

RESOLUTION NO. 2012-043

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
TO CLARIFY AND APPROVE THE LEGAL STATUS OF A PARCEL OF LAND
LOCATED AT 17185 HIGHWAY 550 AND OWNED BY CHAD AND ASHLEY BAILLIE**

WHEREAS, Chad and Ashley Baillie (Applicant) are the current owners of the subject property, located at 17185 Highway 550; and

WHEREAS, the parcel was originally created by the Kolowich Portland Exemption, recorded under Reception #164782 on July 28, 1997; and

WHEREAS, the Ouray County Board of County Commissioners (Board) approved the Kolowich Portland Exemption on June 30, 1997; and

WHEREAS, the Kolowich Portland Exemption created two (2) legal non-conforming lots; and

WHEREAS, Board minutes state the motion to approve the Kolowich Portland Exemption as: *"Staeble motioned to approve the KOLOWICH REQUEST FOR EXEMPTION, based on the parcel's proximity to the City of Ouray and its services; on its proximity to State Highway access; on its proximity to a major County Road intersection; on the recognition that the Town of Portland has been abandoned and is no longer in existence; and on Kolowich's agreement not to further subdivide, seconded by Hodsohl, carried by Mattivi."*; and

WHEREAS, on September 5, 1997, a Boundary Agreement Plat was recorded under Reception #165050 "Exhibit A" attached hereto, without approval by Ouray County; and

WHEREAS, the Applicant's warranty deed, recorded under Reception #202687, describes two parcels of land, one 1.39-acre parcel and one 2.01-acre parcel, instead of a single parcel; and

WHEREAS, the interim County Attorney determined that the Warranty Deed conveyed two parcels, one legal non-conforming and one illegal non-conforming; and

WHEREAS, in order to resolve the legal status of the property(s) Chad Baillie submitted an Exemption application to the Ouray County Land Use Office; and

WHEREAS, upon processing the application for exemption, Land Use Staff determined that, while the exemption application may resolve the legal status of the property, the application did not seek to further subdivide the subject property; and

WHEREAS, an Exemption Application typically seeks to create an additional parcel; and

WHEREAS, Section 17.2 of the Ouray County Land Use Code states that: ***"In addition to the exemptions from the definition of subdivision set forth in Section 22 of this Code, the Board of County Commissioners may, by resolution, exempt from this definition any division of land if the Board of County Commissioners determines that said division is not within the purpose of this Code. Application for such exemption shall be made by a verified petition of the subdivider, stating fully the grounds of the application and the facts relied upon by the petitioner."***; and

WHEREAS, Section 22 of the Ouray County Land Use Code under the definition of "Subdivision and Subdivided Land" states, in part, that: ***"Unless the method of disposition is adopted for the purpose of evading this section, the terms "subdivision" and "subdivided land", as defined in Paragraph (A) of this definition, shall not apply to any division of land:... (8) Which is created by the combination of contiguous (common boundary) parcels of land into one larger parcel. If the resulting parcel is less than thirty-five (35) acres in land area, only one interest in said land shall be allowed. If the resulting***

parcel is greater than thirty-five (35) acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in thirty-five (35) or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph.”; and

WHEREAS, Mr. Baillie’s application for exemption seeks to combine the two contiguous parcels, as described in the Warranty Deed, into one parcel as shown in the Boundary Agreement Plat (under Reception #165050); and

WHEREAS, such action would not require an application for exemption, as the Ouray County Land Use Code currently provides for an exemption that allows the combination of contiguous (common boundary) parcels of land into one larger parcel; and

WHEREAS, it is the understanding of the Board that there is not a conflict between property owners as to ownership of land; and

WHEREAS, the Ouray County Land Use Staff sought interpretation and direction regarding the aforementioned circumstances from the Ouray County Board of County Commissioners on November 13, 2012; and

WHEREAS, on November 13, 2012, the Board of County Commissioners heard statements from the Ouray County Land Use Staff and the Ouray County Attorney; and

WHEREAS, the meeting was not a public hearing; however, the Board of County Commissioners accepted and heard comments from the public.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Ouray County, that the “Boundary Agreement Plat of Kolowich Portland Exemption” (Reception #165050) did NOT further subdivide the property but rather reestablished the lot line common to the two parcels created by the “Kolowich Portland Exemption” (Reception #164782) and, as such, Ouray County considers the legal status of both parcels to be “legal non-conforming”. The Boundary Agreement and the lot lines shown on Exhibit A are hereby approved and ratified to clarify that the lots are as established in Exhibit A.

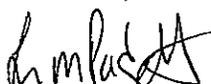
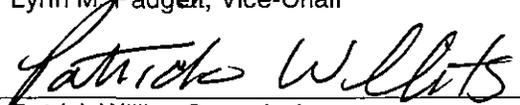
APPROVED AND ADOPTED THIS 11th DAY OF DECEMBER, 2012.

Voting for: Commissioners ~~Fedel~~, Padgett and Willits
Voting against: None




Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

- ABSENT -
F. Mike Fedel, Chair

Lynn M. Padgett, Vice-Chair

Patrick Willits, Commissioner

