

**PETITION FOR ABATEMENT OR REFUND OF TAXES**

Summit County, Colorado

Public Hearing   
 Consent   
 Treasurer   
 #

**Section I: Petitioners complete Section I only.**

5/31/18  
 Month, Day, Year

Petitioner's Name: Joshua Cruze

Mailing Address: PO Box 945, Denver, CO 80201

**SCHEDULE NUMBER DESCRIPTION OF PROPERTY AS LISTED ON TAX ROLL**

Petitioner states that the taxes assessed against the above property for property tax year(s) 2017, 2018 are incorrect for the following reasons: (Briefly describe the circumstances surrounding the incorrect value or tax. **The petitioner's estimate of actual value must be included.**) Attach additional sheets if necessary.

see attached letter

Petitioner's estimate of actual value: \$ NA ( ) and \$ NA ( )  
 value year value year

Petitioner requests an abatement or refund of the appropriate taxes associated with a reduction in value.  
 I declare, under penalty of perjury in the second degree that this petition, together with any accompanying exhibits or statements, has been examined by me and to the best of my knowledge, information and belief is true, correct and complete.

Josh Cruze 5/31/18  
 Petitioner Date  
 Petitioner's/Agent's daytime phone 720.232.8405  
 E-Mail joshcruze@gmail.com

By \_\_\_\_\_ Date \_\_\_\_\_  
 Agent\* \_\_\_\_\_  
 Address \_\_\_\_\_

\*Letter of agency must be attached when petition is submitted.

If the Board of County Commissioners, pursuant to section 39-10-114(1), or the Property Tax Administrator, pursuant to section 39-2-116, denies the petition for refund or abatement of taxes in whole or in part, the petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of section 39-2-125 within thirty days of the entry of any such decision. 39-10-114.5(1) C.R.S.

**Section II:**

**Assessor's Recommendation**  
 (For Assessor's Use Only)

	Tax Year <u>2017</u>			Tax Year <u>2018</u>		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original	\$65,070	\$18,870	\$921.33	2018 Abatement was filed before statute allows, however the value was able to be adjusted to the proposed \$35,041 prior to re-certification of value for tax year 2018. No action required for tax year 2018.		
Correction	35,041	10,162	496.17			
Abate/Refund	30,029	8,708	425.16			

- Assessor recommends approval as outlined above.  
 No protest filed for the year(s): 2017 or \_\_\_\_\_. (If a protest was filed please attach copy of NOD.)
- Assessor recommends denial for the following reason(s):

Debbie Seison  
 Assessor's or Deputy Assessor's Signature



Cruze Family Property  
Lot 18, Block 5, Quandary Village Sub #1  
411 County Road 805  
Breckenridge, CO 80424

March 15, 2018

Summit County Treasurer Abatement Office  
Attn Bill Wallace  
PO Box 289  
Breckenridge, CO 80424

Dear Mr. Wallace,

I recently spoke with Mike Peterson of the Summit County Assessor's office concerning Lot 18 which is located on the western end of "County Road 805" (CR 805). Mr. Peterson is specifically aware of the 15 plus years of contentious access history involved with lots located on "CR 805". For further information, Colorado Springs Utilities (CSU) owns a water transmission line located in and adjacent to what the county calls "CR 805" as well as first use water rights in this area. This water line runs the entire length of "CR 805" from Highway 9 past many platted lots to a dead end at the west end. The contentious history with "CR 805" includes CSU and Summit County (County) at odds over who actually owns and can provide access by this road. For reference, CSU at one point installed a concrete gate on the east end of "CR 805" restricting access to only allow its maintenance staff. The County threatened to have the gate physically demolished and CSU was forced to remove the gate. This by all accounts happened approximately 10 years ago.

