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September 13, 2007

RECEIVED

SEP 14 2007

CO SECRETARY OF STATE

Mr. William Hobbs
Deputy Secretary of State
Colorado Department of State
1700 Broadway
Denver, CO 80290

SENT BY FAX AND 1ST CLASS U.S. MAIL

RE: ~~Response to~~ Letter dated 9-10-07 regarding Frankstown Abandonment Issue

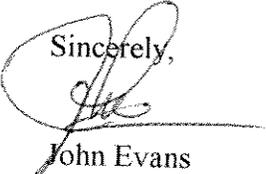
Dear Mr. Hobbs:

Enclosed is a copy of the Amended Notice of Appeal of the court decision in (Residents and Registered Electors of the Town of Frankstown, Colorado v. The Board of Trustees of the Town of Frankstown, Colorado and the Town of Frankstown, Colorado). In light of this Appeal, we respectfully request that you STAY ANY ACTION REGARDING THE FRANKSTOWN ABANDONMENT ISSUE.

A determination of abandonment by the Secretary would destroy the power of the Court of Appeals to render a meaningful decision and undermine any judgment entered by the Court in the Petitioner's favor.

We thank you in advance for your cooperation in this matter. Should you have any questions, feel free to call me at 303-840-2431.

Sincerely,


John Evans
For the Law Firm of John Evans, P.C.
And Attorney for the Town of Frankstown

Cc: Sheila Galloway, Interim Mayor
Pat Arfsten, Interim Clerk and Recorder

**COURT OF APPEALS
STATE OF COLORADO**

2 East 14th Avenue, 3rd Floor
Denver, CO 80203

Appeal from
District Court, County of Douglas
Honorable Nancy A. Hopf, District Court Judge
Case No. 07-CV-1342

Petitioners/Appellants:

**RESIDENTS AND REGISTERED ELECTORS OF THE
TOWN OF FRANKSTOWN, COLORADO:**

Ardell Arfsten	John Braly
Pat Arfsten	Deborah Braly
David Ayers	Randal Manning
Elizabeth Ayers	Rachel Wetherly
Victoria Ayers	
Sheila Galloway	
Jamieson Saraduke	

v.

Respondents/Appellees:

**THE BOARD OF TRUSTEES OF THE TOWN OF
FRANKSTOWN, COLORADO and THE TOWN OF
FRANKSTOWN, COLORADO**

Attorney for Appellants:

Names: John M. Evans #20549
Charles R. Free #16476

Address: 19751 East Mainstreet, Suite 360
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▲ COURT USE ONLY ▲

Case Number: 07CA1569

FILED IN THE
COURT of APPEALS
STATE OF COLORADO

AUG 22 2007

Clerk, Court of Appeals

AMENDED NOTICE OF APPEAL IN CIVIL CASE (C.A.R. 3(d) and 4(a))

Petitioners/Appellants, the Registered Electors and Residents of the Town of Frankstown, through its counsel, submits this Notice of Appeal pursuant to C.A.R. 3(d) and 4(a):

1. **Description of the Case.** This is an appeal from a July 7, 2007 Order denying Petitioners' claims for relief pursuant to C.R.C.P. 106(a)(2), 57 or 70.

A. **Nature of the Controversy.** This case involves a petition by the residents of the Town of Frankstown asking the Douglas County District Court to order the Town Board of Trustees – which admittedly is not currently constituted – to hold an election for the reorganization of the Town. Petitioners asked the District Court to appoint a person or persons to act in place of Respondents, pursuant to either Rule 57 or Rule 70 of the Colorado Rules of Civil Procedure.

The Petition was filed pursuant to C.R.S. § 31-2-301 *et seq.* The basis for the Petition was that Frankstown was organized under Colorado Territorial statutes in 1861 and again in 1870. Having been originally organized, Frankstown has perpetual existence unless formally abandoned by the Colorado Secretary of State, which has never occurred. Accordingly, the Petitioners sought to reorganize the Town to reestablish a functioning government structure.

