

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>THE MARTIN TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>LA PLATA BOARD OF COUNTY COMMISSIONERS</p>	<p>Docket No.: 69724</p>
<p>ORDER ON STIPULATION</p>	

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 a part of this Order on Stipulation.

FINDINGS OF FACT AND CONCLUSIONS:

1. Subject property is described as follows:

County Schedule Nos.:	R418284
Appeal Category:	ABATEMENT
Current Classification:	VACANT LAND

2. Petitioner is protesting the 14 -15 classification of the subject property.
3. The parties agreed that the 2014 classification of the subject property should remain as follows:

Classification:	VACANT LAND
-----------------	-------------

4. The parties agreed that the 2015 classification of the subject property should be as follows:

Classification:	RESIDENTIAL
-----------------	-------------

(Reference the attached Stipulation)

5. The Board concurs with the Stipulation.

ORDER:

Respondent is ordered to change the 14 -15 classification of the subject property as set forth above.

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

DATED this 29th day of November 2020.

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.

Sondra W. Mercier

Sondra W. Mercier

Martha Hernandez Sanchez
Martha Hernandez Sanchez



<p>Board of Assessment Appeals State of Colorado 1313 Sherman Street, Room 315 Denver, CO 80203</p>	
<p>Petitioner:</p> <p>THE MARTIN TRUST</p> <p>Respondent:</p> <p>LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS AND LA PLATA COUNTY BOARD OF EQUALIZATION</p>	<p style="text-align: center;">▲ BAA USE ONLY ▲</p>
<p><i>Attorney for Petitioner:</i> F. Brittin Clayton III, #15940 Jones & Keller 1675 Broadway, 26th Floor Denver, CO 80202 Phone No.: 303-785-1689 Email: bclayton@joneskeller.com</p> <p><i>Attorneys for Respondent BoE and BoCC:</i> Kathleen Moore, #35988 La Plata County Attorney's Office 1060 East Second Ave., Suite 140 Durango, CO 81301 Phone No.: (970) 382-8600 Email: moore@lpcattorney.org</p>	<p>Docket Nos. 69059 and 69724</p> <p>Tax Year(s): 2014, 2015, 2016</p>
<p>AGREEMENT AND STIPULATION</p> <p>AS TO CLASSIFICATION FOR TAX YEARS 2014, 2015 AND 2016</p>	

Petitioner, the Martin Trust (“Martin”), and Respondent, the La Plata County Board of County Commissioners, sitting as itself and the La Plata County Board of Equalization (the “County”), hereby enter into this Agreement and Stipulation as to Classification for Tax Years 2014, 2015, and 2016 (“Stipulation”).

Petitioner and Respondent agree and stipulate as follows:

1. Petitioner is the record owner of the real property subject to this Stipulation (the “Subject Property”), which is described as follows:

STIPULATION

Docket No. 69059 & 69724

Lot 40, ROCKRIDGE P.U.D., PHASE II, according to the plat thereof filed on May 19, 1994 under Reception No. 668631.

