

OHIO BOARD OF TAX APPEALS

John David Fridley, ¹)	CASE NO. 2003-M-1230
)	
Appellant,)	(REAL PROPERTY TAX)
)	
vs.)	DECISION AND ORDER
)	
Columbiana County Board of Revision and the Columbiana County Auditor,)	
)	
Appellees.)	Remanded on Appeal July 26, 2005 Ohio Supreme Court

APPEARANCES:

For the Appellant -

Bricker & Eckler LLP
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For the County Appellees -

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Columbiana County Prosecuting Attorney
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Entered March 18, 2005

Ms. Jackson, Ms. Margulies, and Mr. Eberhart concur.

This cause and matter comes to be considered by the Board of Tax Appeals upon a notice of appeal filed by appellant on August 22, 2003 from a

¹ The appeal in this matter was filed in the names of Eastern Sky Ministries & John David Fridley. However, our review of the statutory transcript submitted in this appeal indicates that John David Fridley was the owner of the subject property as of tax lien date and as of the filing of the notice of appeal. As the record indicates, Mr. Fridley purchased a number of parcels in the state of Ohio and in most cases transferred ownership to Eastern Sky Ministries. For reasons having no relationship to ad valorem real property taxation, Mr. Fridley caused the properties owned in the name of Eastern Sky Ministries to be transferred back to him. However, the subject property was not the subject of a transfer to Eastern Sky Ministries nor the subject of a transfer from Eastern Sky Ministries back to Mr. Fridley, but has remained in Mr. Fridley's name since acquisition from American Tower Management Inc. Therefore, Eastern Sky Ministries has no relationship to the subject property and its name will be removed from the caption.

decision, mailed August 13, 2003, of the Columbiana County Board of Revision (“BOR”), appellee.

The subject property is located in Center Township, Southern Local School taxing district of Columbiana County, Ohio, and further identified as parcel no. 07-90005.00. The property is improved with a small concrete building and a steel tower. Previously, the tower was a part of a telecommunications network, holding equipment which was monitored by additional equipment housed in the concrete building. Because of the changes in telecommunications transport methods, much of the equipment previously used is now obsolete. This is also true of the network nodes which at one time were necessary to carry signals throughout the country. This tower, along with 79 others, was purchased by the present owner from a corporation selling 400 to 500 such sites throughout the country.

The Columbiana County Auditor found the true and taxable values of the subject property for tax year 2002 to be as follows:

Parcel No. 07-90005.000	True Value	Taxable Value
Land	\$ 11,580	\$ 4,050
Building	\$ 75,670	\$ 26,480
Total	\$ 87,250	\$ 30,530

Upon consideration of the complaints filed by the appellant, the BOR determined that there should be no change in value.

The appellant, however, claims that the correct value for the subject property as of January 1, 2002 should be:

Parcel No. 07-90005.000

	True Value	Taxable Value
Land	\$ 150	\$ 52
Building	\$ 350	\$ 123
Total	\$ 500	\$ 175

The matter is submitted to the Board of Tax Appeals pursuant to R.C. 5717.01 upon the notice of appeal, the statutory transcript certified by the Columbiana County Auditor as the secretary for the BOR, the testimony submitted at hearing, and the legal argument provided by counsel. At the hearing, Mr. John David Fridley testified concerning the circumstances surrounding the purchase of the subject property.

Mr. Fridley also testified in earlier hearings before this board. See *Eastern Sky Ministries v. Tuscarawas Cty. Bd. of Revision* (Sept. 3, 2004), BTA Nos. 2003-M-815, 816, unreported, and *Eastern Sky Ministries v. Knox Cty. Bd. of Revision* (Sept. 3, 2004), BTA No. 2003-M-946, unreported. In each of the cited cases, this board concluded that the bulk sale through which Mr. Fridley purchased the properties under consideration was not competent and probative evidence of the properties' fair market value.

In the present matter, Mr. Fridley again testified concerning the sale through which he purchased this and 79 other sites. While the board earlier concluded that the transaction was a bulk sale, Mr. Fridley testified that he considered each of the 80 sites separately and made 80 single purchase offers. According to Mr. Fridley's testimony, the fact that every site was different in size and improvements mattered little to him. Mr. Fridley testified that while he was unable to inspect every

site, he remembered visiting the subject property. However, he believed that the information contained on the seller's website concerning the subject property was sufficient to allow him to make a reasonable offer and therefore his visit to this site was not essential.

The sites offered for sale by the seller, according to Mr. Fridley, had originally been constructed for microwave telephone transmissions, a technology no longer in use. This location, like many of the others listed for sale, had been unused for several years. Mr. Fridley testified that he offered \$500 per site because, despite the differences between the sites, each site was worth that amount to him.

The board recognizes the sincerity of Mr. Fridley's testimony. However, in the earlier appeals, this board concluded that the inherent differences in each property as well as the manner in which the purchase contract was drawn supported a conclusion that the sale price garnered for the transaction was not indicative of the fair market value of the individual properties. We have found nothing in the present record that causes us to reconsider our previous findings. We recognize the apparent illogic that one property can be valued in excess of the bulk sale purchase price. However, we do not conclude that the sale was of individual sites or that the bulk sale's price was the best indicator of value.

We find the terms of the written agreement evidencing a single sale of 80 parcels controlling. "[W]hen a court construes a contract, its overriding goal is to give effect to the intent of the parties. *** When the terms of a written contract are clear, the court presumes that the parties' intent resides in the words of the agreement.

*** In such a case, the parol evidence rule prevents parties from introducing evidence of prior or contemporaneous negotiations that would alter the terms of the written document. ***” *Trader v. People Working Cooperatively, Inc.* (1994), 104 Ohio App.3d 690, 694. (Citations omitted.) See, also, *Cleveland-Cliffs Iron Co. v. Limbach* (1991), 61 Ohio St.3d 349, 351. We find no reason to look beyond the terms of the contract in the present matter.

We therefore affirm our earlier finding that the present sale is a part of a bulk transaction. Again, consistent with our earlier holding, we conclude that the bulk transaction is not the best indicator of the subject property’s value. The appellant has provided this board with no other evidence of value. In such a case, this board must find that the appellant has not met the obligations placed upon him by law. See *Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (1994), 68 Ohio St.3d 336; *Crow v. Cuyahoga Cty. Bd. of Revision* (1990), 50 Ohio St.3d 55; *Mentor Exempted Village Bd. of Edn. v. Lake Cty. Bd. of Revision* (1988), 37 Ohio St.3d 318.

Therefore, the Board of Tax Appeals finds the following values for the subject property for tax year 2002:

Parcel No. 07-90005.000		
	True Value	Taxable Value
Land	\$ 11,580	\$ 4,050
Building	\$ 75,670	\$ 26,480
Total	\$ 87,250	\$ 30,530

It is the order of the Board of Tax Appeals that the Auditor of Columbiana County list and assess the subject real property in conformity with this

decision and order. It is further ordered that this value be carried forward in accordance with the law.

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