

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR OSCEOLA COUNTY, FLORIDA
CIVIL DIVISION

CYPRESS PALMS CONDOMINIUM
ASSOCIATION, INC., a Florida non-profit
corporation and WYNDHAM VACATION
MANAGEMENT, INC., a foreign corporation,

Plaintiffs,

Case No.: 2015-CA-000559-OC

v.

Division:

KATRINA S. SCARBOROUGH, as Property
Appraiser; PATSY HEFFNER, as Tax Collector
and MARSHALL STRANBURG as Executive
Director of the Florida Department of Revenue

Defendants.

COMPLAINT

Plaintiffs CYPRESS PALMS CONDOMINIUM ASSOCIATION, INC., a Florida non-profit corporation and WYNDHAM VACATION MANAGEMENT, INC., a foreign corporation, sue Defendants, KATRINA S. SCARBOROUGH as Property Appraiser ("Appraiser"); PATSY HEFFNER as Tax Collector ("Collector") and MARSHALL STRANBURG ("Stranburg"), as the Executive Director of the Florida Department of Revenue, and allege:

1. This is an action to contest an ad valorem tax assessment for the tax year 2014 and this Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and article V, sections 5 and 20 of the Florida Constitution.

2. The action concerns certain timeshare real property located in Osceola County, Florida, and identified as Parcel Account No. **R102528-313900010010** (hereinafter, the "Subject Property.")

3. Plaintiffs are, and at all material time were, the co-managing entities of the Subject Property, within the meaning of in section 721.13, Florida Statutes.

4. Appraiser is sued herein in her official capacity and is a necessary party to the action pursuant to section 194.181(2), Florida Statutes.

5. Collector is sued herein in her official capacity and is a necessary party to the action pursuant to section 194.181(3), Florida Statutes.

6. Defendant Stranburg is sued in his official capacity as Executive Director of the Florida Department of Revenue and is a necessary party to this action pursuant to section 194.181(5), Florida Statutes.

7. Appraiser classified the Subject Property for ad valorem purposes as timeshare real property pursuant to section 192.037(2), Florida Statutes, and estimated its just and assessed value at **\$92,853,200** (hereinafter, the "assessment").

8. Plaintiffs have paid the taxes which have been assessed in full, pursuant to section 194.171(3)(4), Florida Statutes. A copy of the receipt is attached hereto as Plaintiffs' Exhibit "A."

9. Plaintiffs have performed all conditions precedent which are required to be performed by Plaintiffs in establishing its right to bring this action. Specifically, this action has been filed within the time period prescribed by section 194.171(2) Florida Statutes.

10. Appraiser failed to comply with section 193.011, Florida Statutes, in assessing the Subject Property. Moreover, Appraiser did not properly consider or apply sections 192.037(10) and 192.037(11), Florida Statutes, and professionally accepted appraisal practices in the course of assessing the Subject Property.

11. The assessment exceeds the market value of the Subject Property as of the lien date and therefore violates Article VII, section 4 of the Florida Constitution.

12. In addition, Appraiser has included the value of intangibles in her assessment, contrary to the prohibition contained in Article VII, section 9(a) of the Florida Constitution.

WHEREFORE, Plaintiff demand that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the assessment on the Subject Property as excessive; establish the proper assessment of the Subject Property in accordance with the Constitution of the State of Florida and sections 193.011, 192.037(10) and 192.037(11), Florida Statutes; direct the Collector to cancel the original bill and issue a new tax bill in said reassessed amount; and finally, to award Plaintiffs their costs incurred in bringing this action pursuant to section 194.192, Florida Statutes, and award such other general relief as may be just and equitable.



Robert E.V. Kelley, Jr.
Florida Bar No. 451230
HILL, WARD & HENDERSON, P.A.
101 E. Kennedy Boulevard, Suite 3700
Tampa, FL 33601
(813) 221-3900
rob.kelley@hwlaw.com
crystal.boyd@hwlaw.com
Attorney for Plaintiffs