When I initially contacted CSU, their staff indicated they would require a non-transferable 25 year access agreement for any development, i.e. one could not sell their property without CSU consent. And then after further warnings regarding potential CSU legal action, I met with CSU staff and legal counsel to discuss their position regarding development of my lot 18. The CSU attorney specifically indicated that they would pursue legal action AGAINST any legally allowed development of my platted lot. CSU further maintains they actually OWN "CR 805" and will again gate the road to restrict access to only allow their maintenance staff if necessary. The CSU attorney recommended that all "CR 805" property owners including myself build a completely new and separate road adjacent to "CR 805" to access our lots. If CSU is correct and can restrict access at their will, my lot 18 and any lot located on "CR 805" is and has been worthless due to lack of access. Of note, there are many lots affected and a large amount of Property Value that has therefore been wrongly appraised.

The Summit County Engineer, Robert Jacobs, contends county ownership of said "CR 805" and refers to the recorded plat. However, CSU contends the road was originally built to provide maintenance access for the CSU water transmission line and facilities and refers to a recorded easement. It is clearly shown by multiple surveys that "CR 805" is built in many locations outside of the platted right of way as well as not built per County engineering code. The county also asserts that it will NOT rebuild "County Road 805" to current County engineering code, will NOT rebuild a new roadway inside the platted right of way nor provide any road maintenance whatsoever. Unfortunately, all "CR 805" property owners are legally affected by this access issue.

I have personally met with both CSU and the County separately and have now spurred a meeting between the entities in order to move a resolution forward. The entities agreed to meet "informally" but excluded any property owner attendance. After 8 months of my documented phone calls, emails, discussions, information requests, and

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meetings, no binding resolution between the entities and property owners currently exists. Documentation proves this contested access issue has been ongoing for more than 15 years. Please note contact information for Colorado Springs Utilities personnel and attorneys or any communication details can be provided upon request.

Due to the CSU threat of legal action against simply applying for a legally allowed construction permit, the CSU threat of disallowing access on a supposedly platted County road to my lot, "CR 805" built outside of the platted Right of Way, "CR 805" not built to County engineering code and the County refusing to provide any road maintenance, minimal value should be determined on my lot 18 as well as all of the "CR 805" platted lots until a resolution is in place. Therefore, I request a property tax abatement for 2017, 2018 and all future years until a legally bound resolution is agreed to by all entities and property owners. Please contact me to discuss this issue at your earliest convenience.

Respectfully,

Josh Cruze  
Professional Engineer  
State of Colorado, #35690  
PO Box 945  
Denver, CO 80201  
720.232.8405

To Whom It May Concern:

I would like to write a letter on behalf of my client Bruce Macke and Lot 18 owner Josh Cruze in supporting their efforts in a tax abatement. Josh has an extensive knowledge of municipal utilities and procedures as he himself is a civil engineer. Josh and I have had multiple conversations in trying to navigate the situation as it stands on County Road 805. It does not seem there is currently a realistic solution for the owners of any of the lots affected by the CSU easement, as Colorado Springs will not grant a variance for the easement that currently runs through the properties on this road and the county does not claim ownership of this road. Additionally, CSU has threatened to take action upon anyone who moves forward with developing on this road.

There are currently 6 lots for sale on this road, which have all been on the market for an exorbitant amount of time in comparison to similar lots in the area. My client Bruce Macke, owns lot 23 and we are unable to sell his lot due to this CSU easement and the road not meeting the requirements of a county road, hindering access to said lot. In the Blue River market, transactions are up 54% from the year before. There seems to be quite a disconnect in what the market is demanding and these lot owners to be able to participate in such a market. In regards to Bruce Macke's lot we had a buyer under contract for his lot. After learning all of the access and easement complications with the lot, the buyer remained very patient and hopeful these entities may come to an agreement. Unfortunately, we ultimately had to cancel the contract as the buyer who I was also representing, was uncomfortable moving forward. It is my belief these lots are unable to be built on in their current conundrum of no access and my purpose for this letter is to advocate for my client Bruce Macke in pursuing his tax abatement. There is not just one lot that is being affected by the afore mentioned issues, it is virtually all of the lots that sit on county road 805. I am happy to answer any questions you may have in regards to my experience in listing lot 23. I'm also happy to participate in any capacity that may assist in a solution that works for everyone and hopefully, my client to move forward with a sale appropriate for today's market. Thank you for your time and consideration.

