

08-2189-CD
Crown Comm. Vs Clfd County Assess.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATIONS CORP.,

CIVIL ACTION - LAW

Appellant,

NO. 08-2189-CD

vs.

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,

TAX ASSESSMENT APPEAL

Appellee,

APPEAL FROM DECISION OF BOARD
OF ASSESSMENT APPEALS

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA SCHOOL
DISTRICT,

Filed on behalf of Appellant,
Crown Communications Corp.

Interested Parties.

Counsel of Record for this Party:

Dusty Elias Kirk, Esquire
PA I.D. No. 30702
Sharon F. DiPaolo, Esquire
PA I.D. No. 74520
PEPPER HAMILTON LLP
Firm No. 143
One Mellon Center
500 Grant Street, 50th Floor
Pittsburgh, PA 15219-2502
(412) 454-5000

Dated: November 12, 2008

FILED

NOV 13 2008

William A. Shaw
Prothonotary/Clerk of Courts

rec Aug
m/12:52
Aug pd. 95.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATIONS CORP.,)	CIVIL DIVISION
Appellant,)	
)	NO. _____
vs.)	
)	
CLEARFIELD COUNTY BOARD OF)	
ASSESSMENT APPEALS,)	
Appellee,)	
vs.)	
)	
CLEARFIELD COUNTY, SANDY)	
TOWNSHIP and DUBOIS AREA SCHOOL)	
DISTRICT,)	
Interested Parties.)	

NOTICE

AN APPEAL FROM DECISION OF BOARD OF ASSESSMENT APPEALS, A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE MATTERS SET FORTH IN THE FOLLOWING PETITION YOU MUST ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE AN ANSWER IN WRITING WITH THE PROTHONOTARY SETTING FORTH YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU AND SERVE A COPY ON THE ATTORNEY OR PERSON FILING THE PETITION. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR THE RELIEF REQUESTED BY THE PETITIONER. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second & Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 50-51

BY THE COURT:

_____, J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATIONS CORP.,)	CIVIL DIVISION
)	
Appellant,)	NO. _____
)	
vs.)	
)	
CLEARFIELD COUNTY BOARD OF)	
ASSESSMENT APPEALS,)	
)	
Appellee,)	
)	
vs.)	
)	
CLEARFIELD COUNTY, SANDY)	
TOWNSHIP and DUBOIS AREA SCHOOL)	
DISTRICT,)	
)	
Interested Parties.)	

APPEAL FROM DECISION OF BOARD OF ASSESSMENT APPEALS

AND NOW comes Appellant, Crown Communications Corp., ("Crown"), by and through its attorneys, Pepper Hamilton LLP, Dusty Elias Kirk, Esquire and Sharon F. DiPaolo, Esquire, and hereby files an appeal from the final assessment of the Clearfield County Board of Assessment Appeals, and, in support thereof, states as follows:

1. Allen and Ethelene Giles are the owners of property situate in Sandy Township, Clearfield County, Pennsylvania (the "Original Property"). The Original Property is identified as Map Number 128.0-D03-000-00001 in the Clearfield County Assessment records.
2. Allen and Ethelene Giles lease land to Crown upon which Crown placed on the Original Property a telecommunication tower and related structures and equipment.

3. As a result of the lease, the Board created a separate parcel for the improvement component of the tower identified as Map Number 128.0-D03-000-00001-DW-01, Control No. 128.0-97284 ("Tower Parcel") in the Clearfield County Assessment records. The assessment for the land component of the tower remains with the assessment for the Original Property.

4. The rights to the leased land and tower are an integrated equitable interest in the real estate which is undivided and the tower is affixed to the land; therefore, the land and the improvements for the tower should not be assessed on separate parcels.

5. By creating a separate parcel for the improvements associated with the tower, there is a duplicate assessment.

6. Crown has an equitable interest in the Tower Parcel pursuant to a lease with Wendell and Anna Snyder and has a right to challenge the assessment.

7. The County of Clearfield, Sandy Township and the Dubois Area School District are the taxing bodies interested in the taxable status of the Property.

8. The Board of Assessment Appeals of Clearfield County (the "Board") was created pursuant to the Act 254 of 1943, P.L. 571, 72 P.S. § 5453.101 *et. seq.*, and is authorized to assess real property in the County of Clearfield for the purpose of taxation and to hear appeals from said assessments by aggrieved parties.

9. As of August 1, 2008, the Property was described for the 2009 tax year on the official records of Clearfield County as follows:

<u>Description</u>	<u>Assessment</u>
Land	\$0
Building	\$57,525
Total	\$57,525

10. On August 29, 2008, Crown duly appealed the 2009 assessment to the Board for regress and reduction of said assessment. A copy of said Declaration of Intention to Appeal is attached hereto as Exhibit "A."

11. A hearing was held October 13, 2008, before the Board concerning the appeal of the Tower Parcel. Following the hearing, the Board sustained the assessment on the Tower Parcel for the year 2009 by issuing a Decision Letter (the "Decision"), dated October 14, 2008. A copy of the Decision is attached hereto as Exhibit "B."

