

**RESOLUTION No. 2006-052**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO TO REVIEW A DECISION OF THE BOARD OF  
VISUAL APPEALS REGARDING PROPERTY OWNED BY DOUGLAS STATON**

**WHEREAS**, Section 9 of the Ouray County Land Use Code (“LUC”) is entitled “Visual Impact Regulations” and requires that all proposed structures at or within 1.5 miles of the centerline of U.S. Highway 150 are subject to a review of the visual impact prior to construction; and

**WHEREAS**, Douglas Staton (“Staton”) owns property located within the area affected by the Visual Impact Regulations; and

**WHEREAS**, on or about November 7, 2005, a Memorandum was directed to Staton by the Ouray County Land Use Office relative to visual impact review and such Memorandum, in part, advised Staton that his property was not in compliance with the Visual Impact Regulations of the LUC because the residence was not painted in earth tone colors and did not blend with the surrounding landscape; and

**WHEREAS**, Staton responded to such Memorandum by letter dated November 9, 2005 and requested an appeal of the decision that his property was not in compliance with the Visual Impact Regulations; and

**WHEREAS**, Section 19.8.F of the LUC appears to require that the Board of Visual Appeals shall call a meeting of the Board of Visual Appeals within forty-five (45) days of receipt of a request for an appeal; and

**WHEREAS**, the Board of Visual Appeals was not able to schedule a meeting to hear Staton’s appeal until May 9, 2006, which date exceeded the forty-five (45) day requirement of the LUC; and

**WHEREAS**, the Board of Visual Appeals conducted a hearing and made a recommendation to the Board of County Commissioners of Ouray County (“Board”) that Staton’s appeal be denied; and

**WHEREAS**, the Board heard Staton’s appeal on July 10, 2006 and Staton argued that the Board did not have authority to review visual impact compliance as a result of the failure of the Board of Visual Appeals to timely conduct a meeting to hear the appeal; and

**WHEREAS**, the Board determined, based upon the information before it, that approximately six (6) months had elapsed from the date that Staton had requested an appeal and the date that the Board of Visual Appeals conducted a meeting to address the appeal, exceeding the forty-five (45) day requirement of the LUC (“Procedural Error”);

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:**

1. As a result of the Procedural Error relating to the timing of the Board of Visual Appeals conducting its meeting to hear the appeal, the Board has no authority to determine

the substantive issues relative to the alleged violation of the Visual Impact Regulations. Therefore, the Board dismisses the appeal relative to Visual Impact Regulations and directs that a Certificate of Occupancy shall issue if Staton is in compliance with all other aspects of the LUC and building regulations

2. The Board seeks to make clear that as a result of the Procedural Error, it has not reviewed the subject Property to determine its compliance with the Visual Impact Regulations.

APPROVED AND ADOPTED THIS 17th DAY OF JULY, 2006, RATIFYING ACTION TAKEN ON JULY 10, 2006.

Board of County Commissioners of  
Ouray County, Colorado

\_\_\_\_\_  
Heidi M. Albritton, Chair

ATTEST:

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

\_\_\_\_\_  
Don Batchelder, Vice-Chair

\_\_\_\_\_  
Kristi R. Westfall, Commissioner Member