Warmly,

Megan Wheat

Broker Associate

Slifer Smith & Frampton Real Estate

970.343.4419

[mwheat@slifersummit.com](mailto:mwheat@slifersummit.com)



## ENGINEERING DEPARTMENT

970.668.4200

[www.SummitCountyCO.gov](http://www.SummitCountyCO.gov)

0037 Peak One Dr. PO Box 5660

Frisco, CO 80443

6.7.2018

### MEMO

To: Mike Peterson, Summit County Assessor's Office

From: Robert Jacobs, Summit County Engineer/Road & Bridge Director

Re: Lot 18 Quandary Village Filing I request for abatement and petition

The following are comments in response to the letter sent from Josh Cruze dated March 15, 2018:

- The contention about ownership of the road is, as far as the County is aware, behind us, and it has been well established that CR 805 is a public road. We met with CSU in spring 2018, and they did not make any assertion in that most recent meeting that they contend ownership.
- Mr. Cruze has not submitted any plans for construction of a home, but if he had submitted such plans in compliance with all County zoning, building, sewerage and engineering standards those plans would be approved without the need for an access agreement with CSU. Also, in the most recent meeting with CSU and their follow-up communication with Mr. Cruze no mention was made of an access agreement, either desired or perceived as necessary.
- A home has been constructed on CR 805 without legal action against the owner prior to that development (see Building permit B07-0496). Unless written evidence supporting the claim that they would file legal action is provided, this claim is unsubstantiated.
- Even if (and this is not the case) CSU were able to restrict access from the existing road, the platted right-of-way still exists and the owners of properties abutting that right-of-way would have the opportunity to build access to their properties within that right-of-way. This would represent legal access. A lack of access is false.
- The County is of the opinion, if not in immediate possession of evidence, that CR 805 was built before the CSU facilities for access to mining operations in the Monte Cristo drainage. If CSU made a legal argument against public access on CR 805 the County would likely assert a prescriptive right to access, but that has not happened.
- It is true that CR 805, like many other roads in Summit County, is not county maintained, and the County does not build roads to serve developments. This is not unique to these lots.
- Many County roads in Summit County were originally constructed outside of platted rights-of-way, however this rarely if ever precludes their use by adjacent owners. In the highly unlikely case that, for some unforeseen reason, an owner or entity were able to block the use of the existing road through legal channels, the owners would still have the opportunity to use the platted right-of-way for legal access.
- No special resolution is required for construction of homes on properties along CR 805. One building permit has already been issued, and the home successfully completed and occupied, without any such resolution.

The following are comments in response to the letter from Megan Wheat (undated):

- Josh Cruze has not submitted a building permit application to the County.
- No plans have been submitted nor any communications taken place indicating that CSU would need to, or has a right to, grant a variance for any development along CR 805. The letter is unclear about what standard could not be met, necessitating a variance.
- The County does claim public dominion over CR 805.
- The County and CSU are in agreement about the process for development review, permit approvals, inspections and occupancy.

- All lots in Quandary Village are provided legal, if not constructed, access.

The following is the brief summary of the conversation between CSU and Summit County staff in spring 2018:

- County agreed to refer permit application to CSU for comment.
- The County was clear that any standard or condition they request that was not consistent with County standards would not be enforced by the County.
- CSU accepted that position, and agreed to enforce their own standards and conditions to the extent that it was necessary, prudent or legal.
- CSU and Summit County agreed that until and unless additional information arose, no further argument or discussion was needed regarding the legality of public access on CR 805, and that all adjacent lots enjoyed a legal right to access their properties.
- The County agreed to forward comments from CSU regarding permit application to property owners for their information.
- The County and CSU agreed that if any CSU facility was damaged in the course of development, the responsibility for the repair of such damage would be determined based on the circumstances, and would be resolved between the party who damaged the facility and CSU. Unless such damage resulted from a direct County action then the County would not be responsible.