12. This Petition for Appeal is herewith presented within thirty (30) days from the mailing date of the Board's Decision.

13. Crown is aggrieved by the Board's adjudication. Specifically, Crown avers, on information and belief, that the assessment remains unfair, unreasonable, and excessive. Crown further avers as follows:

a. The assessment is not equal or uniform with other properties similarly located in Clearfield County.

b. There is a complete lack of uniformity in the assessment of real estate within Clearfield County which makes the assessment unjust, unreasonable, and discriminatory.

c. The fair market value upon which the assessment is based is in excess of the actual fair market value of the Tower Parcel.

d. The ratio of assessed value to market value is in excess of the ratio commonly prevailing in Clearfield County.

e. The Board's method of valuation applied to the assessments of cellular communications towers is improper and not in accordance with Pennsylvania Law.

f. There is duplicate assessment as a result of the creation of a separate parcel for the improvements associated with the tower.

g. Other such reasons as will be developed at the time of hearing.

WHEREFORE, Crown being aggrieved by the assessment of the Board, files this Appeal and requests that this Honorable Court allow its appeal and decrease the assessment to such amount as may be right and proper.

Respectfully submitted,



Dusty Elias Kirk
PA I.D. No. 30702
Sharon F. DiPaolo
PA I.D. No. 74520
PEPPER HAMILTON LLP
Firm No. 143
One Mellon Center
500 Grant Street, 50th Floor
Pittsburgh, PA 15219-2502
(412) 454-5000

Dated: November 12, 2008

*Attorneys for Appellant, Crown
Communication Inc.*

SL# 868087

All Questions Must
Be Answered To
Qualify For Hearing

DECLARATION OF INTENTION TO APPEAL

ASSESSMENT APPEAL

Clearfield County Board of Assessment Appeals
230 B Market St Suite 117 Clearfield PA 16830

FBN 20 09

Under the provisions of law, any person approved by any assessment desiring to appeal shall file a statement, in writing, with the Board of Assessment Appeals. Such statement shall designate the assessment appealed from and the address to which the Board shall mail notice of when and where to appear for a hearing. NO APPEAL SHALL BE HEARD BY THE BOARD UNLESS APPELLANT SHALL FIRST HAVE FILED THE APPEAL AND REQUIRED DOCUMENTS AS SET FORTH BY LAW.
Phone (814) 765-2641 Ext 5997 (*) includes taxing districts

RECORD OWNER(S) NAME: Crown Communication Inc.
MAILING ADDRESS: c/o Dusty Elias Kirk, Esquire, Pepper Hamilton LLP, 500 Grant Street, 50th Floor, Pittsburgh, PA 15219
EMAIL ADDRESS: _____

PROPERTY SUBJECT OF APPEAL: _____
BOROUGH/TOWNSHIP: Sandy Township

ASSESSOR'S TAX MAP IDENTIFICATION	DISTRICT	MAP	SUB-MAP	PARCEL	SUB PCL 1	SUB PCL 11	COUNTY NUMBER
	<u>1280</u>	<u>D03</u>	<u>000</u>	<u>00001</u>	<u>D-W</u>	<u>01</u>	<u>1280-97284</u>

ASSESSMENT APPEALED \$57,525 OPINION OF VALUE OF THIS PROPERTY To be determined
DATE PURCHASED N/A PURCHASE PRICE N/A AMOUNT OF FIRE INSURANCE Not reflective of market value

STATE REASONS FOR FILING THIS APPEAL: The fair market value upon which the assessment is based is in excess of the property's value. The assessment is not uniform with the assessments of other property in the county. The ratio of assessed value to market value is in excess of the ratio commonly prevailing in Clearfield County.

CURRENT USE OF PROPERTY: Telecommunications Tower

TOTAL ACREAGE: N/A TOTAL ACRES OF TILLABLE LAND: N/A
TOTAL ACRES OF WOODLAND: N/A TOTAL ACRES OF WASTELAND: N/A

#1 RESIDENCE: Number of Stories _____ Total Rooms _____ Bedrooms _____ Family Room _____ Full Baths _____
Half Baths _____ Basement _____ Garage(Cars) _____ Carport _____ Fireplace _____ Central Air _____
#2 RESIDENCE: Number of Stories _____ Total Rooms _____ Bedrooms _____ Family Room _____ Full Baths _____
Half Baths _____ Basement _____ Garage(Cars) _____ Carport _____ Fireplace _____ Central Air _____

OUT BUILDINGS:	DESCRIPTION/USE	SIZE
#1	_____	_____
#2	_____	_____
#3	_____	_____
#4	_____	_____
#5	_____	_____
#6	_____	_____
#7	_____	_____

OTHER: _____

CERTIFICATE OF APPEAL

I/We hereby declare my/our intention to appeal from the assessed valuation of the property described above and do hereby verify that the statements made in this appeal are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. CS Section 4904, relating to unsworn falsification to authorities.