The County sought to intervene and was permitted to participate in the trial court's June 22, 2007 hearing on the Petition. The County opposed the Petition, arguing that Frankstown had not been incorporated and that the Petition was defective

B. Basis for Appeal and Appellate Court's Jurisdiction. Frankstown Residents appeal the District Court's Order of July 7, 2007 refusing to compel a dormant Board of Trustees to hold a reorganization election. Jurisdiction is based on a final judgment of the Douglas County District Court as contemplated by C.R.C.P. 54(b) and C.A. R. 1(a)(1).

C. Resolution of Issues. The Order resolved all issues pending before the trial court as to the claim subject of this appeal. There still is pending a claim against the Colorado Secretary of State to enjoin any action to deem the Town of Frankstown abandoned during the pendency of this appeal.

D. Final Order. No further orders were necessary and the judgment was final pursuant to C.R.C.P. 54(b).

E. Date of Order. July 7, 2007.

F. Post-Trial Relief Extension. None

G. Date of Any Motion for Post-Trial Relief. None

H. Date of Any Post-Trial Relief Orders. None

I. Notice of Appeal Extensions. No extensions were granted to file this Notice of Appeal.

1. Advisory Listing of Issues to be Raised on Appeal. Some or all of the following issues may be Raised on appeal by the Residents of Frankstown:

A. Whether the trial court erred in denying the Petition on the grounds that the Town of Frankstown is not an incorporated town under Colorado law?

B. Whether the trial court erred in declining to compel a dormant Board of Trustees to hold a reorganization election?

2. Transcripts. A complete transcript will be necessary. The approximate number of pages of the transcript is 500 pages. The name of the Court Reporter is Lisa Wagner; 303.663.7212

3. Preargument Conference. No preargument conference is requested.

4. Attorney Information.

Attorneys for Petitioners/Appellants Residents of Frankstown:

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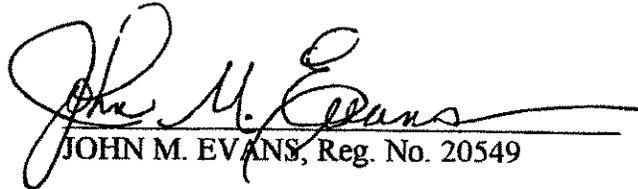
Attorneys for Respondents/Appellees The Board of Trustees of the Town of Frankstown, Colorado and the Town of Frankstown, Colorado:

Myron A. Clark
Office of the County Attorney
Douglas County
100 Third Street
Castle Rock, CO 80104
(303) 660-7401

5. **Contents of Appendix.** A copy of the District Court's Orders attached to this Notice of Appeal are: ORDER FOR PETITIONER'S MOTION TO CERTIFY JULY 7, 2007, ORDER AS FINAL JUDGMENT PURSUANT TO C.R.C.P. 54(b), July 31, 2007(Exhibit #1) and ORDER, Dated July 7, 2007(Exhibit #2).

Respectfully submitted this 21st day of August, 2007,

THE LAW FIRM OF JOHN EVANS, P.C.



JOHN M. EVANS, Reg. No. 20549

ATTORNEY FOR THE PETITIONERS/APPELLANTS:
RESIDENTS AND REGISTERED ELECTORS OF
THE TOWN OF FRANKSTOWN, COLORADO:

Ardell Arfsten

John Braly

Pat Arfsten

Deborah Braly

David Ayers

Randal Manning

Elizabeth Ayers

Rachel Wetherly

Victoria Ayers

Sheila Galloway

Jamieson Saraduke

CERTIFICATE OF SERVICE

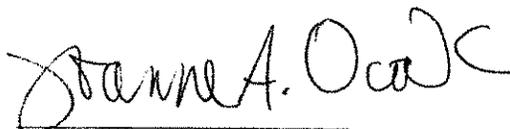
I hereby certify that on this 21st day of August, 2007, a true and correct copy of the foregoing **AMENDED NOTICE OF APPEAL** was served via U.S. mail, postage prepaid, upon the following:

Clerk of the Douglas County District Court
Cheryl A. Layne/Clerk of the Combined Courts
4000 Justice Way
Castle Rock, Colorado 80109

Clerk of the Douglas County District Court
Vicki Williams/Appeals Clerk
4000 Justice Way
Castle Rock, Colorado 80109

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Joanne A. Ocak/ Paralegal