

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. _____

PARAGON INDUSTRIES INC.,

Plaintiff,

vs.

MARTY KIAR, as Property Appraiser of
Broward County, Florida; THOMAS KENNEDY
as Tax Collector of Broward County, Florida; and
LEON M. BIEGALSKI, as Executive Director of
the Department of Revenue of the State of
Florida;

Defendants.

COMPLAINT

Plaintiff, PARAGON INDUSTRIES INC. (“Paragon” or “Plaintiff”), by and through its undersigned attorneys, hereby sues Defendants, MARTY KIAR (“Mr. Kiar” or the “Property Appraiser”), in his capacity as the Property Appraiser of Broward County, Florida, THOMAS KENNEDY (“Mr. Kennedy” or the “Tax Collector”), in his capacity as Tax Collector of Broward County, Florida, and LEON M. BIEGALSKI (“Mr. Biegalski” or the “Director”), in his capacity as Executive Director of the Department of Revenue of the State of Florida (collectively, the “Defendants”), and states as follows:

1. This is an action filed pursuant to Fla. Stat. § 194.171 to contest tax assessments by the Property Appraiser of Broward County on certain real property located in Broward County for purposes of *ad valorem* taxation for the tax year 2016.

2. Plaintiff Paragon is a foreign corporation registered to do and doing business in the State of Florida, and is the legal titleholder of record of the real property, located at 1901 W SAMPLE ROAD, DEERFIELD BEACH FL 33064, Parcel No. 4842-15-31-0010 (the "Property"). The legal description of the Property for which the tax assessment is being challenged is attached hereto as **Exhibit "A."**

3. Defendant Mr. Kiar is the Broward County Property Appraiser and, in that capacity, is charged with determining the value of all property within Broward County, Florida, maintaining certain records connected with such valuations and determining the taxes on all taxable property.

4. Defendant Mr. Kennedy is the Broward County Tax Collector and, in that capacity, is charged with the collection of property taxes levied by Broward County, Florida, the Broward County School Board, special taxing districts and all municipalities within Broward County, Florida.

5. Defendant Mr. Biegalski is the Director of the Florida Department of Revenue and, in that capacity, is charged with overall supervision of the assessment and collection of property taxes within the State of Florida.

6. The Defendants are parties to this suit pursuant to Fla. Stat. § 194.181.

7. The Court has jurisdiction over the subject matter of this action relating to property taxation under Article V, Section 20, of the Constitution of the State of Florida, as revised in 1968 and subsequently amended and under Fla. Stat. § 194.171(1).

8. Venue is appropriate under Fla. Stat. § 194.171(1) because the Property is located in Broward County, Florida.

9. This action was filed within the time allowed under Fla. Stat. § 194.171(2), insofar as the tax assessment being contested by Plaintiff (the “Contested Assessment”) was the subject of a decision rendered by the Broward Value Adjustment Board, certified on October 16, 2017, and for which Notice was mailed on October 25, 2017.

10. Plaintiff timely filed a petition (the “Petition”) with the Broward County Value Adjustment Board (the “VAB”) contesting the Property Appraiser’s assessment as to the amount of the assessment of the Property.

11. On February 13, 2017, the VAB issued a decision adopting the recommendations of the Special Magistrate that there be no change to the taxable value of the Property, which was set at \$10,806,150.

12. While Plaintiff contests the amount of the taxes assessed on the Property in 2016, Plaintiff has nevertheless paid to the Broward County Tax Collector a payment which includes and exceeds the amount of the tax that Plaintiff admits in good faith to be owing. This payment was made by Plaintiff under protest and without prejudice to the rights of Plaintiff to contest the amount assessed by the Property Appraiser and/or the Value Adjustment Board. *See* Real Estate Tax Payment Receipt, attached hereto as **Exhibit “B.”** Pursuant to Fla. Stat. § 194.171(4), payment of this good faith amount shall not be deemed an admission that the 2016 taxes were due or just and shall not prejudice Plaintiff’s right to bring this timely action.

13. For the year 2016, defendant Property Appraiser has assessed the real property at issue here in an arbitrary, illegal, grossly excessive, unequal and discriminatory manner as more fully described below.

14. Plaintiff, Paragon, hereby seeks a de novo proceeding concerning the just value of the property at issue because it asserts that the assessed value, as determined by the Property

Appraiser and/or the Value Adjustment Board, dramatically exceeded the just value of the property under the standards set forth in Fla. Stat. § 193.011, and under accepted professional appraisal practices customarily utilized for valuation of this type of property.

15. In preparing the 2016 assessment of value on the subject property, the Property Appraiser, with the full knowledge and approval of the Director, utilized appraisal techniques which were arbitrary, discriminatory and illegal resulting in an assessed value for the subject property which grossly exceeded its just valuation as of January 1, 2016, thereby causing Plaintiff to be singled out and specifically discriminated against vis-a-vis substantially all other taxpayers generally in Broward County; specifically owners of similar commercial properties; and causing the tax burden imposed on Plaintiff to be grossly disproportionate to the tax burden imposed on all or substantially all other property in Broward County, Florida; and consequently, the 2016 assessment of the subject property is in violation of Article VII, Section 4 of the Constitution of the State of Florida.

16. The Property Appraiser failed to properly consider the eight factors set forth in Fla. Stat. § 193.011, the Rules and Regulations of the State of Florida Department of Revenue, and accepted appraisal methods in determining the just valuation of the subject property as of January 1, 2016; therefore, the subject assessment does not satisfy the legal requirements of just valuation under the laws of Florida.

17. In preparation of the 2016 assessment for the subject property, the Property Appraiser engaged in an intentional and systematic deviation from the assessing methods, techniques and procedures prescribed by law and regulation, with the result being that said assessment exceeds a just valuation for the subject property thereby causing Plaintiff to be singled out and specifically discriminated against vis-a-vis other taxpayers generally and

specifically owners of similar commercial properties, and causing the tax burden thus imposed on Plaintiff to be grossly disproportionate to the tax burden imposed on all or substantially all other property in Broward County, Florida contrary to the constitutional requirements of uniformity and equality; therefore, Plaintiff has been denied due process and equal protection of law guaranteed under the provisions of Article 1 of the Declaration of Rights, Section 2 of the Constitution of the State of Florida, and Article 1, Declaration of Rights, Section 9 of the Constitution of the State of Florida and the Fourteenth Amendment of the Constitution of the United States.

18. Plaintiff has incurred and will incur the costs of bringing this action which it is entitled to recover pursuant to Fla. Stat. § 194.192.

19. The Contested Assessment of the Property is incorrect and should be reduced to the fair and just value of the Property.

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- (a) Set aside the 2016 Contested Assessment of Plaintiff's Property as being void.
- (b) Establish and/or determine the correct assessed value of Plaintiff's Property for 2016 ad valorem tax purposes.
- (c) Order that the costs of the within action be taxed against the Defendants.
- (d) Enjoin the Tax Collector from seeking to collect the subject taxes until a full and complete determination of this matter has been held.
- (e) Order a refund of taxes paid in excess of those found to be due and owing.
- (f) Grant any such further relief as this Court deems just and proper.

DATED: December 15, 2017.

Respectfully submitted,

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