

IN THE CIRCUIT COURT OF THE  
11TH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY,  
FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO:

SOUTH BEACH HEIGHTS 1, LLC, a Delaware  
Corporation authorized to do business in Florida, )

Plaintiff, )

vs. )

PEDRO J. GARCIA, as Property Appraiser of )  
Miami-Dade County, Florida, MARCUS SAIZ DE )  
LA MORA, as Tax Collector of Miami-Dade )  
County, Florida and LEON M. BIEGALSKI, )  
Executive Director, State of Florida, Department of )  
Revenue, )

Defendants. )

COMPLAINT

Plaintiff SOUTH BEACH HEIGHTS 1, LLC ("SBH1") a Delaware corporation authorized to do business in FL, sues PEDRO J. GARCIA as Property Appraiser of Miami Dade County, Florida ("GARCIA"), MARCUS SAIZ DE LA MORA, as Tax Collector of Miami-Dade County, Florida ("SAIZ"), LEON M. BIEGALSKI, as Executive Director, State of Florida, Department of Revenue ("BIEGALSKI"), and alleges:

1. This is an action brought pursuant to Sections 194.171 and 194.036(2), Florida Statutes, to contest the 2016 ad valorem tax assessments levied by Defendant GARCIA on the real property owned by SBH1 as of January 1 2016, at 630 Alton Rd (former South Shore Hospital site) and 650 Alton Road, respectively tax parcel #s 02-4203-001-0100 and #02-4203-001-0280 ("SUBJECT PROPERTIES").

2. Plaintiff SBH1 is a for profit corporation authorized to do business in Florida and to bring this action.

3. Defendants, GARCIA, as Property Appraiser of Miami Dade County, Florida, SAIZ, as Tax Collector of Miami Dade County, Florida and BIEGALSKI, as Executive Director, State of Florida, Department of Revenue, are parties to this suit pursuant to Section 194.181, Florida Statutes.

4. Jurisdiction and venue are placed in this Court by Section 194.171, Florida Statutes, and article V, sections 5 and 20 of the Constitution of the State of Florida.

5. In accordance with Section 194.171(3), Florida Statutes, RESORT has tendered to the Tax Collector not less than the amount of the tax, which it admits in good faith to owe as a predicate to filing this action. A copy of Defendant SAIZ's paid receipts for the 2016 ad valorem tax year cannot be attached because Defendant Saiz removed public viewing and copying from its website (see attached as "Exhibit A").

6. This action is brought timely pursuant to Section 194.171(2), Florida Statutes.

7. Defendant, GARCIA assessed the SUBJECT PROPERTY at a total valuation figure of \$32,010,865 (x0100) and \$8,500,000 (x0280) as of January 1, 2016.

8. SBH1 timely filed administrative appeal petitions with the Value Adjustment Board ("VAB") which reduced the market tax values for property tax purposes to \$18,150,865 and \$5,775,000 on the SUBJECT PROPERTY respective parcels.

9. Defendant GARCIA should have determined that the just value of the SUBJECT PROPERTY for purposes of the ad valorem tax assessment as of January 1, 2016 to be no more than \$14,000,000 and 4,000,000 respectively. The 2016 ad valorem tax assessment of the SUBJECT PROPERTY as determined by GARCIA is illegal and void because the assessment exceeds the constitutional and statutory standards for just valuation adopted by the State of Florida.

