

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**  
1313 Sherman Street, Room 315  
Denver, Colorado 80203

Petitioner:

**JAMES AND BETSY FIFIELD**

v.

Respondent:

**PITKIN COUNTY BOARD OF COMMISSIONERS**

**Docket Number: 57591**

**ORDER ON STIPULATION**

**THE PARTIES TO THIS ACTION** entered into a Stipulation, which has been approved by the Board of Assessment Appeals. A copy of the Stipulation is attached and incorporated as part of this decision.

**FINDINGS OF FACT AND CONCLUSIONS:**

1. Subject property is described as follows:

**County Schedule No.: R20664**

**Category: Abatement**

**Property Type: Vacant Land**

2. Petitioner is protesting the 08-09 actual property type of the subject property.
3. The parties agreed that the 08-09 actual property type of the subject property should be reclassified and should be :

**Property Type: 70% Residential and 30% Vacant Land**

(Reference Attached Stipulation)

4. The Board concurs with the Stipulation.

**ORDER:**

The Pitkin County Assessor is directed to change his/her records accordingly.

**DATED AND MAILED** this 16th day of April 2013.

**BOARD OF ASSESSMENT APPEALS**

*Diane M. DeVries*

\_\_\_\_\_  
Diane M. DeVries

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

*Cara McKeller*

\_\_\_\_\_  
Cara McKeller



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<b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203	
<b>Petitioners: JAMES and BETSY FIFIELD</b>  v.  <b>Respondent: PITKIN COUNTY BOARD OF COMMISSIONERS</b>	
<b>AGREEMENT AND STIPULATION FOR CLASSIFICATION OF REAL PROPERTY FOR TAX YEARS 2008 AND 2009</b>	

Docket No: 57591  
Pitkin County Schedule  
No.: R20664

Petitioners James and Betsy Fifield, and Respondent the Pitkin County Board of Commissioners, hereby agree and stipulate to the real property tax classification for Lot 2: Fifield Subdivision located in Pitkin County, Colorado (the "Property") for tax years 2008 and 2009, and thereby settle the above described matter presently on remand before the Board of Assessment Appeals, State of Colorado (the "Board").

**RECITATIONS**

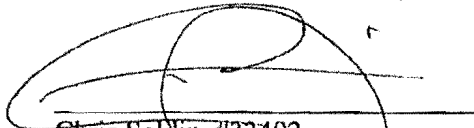
1. Petitioners are the record owners of the above described real Property located in Pitkin County, Colorado.
2. On September 2, 2010, Petitioners filed a Petition for Abatement and Refund of Taxes contending, among other things, that the Property should be classified residential for real property tax purposes, rather than vacant, on the grounds that the Property is used in conjunction with the contiguous residential parcel known as Lot 1: Fifield Subdivision ("Lot 1"), and falls within the statutory definition of residential real property in *C.R.S. § 39-1-102(14.4)*.
3. A hearing on this abatement petition before Respondent was held on March 21, 2011, at which time the petition was denied.
4. On April 25, 2011, Petitioners filed a Petition to the Board, and on August 22, 2011, a hearing was conducted.
5. On August 30, 2011, the Board entered an order denying reclassification of the Property for tax years 2008-2009.

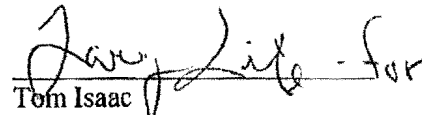
5. On August 30, 2011, the Board entered an order denying reclassification of the Property for tax years 2008-2009.
6. Petitioners appealed the Board's decision to the Colorado Court of Appeals.
7. On November 8, 2012, the Colorado Court of Appeals announced its decision vacating the order of the Board, and remanding the matter for further findings as to what portions of the Property are being used in conjunction with the residential property at Lot 1.
8. The Colorado Court of Appeals' decision is published at 292 P.3d 1207 (Colo. App. 2012).
9. Rather than appear at a hearing on remand, Petitioners and Respondent now wish to settle the matter according to the terms and conditions provided for below.

#### **AGREEMENT AND STIPULATION**

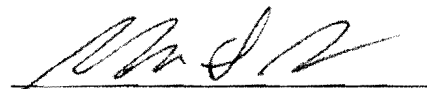
- A. **Recitations.** The above recitations are incorporated herein and made a part hereof by this reference.
- B. **Reclassification.** The parties stipulate and agree for purposes of settlement only that the Property will be reclassified 70% residential and 30% vacant for tax years 2008-2009, the taxes owed shall be recomputed based on the lower residential assessment rate, and Petitioners will have their overpayments, plus interest, refunded to them.
- C. **Set-Off.** Petitioners wish, and Respondents agree, that the amounts Petitioners currently owe to Pitkin County for 2012 taxes, without interest or penalty, shall be offset from the refund Petitioners are entitled to pursuant to this Agreement and Stipulation.
- D. **No Admission.** By signing this Agreement and Stipulation, neither party admits that the actual use of Lot 2 is 70% residential, 30% vacant, however the parties will stipulate to that classification for settlement purposes, and for future years so long as the use of the Property is generally consistent with the use in 2008 and 2009, as established at the hearing before the Board on August 22, 2011.
- E. **Dismissal of Matter.** The parties agree that this Agreement and Stipulation shall constitute a full and final settlement of this matter for tax years 2008 and 2009, and that the parties agree that this matter before the Board shall be dismissed with prejudice. A copy of this Agreement and Stipulation may be forwarded to the Board in order to effectuate this dismissal.
- F. **Counterparts.** This Agreement and Stipulation may be executed in counterparts. Facsimile and emailed signatures shall be binding.

Dated this 8<sup>th</sup> day of April, 2013.

  
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