SIGNED: Thomas D. Bone DATE: 8-28-09
V.P. Tax _____ PHONE No. (Home) N/A

CHIEF OF RECORD _____

EXHIBIT
A

412-454-5000

ALL NOTICE OF PROCEEDINGS WILL BE MAILED TO: _____ AND SUCH OTHER AS IDENTIFIED BELOW:
NAME: Dusty Elias Kirk, Esquire
ADDRESS: Pepper Hamilton LLP
500 Grant Street, 50th Floor, Pittsburgh, PA 15219

Clearfield County Assessment Office
BOARD OF ASSESSMENT APPEALS



230 EAST MARKET STREET
SUITE 117
Clearfield, Pennsylvania 16830

TELEPHONE (814) 765-2641
FAX (814) 765-2640
Email- cctax@clearfieldco.org

Crown Communication, Inc.

4017 Washington Rd

McMurray PA 15317

**NOTICE OF BOARD ACTION ON APPEALS
FROM 2009 REAL ESTATE ASSESSMENT**

Appellant Name	: Crown Communication, Inc.
Person Appearing	: Sean Delaney & Greg Kruk
Location	: See Attached Sheet
Map #	: See Attached Sheet
Property Identification	: See Attached Sheet
Original 2009 market valuation	: See Attached Sheet
Original 2009 assessed valuation	: See Attached Sheet
Date of appeal hearing	: October 13, 2008

Dear Property Owner:

The Clearfield County Board of Assessment Appeals, having considered your appeal, has made an Order with reference to your 2009 real estate assessment as follows:

Original 2009 Market value affirmed, without change.
Original 2009 Assessed value affirmed, without change.

Dated: October 16, 2008

Sincerely,

Clearfield County Board of
Assessment Appeals


Jack Green


Maggie Plinke


Chris Bohley



Clearfield County Assessment Office



230 EAST MARKET STREET
SUITE 117
Clearfield, Pennsylvania 16830
FAX (814) 765-2640

October 14, 2008

RE: Appeal for Crown Communication, Inc.

District: Bell Township Map #102.0-D12-000-00051-DW-01 Control #102.0-49532	2009 Market Value \$207,500 affirmed, without change. 2009 Assessed Value \$51,875 affirmed, without change.
District: Cooper Township Map #110.0-R00-000-00104-DW-01 Control #110.0-49752	2009 Market Value \$228,500 affirmed, without change. 2009 Assessed Value \$57,125 affirmed, without change.
District: Lawrence Township Map #123.0-J07-000-00091-DW-01 Control #123.0-96792	2009 Market Value \$187,500 affirmed, without change. 2009 Assessed Value \$46,900 affirmed, without change.
District: Lawrence Township Map #123.0-J08-000-00257-DW-01 Control #123.0-96690	2009 Market Value \$227,300 affirmed, without change. 2009 Assessed Value \$56,825 affirmed, without change.
District: Penn Township Map #125.0-O11-000-00015-DW-01 Control #125.0-85516	2009 Market Value \$294,000 affirmed, without change. 2009 Assessed Value \$73,500 affirmed, without change.
District: Sandy Township Map #128.0-D03-000-00001-DW-01 Control #128.0-97284	2009 Market Value \$230,100 affirmed, without change. 2009 Assessed Value \$37,525 affirmed, without change.
District: Union Township Map #129.0-F05-000-00013-DW-01 Control #129.0-96458	2009 Market Value \$221,500 affirmed, without change. 2009 Assessed Value \$55,375 affirmed, without change.
District: Woodward Township Map #130.0-M14-000-00019-DW-01 Control #130.0-96523	2009 Market Value \$176,900 affirmed, without change. 2009 Assessed Value \$44,225 affirmed, without change.

VERIFICATION

I, Thomas D. Bone, Vice President of Corporate Tax, declare under penalty of perjury that I am a representative of the record owner of the property on appeal; that I am authorized to make this verification of the foregoing Appeal from Decision of Board of Assessment Appeals; that I know the contents thereof as to all matters of fact therein stated and the same are true; and as to all matters therein stated on information and belief, I believe them to be true.

I understand that false statements herein are subject to the penalties 18 Pa. Cons. Stat. § 4904 relating to unsworn falsification to authorities.

Executed on this 11th day of November, 2008.

Thomas D. Bone

CERTIFICATE OF SERVICE

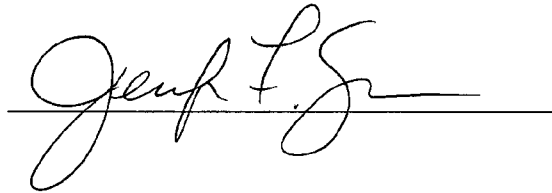
I hereby certify that a true and correct copy of the within Appeal from Decision of Board of Assessment Appeals has been served upon the following parties by first class mail, postage prepaid on this 12th day of November, 2008.