Also known as Assessor's Parcel No. 5665-182-08-040 / Schedule No. R418284

2. The Subject Property was originally classified by the La Plata County Assessor as vacant land for tax years 2014, 2015 and 2016.
3. In February 2016, Martin filed a Petition for Abatement or Refund of Taxes with the County, requesting reclassification of the Subject Property from vacant land to residential land for tax years 2014 and 2015; and, in July 2016, Martin filed a second petition with the County, requesting reclassification for tax year 2016. Martin's requests were denied by the County.
4. On August 22, 2016, Martin filed a petition with the Board of Assessment Appeals ("BAA"), appealing La Plata's decision for tax year 2016 (BAA Docket No. 69059). On October 11, 2016, Martin filed a second petition, appealing La Plata's decision for tax years 2014 and 2015 (BAA Docket No. 69724).
5. A consolidated hearing for both dockets was held by the BAA on March 22, 2017. On May 16, 2017, the BAA issued orders in both Docket Nos. 69059 and 69724, denying Martin's petition for tax year 2014 and granting Martin's petition, in part, for tax years 2015 and 2016, by ordering the Subject Property's partial reclassification from vacant land to residential land.
6. An appeal and cross-appeal to the Colorado Court of Appeals followed (Case No. 2017CA000938). After briefing and oral argument, the Court of Appeals originally ruled, in February 2019, that the Subject Property was vacant land during the relevant tax years (2019COA12).
7. Martin appealed this decision by petitioning for a writ of certiorari with the Colorado Supreme Court in Case No. 2019SC207. After holding the petition in abeyance during its review of similar cases from Summit and Park counties, the Supreme Court ultimately granted certiorari, vacated the Court of Appeals' ruling and remanded the case to the Court of Appeals for reconsideration in light of the Supreme Court's ruling in *BAA v. Kelly*, 18SC499, 2020CO12 and *Bd. of Cnty. Comm'rs v. Hogan*, 18SC544, 2020CO12.
8. Upon reconsideration, on May 21, 2020, the Court of Appeals affirmed the BAA's order denying reclassification for tax year 2014 and reversed and remanded the cases to the BAA for further proceedings for tax years 2015 and 2016.
9. Based on the courts' rulings, Petitioner and Respondent now wish to settle this matter according to the terms and conditions provided herein.
10. Pursuant to C.R.S. § 30-11-103, all powers of La Plata County, including the power to contract and settle claims, must be exercised by the Board of County Commissioners.

STIPULATION
Docket No. 69059 & 69724

Therefore, notwithstanding any other provision in this Stipulation to the contrary, the parties acknowledge, understand and agree that this Stipulation will not be effective unless and until approved by the Board of County Commissioners, for itself and sitting as the Board of Equalization. If the Board of County Commissioners does not approve this Stipulation, it shall be null and void and of no further effect.

11. Petitioner and Respondent agree that, once executed by all parties and approved by the BAA, this Stipulation shall constitute a full and final settlement of these matters between the parties for tax years 2014, 2015 and 2016, and that the following provisions shall apply:
 - a. The Subject Property was properly classified as vacant land for tax year 2014. Based on the holding of *BAA v. Kelly*, 18SC499, 2020CO12, the Subject Property does not qualify for residential classification for tax year 2014 due to lack of common ownership, and the Petitioner will not dispute the BAA's order denying reclassification or the Court of Appeals' May 21, 2020 order.
 - b. For tax years 2015 and 2016, common ownership is not an issue. Based on the holding of *Bd. of Cnty. Comm'rs v. Hogan*, 18SC544, 2020CO12 and the evidence and testimony presented at the BAA hearing in March 2017, the parties agree that the Subject Property qualifies for reclassification from vacant land to residential land for tax years 2015 and 2016. The parties agree that the entire parcel, and not just a portion of the Subject Property, will be reclassified from vacant land to residential land for these two tax years.
12. The classification of the Subject Property, as established above, shall be binding only with respect to tax years 2014, 2015 and 2016.
13. A copy of this Stipulation may be forwarded to the Board of Assessment Appeals in both matters.
14. Each person signing this Stipulation directly and expressly warrants and represents that he/she has been given and has received and accepted authority to sign and execute the documents on behalf of the party for whom it is indicated he/she has signed, and further has been expressly given and received and accepted authority to enter into a binding agreement on behalf of such party with respect to the matters concerned herein and as stated herein.
15. This Stipulation may be executed in counterparts. Facsimile and emailed signatures shall be binding as originals.
16. The parties jointly move the BAA to enter its order based on this Stipulation, dismissing Docket Nos. 69059 and 69724 with prejudice.

Rest of Page Left Intentionally Blank

DATED this 17th day of December, 2020.

