McLain