Kim C. Kesner, Esquire
Solicitor, Clearfield County and Board of
Property Assessments
212 South Second Street
Clearfield, PA 16830

Clearfield County Board of Assessment
Appeals
230 East Market Street
Suite 117
Clearfield, PA 16830

Gregory M. Kruk, Esquire
Solicitor, Sandy Township
Ferraro & Young
690 Main Street
Brockway, PA 15824

Edward Ferraro, Esquire
Solicitor, DuBois Area School District
Ferraro & Young
690 Main Street
Brockway, PA 15824

A handwritten signature in cursive script, appearing to read "Jennifer L. Smith", is written over a horizontal line.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATIONS CORP.,

CIVIL DIVISION

Appellant,

NO. 08-2189-CD

vs.

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,

Appellee,

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA SCHOOL
DISTRICT,

Interested Parties.

FILED
017:0034
NOV 14 2008

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty D. Paolo

ORDER

AND NOW, this 14th day of November, 2008, upon

consideration of the foregoing petition, it is hereby ordered that:

- (1) a rule is issued upon the respondent to show why the petitioner is not entitled to the relief requested;
- (2) the respondent shall file an answer to the petition within 20 days of service upon the respondent;
- (3) the petition shall be decided under Pa.R.C.P. No. 206.7;
- (4) for record purposes only, a pretrial conference/conciliation on this real estate assessment appeal is scheduled to take place on January 7, 2009, at 2:00 ~~am~~ pm at Judges Chambers; and

(5) notice of the entry of this order shall be provided to all parties by the
petitioner.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Judge J. Cunningham", is written over a horizontal line.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CROWN COMMUNICATIONS CORP.
Appellant

vs.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS,
Appellee

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA SCHOOL
DISTRICT,
Interested Parties

CIVIL ACTION-LAW

NO. 2008-2189-CD

Type of Pleading:

ENTRY OF APPEARANCE

Filed on behalf of:

**SANDY TOWNSHIP AND
DUBOIS AREA SCHOOL DISTRICT**

Counsel of Record for this Party:

R. EDWARD FERRARO, ESQ.

Supreme Court No. 05880

GREGORY M. KRUK, ESQ.

Supreme Court No. 27048

FERRARO, KRUK & FERRARO, LLP

690 Main Street

Brockway, PA 15824

814/268-2202

FILED

01/31/2009
DEC 02 2008

William A. Shaw
Prothonotary/Clerk of Courts

2cc
Atty Ferraro
Copy to CIA
CR

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CROWN COMMUNICATIONS CORP.,
Appellant

vs.

No. 2008-2189-CD

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,
Appellees

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA SCHOOL
DISTRICT,

Interested Parties

ENTRY OF APPEARANCE

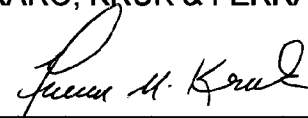
TO WILLIAM SHAW, PROTHONOTARY:

Please enter our appearance as attorneys for Sandy Township and DuBois
Area School District, Interested Parties, in the above-captioned matter.

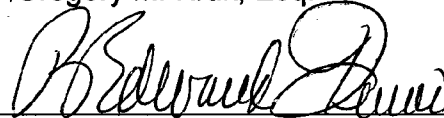
FERRARO, KRUK & FERRARO, LLP

Date: 12-1-08

By:



Gregory M. Kruk, Esq.



R. Edward Ferraro, Esq.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CROWN COMMUNICATIONS CORP.
Appellant

vs.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS,
Appellee

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA SCHOOL
DISTRICT,
Interested Parties

CIVIL ACTION-LAW

NO. 2008-2189-CD

Type of Pleading:

**ANSWER OF SANDY TOWNSHIP
AND DUBOIS AREA SCHOOL
DISTRICT**

Filed on behalf of:

**SANDY TOWNSHIP AND
DUBOIS AREA SCHOOL DISTRICT**

Counsel of Record for this Party:

R. EDWARD FERRARO, ESQ.

Supreme Court No. 05880

GREGORY M. KRUK, ESQ.

Supreme Court No. 27048

FERRARO, KRUK & FERRARO, LLP

690 Main Street

Brockway, PA 15824

814/268-2202

FILED 2008
013:18301 Atty Ferraro
DEC 02 2008 (610)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CROWN COMMUNICATIONS CORP.,
Appellant

vs.

No. 2008-2189-CD

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,
Appellees

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA SCHOOL
DISTRICT,

Interested Parties

**ANSWER OF SANDY TOWNSHIP AND
DUBOIS AREA SCHOOL DISTRICT**

AND NOW, comes SANDY TOWNSHIP and DUBOIS AREA SCHOOL DISTRICT, by and through their attorneys, FERRARO, KRUK AND FERRARO, LLP, and hereby files this Answer, and in support thereof, avers as follows:

1. Admitted.
2. SANDY TOWNSHIP and DUBOIS AREA SCHOOL DISTRICT are without sufficient knowledge or information to form a belief as the truth of the averments contained in Paragraph 2 of the petition for appeal and therefore, proof of the same is requested at hearing.
3. SANDY TOWNSHIP and DUBOIS AREA SCHOOL DISTRICT are without sufficient knowledge or information to form a belief as the truth of the

averments contained in Paragraph 3 of the petition for appeal and therefore, proof of the same is requested at hearing.

