

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

GENERAL JURISDICTION DIVISION

CASE NO.: 2017-029505-CA-01

ATR AMERICAS, INC.,
a Delaware corporation,

Plaintiff,

vs.

PEDRO J. GARCIA, as Property Appraiser of
Miami-Dade County;
MARCOS SAIZ de la MORA, as Tax Collector of
Miami-Dade County, Florida; and
LEON BIEGALSKI, as Executive Director
of the State of Florida Department of Revenue,

Defendants.

COMPLAINT

The plaintiff, ATR Americas, Inc., a Delaware corporation (“ATR”), files this complaint against the defendants, Pedro J. Garcia, as Property Appraiser of Miami-Dade County, Florida (“Property Appraiser”), Marcos Saiz de la Mora, as Tax Collector of Miami-Dade County, Florida (“Tax Collector”), and Leon Biegalski, as Executive Director of the State of Florida Department of Revenue (“Dept. of Rev.”), and alleges:

1. This is a complaint to contest a tax assessment for certain tangible personal property assessed for the year 2017, pursuant to Florida Statutes §§ 194.036 and 194.171.
2. This court has original jurisdiction over the claim pursuant to Florida Statutes §§ 194.036 and 194.171, and Florida Rule of Civil Procedure 1.170.

3. During all relevant time periods, and in particular, as of January 1, 2017, ATR was the legal title holder of, and the taxpayer for, certain tangible personal property located at ATR's place of business at 4355 NW 36 Street, Miami, Florida, which is purportedly the subject of Tax Folio No. 40-336898 (the "Property"). Some of the Property described in that tax folio number is not subject to assessment for tax year 2017. ATR retains the right to pursue this action and recover the refund due for overpayment of taxes.

4. The Property Appraiser is a defendant pursuant to Florida Statutes §194.181(2).

5. The Tax Collector is a defendant pursuant to Florida Statutes §194.181(3).

6. The Dept. of Rev. is joined pursuant to Florida Statutes §194.181(5) because the tax assessment at issue in this case is being contested on the grounds, inter alia, that it is contrary to the laws and Constitution of the State of Florida.

7. ATR filed its tangible personal property tax return on or about August 17, 2017.

8. ATR has paid to the Tax Collector the taxes due and owing. Evidence of payment of taxes for tax year 2017 is attached as Exhibit A.

9. The Property's assessed value is in excess of just value, in violation of Florida Statutes §193.011 and Article VII, Sec 4 of the Florida Constitution.

10. The Property Appraiser's assessment of the Property was arbitrarily based on appraisal practices which are not professionally accepted appraisal practices nor acceptable mass appraisal standards generally applied by the Property Appraiser within Miami-Dade County, Florida; and/or the Property Appraiser assessed property that was not fully installed, was not properly certified, and was not operative, as of the valuation date of January 1, 2017, and thus not subject to taxation for tax year 2017.

11. The Property Appraiser's failure to properly consider the factors set forth in

Florida Statutes §193.011 and related statutes renders the total tax assessment inaccurate, illegal, arbitrary and violative of established requirements of law in determining the just value of personal, tangible property for purposes of *ad valorem* taxation.

12. ATR will be irreparably damaged if Tax Collector is permitted to keep all of the taxes actually collected based on the assessment of the Property at \$8,172,471.

13. ATR has satisfied all conditions precedent to the bringing of this lawsuit and has timely filed this action.

WHEREFORE, ATR, requests that this court inquire into and determine that the just value of the Property is not more than \$120,419.66, or such other amount as may correctly constitute just value; order that the Property Appraiser's assessment be reduced to such value and certified to the Tax Collector for the issuance of a revised tax bill and provide for reimbursement of ATR's overpayment of taxes, along with payment of interest due; award ATR its costs pursuant to Florida Statutes §194.192; and grant such other relief as may be just and proper.

Dated: December 22, 2017.

Respectfully submitted,

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