

IN THE CIRCUIT COURT IN AND FOR  
THE 15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

ATLANTIC AVE DEVELOPMENT LLC  
and MGM SUNDY HOUSE LLC

CASE NO: 2017CA009451

Plaintiffs

CIVIL DIVISION

v.

JUDGE:

DOROTHY JACKS, in her official capacity  
as Palm Beach County Property Appraiser;  
ANNE GANNON, in her official capacity as  
Constitutional Tax Collector for Palm Beach County; and  
LEON M. BIEGALSKI, in his official capacity as  
Executive Director of the Florida Department of Revenue,

Defendants.

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**COMPLAINT**

Plaintiffs, ATLANTIC AVE DEVELOPMENT LLC and MGM SUNDY HOUSE LLC, ("Taxpayer"), through their undersigned counsel, hereby sues Defendants, DOROTHY JACKS, in her official capacity as Property Appraiser For Palm Beach County ("Property Appraiser"); ANNE GANNON, in her official capacity as Constitutional Tax Collector for Palm Beach County, Florida ("Tax Collector"), and, LEON M. BIEGALSKI, in his official capacity as Executive Director of The Florida Department of Revenue ("DOR"), and alleges as follows:

1. This is an action to contest ad valorem tax assessments for the tax year 2016.
2. This action is brought pursuant to Florida Statute §194.036.
3. This Court has jurisdiction of this matter pursuant to Florida Statute §194.171(1).
4. Plaintiff, ATLANTIC AVE DEVELOPMENT LLC, is a Florida Limited Liability Company, and is sui juris in all respects.

5. Plaintiff, MGM SUNDY HOUSE LLC, is a Florida Limited Liability Company, and is sui juris in all respects.

6. Defendant JACKS, is the County Property Appraiser for Broward County, Florida. JACKS is sued herein in his official capacity and is a necessary party to this action pursuant to Florida Statute §194.181(2).

7. Defendant, GANNON, is the County Tax Collector for Broward County, Florida. GANNON is sued herein in his official capacity and is a necessary party to this action pursuant to §194.181(3).

8. Defendant, BIEGALSKI, is the Executive Director of The Florida Department of Revenue. BIEGALSKI is sued herein in his official capacity and is a necessary party to this action pursuant to Florida Statute §194.181(5).

9. At the time of the 2016 ad valorem tax assessments, Plaintiff, ATLANTIC AVE DEVELOPMENT LLC was the owner of certain real property located in Palm Beach County, Florida, as identified on Exhibit A (the "Subject Property").

10. At the time of the 2016 ad valorem tax assessments, Plaintiff, MGM SUNDY HOUSE, LLC was the owner of certain real property located in Palm Beach County, Florida, as identified on Exhibit A (the "Subject Property").

11. For the tax year, 2016, Defendant, JACKS, assessed the Subject Property for ad valorem purposes for amounts listed on EXHIBIT A.

12. Plaintiffs has paid the tax in full pursuant to Florida Statute §194.171(3) and (4); a copy of the property tax records from the Tax Collector's office evidencing such payment is attached hereto and made a part hereof as Exhibit B.

13. Plaintiffs has 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 Florida Statute §194.171(2).

14. Defendant, JACKS' assessment of the Subject Property disregards the statutory criteria of §193.011, Florida Statutes, which, in part, provides that in arriving at "just valuation", the Property Appraiser is required by Section 4, Art. VII, of the Florida Constitution, to take into consideration:

- i. The present value of the Subject Property as of January 1, 2016 for the 2016 tax year;
- ii. The highest and best use to which the Subject Property could be expected to be put in the immediate future and the present use of the Subject Property as of January 1, 2016 for the 2016 tax year;
- iii. The location of the Subject Property;
- iv. The quantity and size of the Subject Property;
- v. The cost of the Subject Property and the present replacement value of any improvements thereon as of January 1, 2016 for the 2016 tax year;
- vi. The condition of the Subject Property, including its physical condition, as of January 1, 2016 for the 2016 tax year;
- vii. The income from the Subject Property as of January 1, 2016 for the 2016 tax year; and
- viii. The net proceeds of the sale of the Subject Property, as received by the seller, after deduction of all reasonable fees and costs of the sale under the conditions present as of January 1, 2016 for the 2016 tax year.

15. In violation of the law, Defendant JACKS failed to properly consider the factors enumerated in §193.011, Florida Statutes in determining the 2016 ad-valorem tax assessment on the Subject Property.

16. Defendant, JACKS, in violation of the law, failed to consider the size of the subject property and failed to properly determine the present cash value of the property in determining the 2016 ad valorem tax assessment on the Subject Property.

17. Defendant, JACKS, in violation of the law, failed to properly consider and/or apply the income, sales and cost approaches to value in determining the 2016 ad valorem tax assessment on the Subject Property.

18. Defendant, JACKS, in violation of the law, assessed the Subject Property's land based on future speculative value rather than actual use as of the assessment date in violation of Florida Statutes and case law, particularly Muckenfuss v. Miller, 421 So2d.170 at 173-174 (5<sup>th</sup> Cir. 1982).

19. Defendant, JACKS, has arbitrarily and discriminatorily, and not through inadvertence or error, assessed the Subject Property at higher values relatively and comparatively to all or substantially all other property within the same class and within Palm Beach County.

20. Defendant, JACKS, has arbitrarily and discriminatorily utilized appraisal practices which differ from the usual, customary and general appraisal practices applied to comparable property within the same class in the same County.

21. Based in part on the above, Defendant, JACKS' assessment is not entitled to any presumption of correctness pursuant to Section 194.301, Florida Statutes.

**WHEREFORE**, Plaintiffs, ATLANTIC AVE DEVELOPMENT LLC and MGM SUNDY HOUSE LLC, request that this Court grant the following relief:

(a) That this Court take jurisdiction over this cause;

(b) That this Court enter an Order setting aside the 2016 assessments on the Subject Property;

(c) That this Court establish the proper assessments of the Subject Property for 2016 in accordance with the Constitution of the State of Florida and Florida Statute §193.011;

(d) That this Court enter an Order directing the appropriate Defendant to cancel the original tax bills and issue a new tax bills for 2016 in the proper assessed amounts;

(e) That this Court Order the Defendant, GANNON, to refund to the Plaintiffs the difference between the taxes paid by the Plaintiffs for the 2016 taxes and the amount due under the assessment established by this Court for the 2016 tax year respectively;

(f) That this Court assess costs against the Defendants pursuant to Florida Statute §194.192; and

(g) That this Court award such other and further relief as may be just and proper.

Dated this 21st day of August, 2017.

Respectfully Submitted By,

Attorney for Plaintiff

BY:



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