4. The averments contained in Paragraph 4 of the petition for appeal constitute contentions or conclusions of law to which no response is required.

5. It is specifically denied that there is a duplicate assessment created by the separate parcel for improvements associated with the tower.

6. SANDY TOWNSHIP and DUBOIS AREA SCHOOL DISTRICT are without sufficient knowledge or information to form a belief as the truth of the averments contained in Paragraph 6 of the petition for appeal and therefore, proof of the same is requested at hearing.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. The averments contained in Paragraph 13 of the petition for appeal constitute contentions or conclusions of law to which no response is required. By way of further answer:

(a) Appellants' petition does not set forth a cognizable uniformity challenge to the subject assessment. It is specifically denied that the assessment is not equal or uniform with other similar properties.

(b) It is specifically denied that there is a lack of uniformity in the assessment of real estate within Clearfield County which makes the assessment adjust, unreasonable and discriminatory.

(c) It is specifically denied that the fair market value upon which the assessment is based is in excess of the actual fair market of the tower parcel.

(d) It is specifically denied that the ratio of assessed value to market value is in excess of the ratio commonly prevailing in Clearfield County.

(e) It is specifically denied that the Board's method of valuation applied to the assessments of cellular communications towers is improper and not in accordance with Pennsylvania law.

(f) It is specifically denied that there is a duplicate assessment as a result of the creation of a separate parcel for the improvements associated with the tower.

(g) SANDY TOWNSHIP and DUBOIS AREA SCHOOL DISTRICT object to any attempt by Appellants to raise any other issues not raised and preserved in its petition for appeal.

WHEREFORE, SANDY TOWNSHIP and DUBOIS AREA SCHOOL DISTRICT request your Honorable Court to sustain or increase the assessment of

the subject property as the evidence supports.

FERRARO, KRUK & FERRARO, LLP

Date: 12-1-08

By: _____

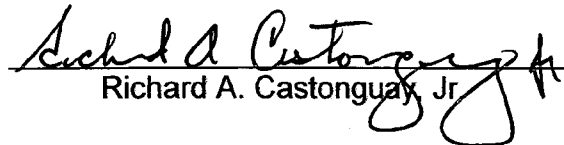

Gregory M. Kruk, Esq.
Attorney for Sandy Township and
DuBois Area School District

bab:SandyTwp:CrownCommun:
Answer-Sandy-DASD

VERIFICATION

I, **RICHARD A. CASTONGUAY, JR.**, verify that the statements made in the within are true and correct. I understand false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: 12/2/08

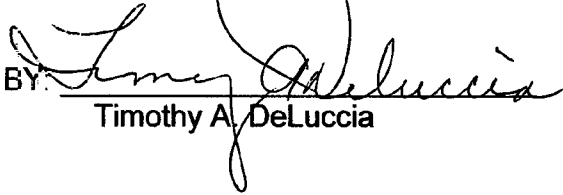

Richard A. Castonguay, Jr.

VERIFICATION

I, **TIMOTHY A. DELUCCIA**, Superintendent of DuBOIS AREA SCHOOL DISTRICT, is authorized to make this verification on behalf of the DUBOIS AREA SCHOOL DISTRICT and verifies that the statements made in the attached Answer are true and correct.

I understand false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

DUBOIS AREA SCHOOL DISTRICT

BY: 
Timothy A. DeLuccia

Dated: 12/2/08

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATION INC.,
Appellant,

Vs.

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,

Appellee,

Vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA
SCHOOL DISTRICT,

Interested Parties,

No. 08-2189-CD

STATUTORY APPEAL:
TAX ASSESSMENT

Type of Pleading:

**ANSWER OF CLEARFIELD
COUNTY BOARD OF
ASSESSMENT APPEALS**

Filed on Behalf of:
APPELLEE

Counsel of Record for This Party:

Kim C. Kesner, Esquire
Supreme Court No. 28307
212 South Second Street
Clearfield, PA 16830
(814) 765-1706

Other Counsel of Record:

Dusty Elias Kirk, Esquire
Sharon F. DiPaolo, Esquire
One Mellon Center
500 Grant Street, 50th Floor
Pittsburgh, PA 15219-2502

Edward Ferraro, Esquire
Solicitor, DuBois Area School Dist.
690 Main Street
Brockway, PA 15824

Gregory M. Kruk, Esquire
Solicitor, Sandy Township
690 Main Street
Brockway, PA 15824

FILED
DEC 04 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATION INC.,	:	No. 08-2189-CD
Appellant,	:	
	:	
Vs.	:	
	:	
CLEARFIELD COUNTY BOARD OF	:	
ASSESSMENT APPEALS,	:	
Appellee,	:	
	:	
Vs.	:	
	:	
CLEARFIELD COUNTY, SANDY	:	
TOWNSHIP and DUBOIS AREA	:	
SCHOOL DISTRICT,	:	
Interested Parties,	:	

**ANSWER OF CLEARFIELD COUNTY
BOARD OF ASSESSMENT APPEALS**

AND NOW, comes Appellee, Clearfield County Board of Assessment Appeals ("County") by Kim C. Kesner, Esquire, Solicitor of Clearfield County, and files this Answer in accordance with this Court's Order of November 14, 2008:

1. Admitted.
2. After a reasonable investigation, County is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 2 of Appellants Petition. Proof thereof is demanded.
3. It is admitted that the subject of this appeal is a communication tower assessed to Appellant identified by Clearfield County Assessment Map No. 128.0-D03-000-00001-DW-01. Paragraph 3 also contains contentions and conclusions of law to which no responses are required.