10. Defendant GARCIA did not observe the essential requirements of law in determining the assessed valuation of the SUBJECT PROPERTY. As such, the assessment is in excess of just value and cannot be sustained under applicable Florida Statutes (including Section 194.301) Department of Revenue Rules, the Florida Constitution and Florida Court decisions. The reasons include but are not limited to:

a. Defendant GARCIA assessment of the SUBJECT PROPERTY failed to properly take into consideration the statutory criteria of Section 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;
- 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;
- 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;
- vi. The condition of the SUBJECT PROPERTY, including its physical condition, as of January 1, 2016;
- vii. The income from the SUBJECT PROPERTY as of January 1, 2016; 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.

b. Defendant GARCIA's assessment of the SUBJECT PROPERTY did not consider, and did not reflect the necessary City of Miami Beach approvals still required as of the assessment date making the valuation based on future speculative value in violation of Section 193.011(2) FL Stats.

c. Defendant GARCIA's assessment of the SUBJECT PROPERTY did not consider, and did not reflect that the SUBJECT PROEPRTY is located in area with significant flooding, construction, difficult ingress/egress and other locational issues.

d. Defendant GARCIA's assessment of the SUBJECT PROPERTY did not consider, and did not reflect that as part of development approvals, the City required overall development approval on additional tax parcels as well.

e. Defendant GARCIA's assessment of the SUBJECT PROPERTY did not consider, and did not reflect pending and actual changes to the City of Miami Beach Ordinances requiring more expensive "green" initiatives" and anti-flooding measures.

f. Defendant GARCIA's assessment of the SUBJECT PROPERTY did not consider, and did not reflect that any partial government approvals to date have significant "market obsolescence" as public awareness of flooding and rising sea levels requires more expensive, speculative potential measures to combat and be able to sell or lease future developed improvements.

g. Defendant Garcia's assessment of the SUBJECT PROPERTY did not consider, and did not reflect a proper application of the sales approach as all of the above would adversely affect the price.

h. Defendant Garcia's assessment of the SUBJECT PROPERTY did not consider, and did not reflect the existence of the obsolete former South shore hospital structure including the costs of maintaining it during the multi-year redevelopment approval process which is still ongoing and speculative.

i. Defendant GARCIA' assessment of the SUBJECT PROPERTY exceeds just value and therefore violates article VII, section 4 of the Florida Constitution.

j. Defendant GARCIA's assessment of the SUBJECT PROPERTY violates the equal protection clause of the state and federal constitutions because the assessment of the Subject property is not equal and uniform compared to the assessments of other properties in the same class within Miami Dade County.

k. Defendant GARCIA, in violation of the law, arbitrarily assessed the SUBJECT PROPERTY based on appraisal practices different from the appraisal practices generally applied by GARCIA to comparable property within the same class and within Miami Dade County.

11. Based in part on all of the above, DEFENDANT GARCIA's assessment of the Subject Property is not entitled to any presumption of correctness pursuant to Section 194.301, Florida Statutes. Regardless, as to whether or not GARCIA's assessment is entitled to a presumption of correctness, Plaintiff has met its burden of proof in support of reducing the assessment on the SUBJECT PROPERTY for 2016 to no more than \$9,500,000.

**WHEREFORE**, Plaintiff SBH1 ROAD VENTURES, LLC requests that this Court grant the following relief:

- A. That this Court takes jurisdiction of the subject matter and the parties hereto;
- B. That this Court declare the ad valorem tax assessment of the SUBJECT PROPERTY determined by the Defendant GARCIA, for the 2016 ad valorem tax year, to be non-sustainable under applicable Florida Statutes and other laws and is therefore, null and void;
- C. That this Court establishes the correct value of the SUBJECT PROPERTY for 2016 ad valorem tax purposes at no more than \$14,000,000 and \$4,000,000 respectively.;
- D. That this Court order Defendant, SAIZ, to refund to the Plaintiffs the difference between the taxes paid by them and the amounts due under the assessments established by this Court;
- E. That this Court assess costs in bringing this action pursuant to Section 194.192 Florida Statutes.
- F. That this Court grant any such further relief as it deems appropriate.

**DESIGNATION OF EMAIL ADDRESSES**

Pursuant to Florida Rule of Judicial Administration 2.516, undersigned counsel hereby designates his/her primary and secondary e-mail addresses for purposes of email service as follows:

Primary email address: [gappel@gappellaw.com](mailto:gappel@gappellaw.com)

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DATED this 11<sup>th</sup> day of August 2017.

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