## Emails sent to Josh Cruze from Colorado Springs Utilities (CSU)

**From:** Jackie Chambers [<mailto:jmchambers@csu.org>]  
**Sent:** Monday, March 19, 2018 10:53 AM  
**To:** Josh Cruze  
**Cc:** 'Robert Jacobs'  
**Subject:** Follow-up on CSU and Summit County Discussion

Josh,

As a follow-up to our discussion with Summit County, I wanted to let you know where things stand as far as development within Quandary Village Filing No. 1. At this point, Summit County has indicated that before their development review process can begin, you have to submit a development application with whatever supporting documentation Summit County requires. They will review your application as they do any other development application. During the application review process, Summit County will submit your materials to Colorado Springs Utilities for review and comment.

Colorado Springs Utilities will provide comments related to what we believe needs to be done to protect our infrastructure from the development activity you are proposing and also provide any limitations or conditions we believe should be included with any development approval. These conditions may include things adding additional fill to the road, limitations on things like road grading and snow plowing, weight limits for equipment and vehicles on the road, and minimum separations between our pipeline and other utility infrastructure.

Colorado Springs Utilities and Summit County seem to be in agreement that if in the course of developing your lot or other Quandary Village property owners developing their lots, if any Colorado Springs Utilities infrastructure is damaged, the party responsible for the harm will be responsible for damages sustained by Utilities.

If you have any questions regarding what must be submitted as part of the development process in Summit County, I would refer you to Summit County staff.

Thank you,

Jackie Chambers  
Colorado Springs Utilities  
719-668-4667

**From:** Jackie Chambers [<mailto:jmchambers@csu.org>]  
**Sent:** Wednesday, January 24, 2018 9:11 PM  
**To:** Josh Cruze  
**Subject:** Quandary Update and Invitation

Josh,

I have met with Bethany and we have gone through many of the documents related to Quandary Village. We believe it may be best to meet with you in person to go through what we've found. Before we meet with you, Bethany expressed some concern with meeting with you without an attorney, in case you would be represented counsel. If you do have an attorney advising on these issues, would they be able to either attend a meeting with us, or could they provide Bethany with permission to meet with you without them being present.

Our calendars are already pretty full for next week, but would you have some availability the morning of February 7<sup>th</sup> to meet us at CSU's offices in Colorado Springs?

Thanks,  
Jackie

**From:** Jackie Chambers [<mailto:jmchambers@csu.org>]  
**Sent:** Monday, October 30, 2017 11:25 AM  
**To:** Josh Cruze; Luke Johnson  
**Cc:** Joe Noble  
**Subject:** RE: County Road 805 transmission line

Josh,

I just left Luke a message. We will find out exactly what was done up there as far as the line being located and potholed. I would still assume that you will need to survey the topo of your lot? If you are wanting to have it located you would need to call in a locate ticket, that would then be forwarded to our folks. If we find out that we did not pothole and that was something that you wanted to have done, we would work with whoever you hired and determine what the parameters would be if this was an option, to have someone dig over our line, or a third option might be that we dig it where you need to know exactly where it is and we just bill for our time and material. Not sure which one is the best, let me visit with Luke.

Mike Cobb is one of our supervisors for the water delivery system and he will at this point, forward your calls and questions to me. I just didn't want you wondering why he didn't call you back.

Before I moved forward with survey, and this is just a suggestion, you might want to wait on the access decision? Of course, you are certainly free to move forward. We have a meeting with our attorney on the 16<sup>th</sup> of this month and we will begin to sort out the issues, but until then we are not recognizing this as a County Road.

Thanks,  
Jackie