THE MARTIN TRUST

By: _____
Name: _____
Its (title): _____
On behalf of Petitioner

LA PLATA COUNTY BOARD OF
COUNTY COMMISSIONERS



Clyde Church 12-17-2020
Clyde Church, Chair

Attest: Elizabeth Dwyer
Clerk to Board

LA PLATA COUNTY BOARD OF
EQUALIZATION



Clyde Church 12-17-2020
Clyde Church, Chair

Attest: Elizabeth Dwyer
Clerk to Board

Approved as to form:

LA PLATA COUNTY ASSESSOR

Carrie Woodson

Carrie Woodson, Assessor

LA PLATA COUNTY
ATTORNEY'S OFFICE

Kathleen Moore

Kathleen Moore, #35988
Assistant County Attorney
1060 East Second Ave., Suite 140
Durango, CO 81301
Attorneys for Respondent

JONES & KELLER

F. Brittin Clayton III


F. Brittin Clayton III, #15940
1675 Broadway, 26th Floor
Denver, CO 80202
Attorneys for Petitioner

STIPULATION
Docket No. 69059 & 69724

DATED this 1 day of December, 2020.

**BRAD BAUGH – AGENT REPRESENTING
MARTIN TRUST**

**LA PLATA COUNTY BOARD OF THE
COUNTY COMMISSIONERS**

Signature: 
Name: Brad Baugh
Its (title): Tax Agent
On behalf of Petitioners

Clyde Church, Chair

Attest: _____
Clerk to Board

**LA PLATA COUNTY BOARD OF
EQUALIZATION**

Clyde Church, Chair

Attest: _____
Clerk to Board

Approved as to form:


LA PLATA COUNTY ASSESSOR

**LA PLATA COUNTY
ATTORNEY'S OFFICE**

Carrie Woodson, Assessor

Kathleen Moore, #35988
Assistant County Attorney
1060 East Second Ave., Suite 140
Durango, CO 81301
Attorneys for Respondent

JONES & KELLER



F. Brittin Clayton III, #15940
1675 Broadway, 26th Floor
Denver, CO 80202
Attorneys for Petitioner


CERTIFICATE OF SERVICE

I certify that on the 22nd day of December, 2020, a true and correct copy of the foregoing **AGREEMENT AND STIPULATION AS TO CLASSIFICATION FOR TAX YEARS 2014, 2015 AND 2016** was served upon Petitioner's legal counsel as indicated below, as follows:

F. Brittin Clayton III, #15940
Jones & Keller
1675 Broadway, 26th Floor
Denver, CO 80202
Phone No.: 303-785-1689
Via Email: bclayton@joneskeller.com

and was served upon the Board of Assessment Appeals as follows:

Board of Assessment Appeals
1313 Sherman Street, Room 315
Denver, CO 80203
Via Email – baa@state.co.us and dola_baa@state.co.us


Name: Gretchen Hinkle

Appointment of Agency for Property Tax Matters

Duff & Phelps, LLC is authorized to represent **MARTIN TRUST, THE** for the property known by account number **R418284** regarding the real property assessment matters in **La Plata County, Colorado**. Any and all previous authorizations are hereby revoked. Duff & Phelps, LLC is authorized to act on our behalf in obtaining and providing information, negotiating, settling and assessing for all real property matters related to the property owned, possessed, or controlled by the undersigned at the above referenced parcel. This agent is delegated full authority to handle real property matters relative to assessments and to represent us, with the assistance of legal counsel, if necessary, in the appeal process. This authority is extended to the account number **R418284** and may be amended as necessary.

This appointment of agency remains in effect for tax year(s) **2014 - 2016** or until revoked in writing by **MARTIN TRUST, THE** or Duff & Phelps, LLC.

All correspondence should be directed to the following:

NAME: Bruce Cartwright
Duff & Phelps LLC

ADDRESS: 1200 17th Street, Suite 990
Denver, Colorado 80202
303-749-9003

SIGNED NAME: *James J. Martin*
PRINTED NAME: JAMES T. MARTIN
TITLE (in Relationship to Owner Entities) TRUSTEE

DATE EFFECTIVE: 2/1/16