4. The averments contained in paragraph 4 constitute contentions or conclusions of law to which no responses are required. To the extent that responses are required and are relevant, it is specifically denied that Appellant is improperly assessed.

5. The averments contained in paragraph 5 constitute contentions or conclusions of law to which no responses are required. To the extent that responses are required and are relevant, it is specifically denied that Appellant is improperly assessed.

6. The averments contained in paragraph 4 constitute contentions or conclusions of law to which no responses are required.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. The averments contained in paragraph 4 constitute contentions or conclusions of law to which no responses are required. To the extent that responses are required and are relevant, it is specifically denied that:

a. The assessment is not equal or uniform with other properties similarly located in Clearfield County.

b. There is a complete lack of uniformity in the assessment of real estate within Clearfield County which makes the assessment unjust, unreasonable, and discriminatory.

c. The fair market value upon which the assessment is based is in excess of the actual fair market value of the assessed interests.

d. The ratio of assessed value to market value is in excess of the ratio commonly prevailing in Clearfield County.

e. The Board's method of valuation applied to the assessments of cellular communications towers is improper and not in accordance with Pennsylvania law.

f. There is a duplicate assessment.

OBJECTION

1. The County objects to any requirement in this proceeding that it be required to file an answer or that it be bound to any answer filed under Pa. R.C.P. 206.7.

2. This is a Statutory Appeal proceeding to which the Pennsylvania Rules of Civil Procedure do not apply.

3. This Court has not adopted any Local Rules governing Statutory Appeals allowing an Appellant to compel an answer to an appeal petition.

4. The Fourth to Eighth Class County Assessment Law provides for a hearing upon the filing of an appeal, but does not specify any pre-hearing procedures, such as a requirement that an Appellee file an answer to an appeal petition.

5. By filing an Answer in strict accordance with this Courts Order of November 14, 2008, the County is not consenting to proceeding under Pa. R.C. P. 206.7.

WHEREFORE, the County respectfully requests, upon hearing, that the County's assessment be affirmed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kim C. Kesner', written over a horizontal line.

Kim C. Kesner, Esquire
Counsel for Clearfield County

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATION INC.,	:	No. 08-2189-CD
Appellant,	:	
	:	
Vs.	:	
	:	
CLEARFIELD COUNTY BOARD OF	:	
ASSESSMENT APPEALS,	:	
Appellee,	:	
	:	
Vs.	:	
	:	
CLEARFIELD COUNTY, SANDY	:	
TOWNSHIP and DUBOIS AREA	:	
SCHOOL DISTRICT,	:	
Interested Parties,	:	

CERTIFICATE OF SERVICE

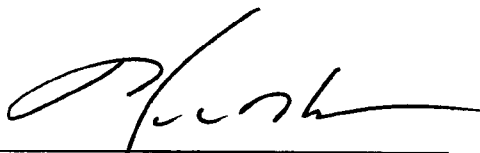
I do hereby certify that on the 4th day of December, 2008, I served a true and correct copy of the within Answer of Clearfield County Board of Assessment Appeals by first class mail, postage prepaid, on the following:

Dusty Elias Kirk, Esquire
Sharon F. DiPaolo, Esquire
One Mellon Center
500 Grant Street, 50th Floor
Pittsburgh, PA 15219-2502

Edward Ferraro, Esquire
Solicitor, DuBois Ares School Dist.
690 Main Street
Brockway, PA 15824

Gregory M. Kruk, Esquire
Solicitor, Sandy Township
690 Main Street
Brockway, PA 15824

12-4-08
Date



Kim C. Kesner, Esquire

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CROWN COMMUNICATIONS CORP.
Appellant

vs.

CLEARFIELD COUNTY BOARD
OF ASSESSMENT APPEALS,
Appellee

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA SCHOOL
DISTRICT,
Interested Parties

CIVIL ACTION-LAW

NO. 2008-2189

Type of Pleading:

AFFIDAVIT OF SERVICE

Filed on behalf of:

**SANDY TOWNSHIP AND
DUBOIS AREA SCHOOL DISTRICT**

Counsel of Record for this Party:
R. EDWARD FERRARO, ESQ.
Supreme Court No. 05880
GREGORY M. KRUK, ESQ.
Supreme Court No. 27048
FERRARO, KRUK & FERRARO, LLP
690 Main Street
Brockway, PA 15824
814/268-2202

S
FILED No cc
m19:13/BN
DEC 08 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CROWN COMMUNICATIONS CORP.,
Appellant

vs.

