

DISTRICT COURT, PUEBLO COUNTY, COLORADO Court address: 320 W. 10th St., Pueblo, CO 81003 Phone number: (719) 583-7125 (Information)	▲ COURT USE ONLY ▲
IN THE MATTER OF THE PUEBLO CONSERVANCY DISTRICT.	
Donald J. Banner, #3026 Banner & Bower, P.C. Attorneys for the Pueblo Conservancy District 115 E. Riverwalk, Suite 400 Pueblo, CO 81003 (719) 544-5086 Thomas J. Florczak, #7594 Attorney for the City of Pueblo, a Municipal Corporation 503 N. Main St., Suite 203 Pueblo, CO 81003 (719) 562-3899	Case No. 67 CV 17664 Div. No. B
MOTION TO APPOINT THREE COMMISSIONERS AS A BOARD OF APPRAISERS, TO APPRAISE ALL BENEFITS ACCRUING TO LAND WITHIN THE DISTRICT, AND TO SET A SUM PER DAY AS COMPENSATION FOR THE APPRAISERS FOR THE TIME ACTUALLY EMPLOYED IN THE PERFORMANCE OF THEIR DUTIES	

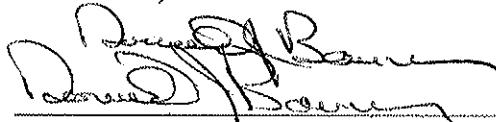
Comes now the Pueblo Conservancy District and the City of Pueblo, A Municipal Corporation and hereby move this Court for an Order pursuant to C.R.S. §37-4-101 appointing three commissioners as a Board of Appraisers for the purpose of making a readjustment of the maintenance fund assessment pursuant to C.R.S. §37-5-109. As grounds therefore, the undersigned state as follows:

1. C.R.S. §37-4-101 provides that this Court, as the Court which organized the Pueblo Conservancy District, may "at any time" make an appointment of a board of appraisers.
2. The original Board of Appraisers appointed with the organization of the District no longer exists.

3. The City of Pueblo is an owner of property and lands within the District. It has previously been assessed 45% of the total assessment, and it contends such amount is excessive.
4. Since the original appraisal of benefits done in the 1920's there has been a substantial and material change in the values of the property in the district and a new appraisal of benefits is necessary for the purpose of making a more equitable basis for the levy of the maintenance fund assessments.
5. C.R.S. §37-5-120 (3) provides that each appraiser shall receive a sum per day to be approved by the Court for the time actually employed in the performance of his duties.
6. C.R.S. §37-5-109 has a specific statutory provision to trigger a readjustment of the maintenance fund assessments when the owners or representatives of twenty-five percent or more of the acreage or value of the lands in the District file a petition requesting a readjustment of the appraisal of benefits. The undersigned contend that the Court has the authority to appoint a new Board of Appraisers and order it to conduct a readjustment of the appraisal of benefits since (a) there have been substantial and material changes to the lands throughout the district and the benefits those lands enjoy by being in the District.

Wherefore the undersigned pray that this Court would appoint three appraisers to act as a Board of Appraisers for the purpose of conducting a new appraisal of benefits of lands within the District and set a sum per day for the time actually spent by each appraiser in the performance of his or her duties.

Respectfully submitted this 15 day of November, 2011.



Donald J. Banner, Attorney for
Pueblo Conservancy District



Thomas J. Florczak, Attorney for the
City of Pueblo, a Municipal Corporation