

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>MICHAEL H ERSKINE LIVING TRUST.</p> <p>v.</p> <p>Respondent:</p> <p>LA PLATA BOARD OF COUNTY COMMISSIONERS</p>	<p>Docket No.: 69728</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.:	R422403, R422405
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 14-15 classification of the subject property should be as follows:

Classification:	RESIDENTIAL
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(Reference the attached Stipulation)

4. 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 January 2021.

BOARD OF ASSESSMENT APPEALS

Diane M. DeVries

Diane M. DeVries

Sondra W. Mercier

Sondra W. Mercier

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

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>MICHAEL H. ERSKINE LIVING TRUST</p> <p>Respondent:</p> <p>LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS AND LA PLATA COUNTY BOARD OF EQUALIZATION</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 style="text-align: center;">▲ BAA USE ONLY ▲</p> <p>Docket Nos. 69065 and 69728</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 Michael H. Erskine Living Trust (“Erskine”), 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 two parcels of real property that are subject to this Stipulation (the “Subject Property”). The Subject Property is identified as Assessor’s

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Parcel No. 5675-034-00-043 / Account No. R422403; and as Assessor's Parcel No. 5675-034-00-045 / Account No. R422405.

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 May 2016, Erskine 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, Erskine filed a second petition with the County, requesting reclassification for tax year 2016. Erskine's requests were denied by the County.
4. On August 22, 2016, Erskine filed a petition with the Board of Assessment Appeals ("BAA"), appealing La Plata County's decision for tax year 2016 (BAA Docket No. 69065). On October 11, 2016, Erskine filed a second petition, appealing La Plata County's decision for tax years 2014 and 2015 (BAA Docket No. 69728).
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. 69065 and 69728, denying Erskine's petitions for tax years 2014, 2015 and 2016.
6. An appeal to the Colorado Court of Appeals followed (Case No. 2017CA937). After briefing and oral argument, the Court of Appeals originally ruled, in August 2018, that the Subject Property was vacant land during the relevant tax years.
7. Erskine appealed this decision by petitioning for a writ of certiorari with the Colorado Supreme Court in Case No. 2018SC717. 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 *Bd. of Cnty. Comm'rs v. Hogan*, 18SC544, 2020CO12.
8. Upon reconsideration, on May 21, 2020, the Court of Appeals reversed and remanded the cases to the BAA for further proceedings for tax years 2014, 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. 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.

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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 shall be reclassified from vacant land to residential land for tax years 2014, 2015 and 2016.
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. 69065 and 69728 with prejudice.

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DATED this 17th day of December, 2020.

**THE MICHAEL H ERSKINE
LIVING TRUST**

**LA PLATA COUNTY BOARD OF
COUNTY COMMISSIONERS**



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

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

**LA PLATA COUNTY
ATTORNEY'S OFFICE**



Carrie Woodson

Carrie Woodson, Assessor

Kathleen Moore

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

JONES & KELLER


ABC

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

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DATED this 1 day of December, 2020.

**BRAD BAUGH – AGENT REPRESENTING LA PLATA COUNTY BOARD OF
THE MICHAEL H ERSKINE LIVING TRUST 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

Carrie Woodson, Assessor

**LA PLATA COUNTY
ATTORNEY'S OFFICE**

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 **ERSKINE, MICHAEL H LIV TRUST** for the property known by schedule numbers **R422403, R422405** 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 schedule numbers **R422403, R422405** 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 **ERSKINE, MICHAEL H LIV TRUST** or Duff & Phelps, LLC.

All correspondence should be directed to the following:

NAME: Bruce Cartwright
Duff & Phelps LLC

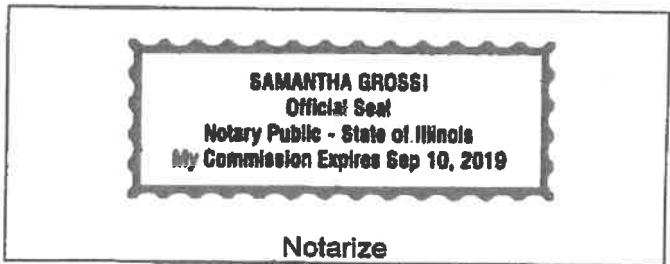
ADDRESS: 1200 17th Street, Suite 990
Denver, Colorado 80202
303-749-9003

SIGNED NAME: Michael H Erskine Liv Trust

PRINTED NAME: Michael H. Erskine

TITLE (in Relationship to Owner Entities) self

DATE EFFECTIVE: _____



Notarize

5/11/16 Samantha Grossi