No. 2008-2189-CD

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,
Appellees

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA SCHOOL
DISTRICT,

Interested Parties

AFFIDAVIT OF SERVICE

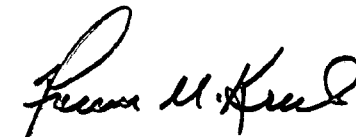
I do hereby certify that on the 3rd day of December, 2008, I mailed a copy
of the Entry of Appearance and Answer of Sandy Township and DuBois Area
School District by first class mail, postage prepaid, to the following:

Dusty Elias Kirk, Esq.
Sharon F. DiPaolo, Esq.
Pepper Hamilton, LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219

Kim C. Kesner, Esq.
212 South Second Street
Clearfield, PA 16830

FERRARO, KRUK & FERRARO, LLP

BY:



Gregory M. Kruk, Esq.

Date:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATION, INC.,

CIVIL ACTION – LAW

Appellant,

NO. 08-2189-CD

vs.

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,

AFFIDAVIT OF SERVICE

Appellee,

Filed on Behalf of Appellant,
Crown Communication, Inc.

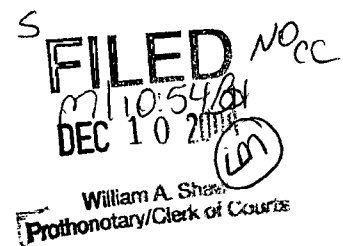
vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA
SCHOOL DISTRICT,

Counsel of Record for This Party:

Interested Parties.

Dusty Elias Kirk, Esquire
PA I.D. No. 30702
Sharon F. DiPaolo, Esquire
PA I.D. No. 74520
PEPPER HAMILTON LLP
Firm I.D. No. 143
50th Floor, One Mellon Center
500 Grant Street
Pittsburgh, PA 15219-2502
(412) 454-5000



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATION, INC.,

CIVIL ACTION - LAW

Appellant,

NO. 08-2189-CD

vs.

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,

Appellee,

vs.

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA
SCHOOL DISTRICT,

Interested Parties.

AFFIDAVIT OF SERVICE

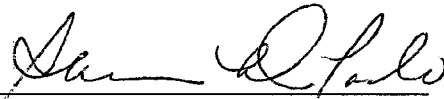
I, Sharon F. DiPaolo, being duly sworn according to law, hereby depose and say:

1. I am over eighteen years of age.
2. On the 21st day of November, 2008, I served the following parties with a copy of the Appeal from Decision of Board of Assessment Appeals and Order filed in the above-captioned matter via certified mail (see Exhibit "A") at their respective addresses:

- a. Clearfield County Board of Assessment Appeals
230 East Market Street
Suite 117
Clearfield, PA 16830
- b. Kim C. Kesner, Esquire
Solicitor, Clearfield County and Board of Property Assessments
212 South Second Street
Clearfield, PA 16830

- c. Gregory M. Kruk, Esquire
Solicitor, Sandy Township
Ferraro & Young
690 Main Street
Brockway, PA 15824
- d. Edward Ferraro, Esquire
Solicitor, DuBois Area School District
Ferraro & Young
690 Main Street
Brockway, PA 15824

Respectfully submitted,



Dusty Elias Kirk
PA I.D. No. 30702
Sharon F. DiPaolo
PA I.D. No. 74520
PEPPER HAMILTON LLP
Firm I.D. No. 143
50th Floor, One Mellon Center
500 Grant Street
Pittsburgh, PA 15219-2502
(412) 454-5000

Dated: December 8, 2008

Attorneys for Appellant,
Crown Communication, Inc.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Kim C. Kesner, Esquire
Solicitor, Clearfield County,
Board of Property Assessments,
Pine Township, Union Township
& Cooper Township
212 South Second Street
Clearfield, PA 16830

2. Article Number

(Transfer from service label)

7008 0150 0002 7852 2537

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-154

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Kim Kesner*☐ Agent☐ Addressee

B. Received by (Printed Name)

Kim Kesner

C. Date of Delivery

NOV 24 2008

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ YesU.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$4.80

Certified Fee 2.70

Return Receipt Fee
(Endorsement Required) 2.20Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees \$9.70

Sent To

Street, Apt. #
or PO Box
City, StateKim C. Kesner, Esquire
212 South Second Street
Clearfield, PA 16830

PS Form

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Clearfield County Board of
Assessment Appeals
230 East Market Street
Suite 117
Clearfield PA 16830

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Jean Orr*☐ Agent☐ Addressee

B. Received by (Printed Name)

JEAN ORR

Date of Delivery

NOV 24 2008

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7008 0150 0002 7852 2643

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$4.80

Certified Fee 2.70

Return Receipt Fee
(Endorsement Required) 2.20Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees \$9.70

Sent To

Clearfield County Board of Assessment Appeals
230 East Market Street/Suite 117
Clearfield PA 16830

PS Form 3800, August 2005

See Reverse

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$1.68

Certified Fee 2.70

Return Receipt Fee
(Endorsement Required) 2.20Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees \$6.58

Postmark
Here*J. Shugart
Clearfield - 09*

Edward Ferraro, Esquire

Solicitor, DuBois Area School District

Ferraro & Young

690 Main Street

Brockway, PA 15824

Sent To
Street, Apt. #
or PO Box #
City, State, Z

PS Form 3800

EXHIBIT

"A"

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature <div style="display: flex; justify-content: space-between;"> x <i>Vicki Martini</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee </div> </p> <p>B. Received by (Printed Name) <div style="display: flex; justify-content: space-between;"> VICKI MARTINI C. Date of Delivery 11-24-08 </div> </p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p style="text-align: center;">Gregory M. Kruk, Esquire Solicitor, Sandy Township Ferraro & Young 690 Main Street Brockway, PA 15824</p>	<p>3. Service Type</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail </div> <div> <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D. </div> </div> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number: 7008 0150 0002 7852 2544</p> <p style="font-size: small;">(Transfer from service label)</p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

7008 0150 0002 7852 2544

U.S. Postal ServiceTM

CERTIFIED MAILTM RECEIPT

(Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 1.34
Certified Fee	2.70
Return Receipt Fee (Endorsement Required)	2.20
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.24

Sent To

Street, Apt. No.
or PO Box No.
City, State, Zip

Postmark Here

J. Shugars
Clearfield-09

Gregory M. Kruk, Esquire
Solicitor, Sandy Township
Ferraro & Young
690 Main Street
Brockway, PA 15824

PS Form 3800

CERTIFICATE OF SERVICE

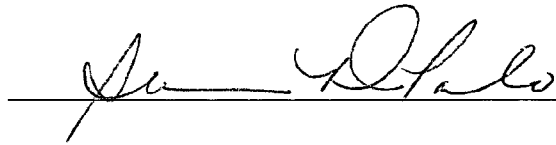
I hereby certify that a true and correct copy of the within Affidavit of Service was served upon the following parties by regular mail, on this 8th day of December, 2008:

Kim C. Kesner, Esquire
Solicitor, Clearfield County and Board of
Property Assessments
212 South Second Street
Clearfield, PA 16830

Clearfield County Board of Assessment
Appeals
230 East Market Street
Suite 117
Clearfield, PA 16830

Gregory M. Kruk, Esquire
Solicitor, Sandy Township
Ferraro & Young
690 Main Street
Brockway, PA 15824

Edward Ferraro, Esquire
Solicitor, DuBois Area School District
Ferraro & Young
690 Main Street
Brockway, PA 15824

A handwritten signature in cursive script, appearing to read "Ed Ferraro", is written over a horizontal line.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CROWN COMMUNICATION, INC.,

CIVIL ACTION – LAW

Appellant,

NO. 08-2189-CD

vs.

SUBSTITUTION OF COUNSEL

CLEARFIELD COUNTY BOARD OF
ASSESSMENT APPEALS,

Filed on behalf of Appellant,
Crown Communication, Inc.

Appellee,

vs.

Counsel of Record for This Party:

CLEARFIELD COUNTY, SANDY
TOWNSHIP and DUBOIS AREA
SCHOOL DISTRICT,

Dusty Elias Kirk, Esquire
PA ID No. 30702
Sharon F. DiPaolo, Esquire
PA ID No. 74520
Jeffrey G. Wilhelm, Esquire
PA ID No. 201935
Sean P. Delaney, Esquire
PA ID No. 85996
Reed Smith LLP
Firm No. 234
Reed Smith Centre, 225 Fifth Avenue
Pittsburgh, PA 15222-2716
Telephone: +1 412 288 3131

Interested Parties.

FILED NO
MTT/COB/CC
JUL 01 2010
S
William A. Shaw
Prothonotary/Clerk of Courts

Counsel of record below hereby certify that this change is not intended to, nor will it, delay this proceeding to the best of our knowledge, information, and belief.

DATED this 24th day of June, 2010.



Dusty Elias Kirk

PA ID No. 30702

Sharon F. DiPaolo

PA ID No. 74520

Jeffrey G. Wilhelm

PA ID No. 201935

Sean P. Delaney

PA ID No. 85996

Reed Smith LLP

Firm No. 234

Reed Smith Centre, 225 Fifth Avenue

Pittsburgh, PA 15222-2716

Telephone: +1 412 288 3131

Counsel for Crown Communication, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a true and correct copy of the foregoing Substitution of Counsel and all accompanying papers this 29th day of June 2010 by mailing same via First Class U.S. Mail, postage prepaid, upon the following counsel of record:

Kim C. Kesner, Esquire
Solicitor, Clearfield County and Board of
Property Assessments
212 South Second Street
Clearfield, PA 16830

Gregory M. Kruk, Esquire
Solicitor, Sandy Township
Ferraro, Kruk & Ferraro, LLP
690 Main Street
Brockway, PA 15824

Edward Ferraro, Esquire
Solicitor, DuBois Area School District
Ferraro, Kruk & Ferraro, LLP
690 Main Street
Brockway, PA 15824

REED SMITH LLP

By: 
Attorney for Appellant