

IN THE CIRCUIT COURT OF THE SEVENTH
JUDICIAL CIRCUIT IN AND FOR PUTNAM
COUNTY, FLORIDA

CASE NO. 2018-17-CA

HOLIDAY CVS, L.L.C.,

Plaintiff,

vs.

TIMOTHY E. PARKER, as the Property
Appraiser of Putnam County, Florida; LINDA
MYERS, as the Tax Collector of Putnam
County, Florida; and LEON M. BIEGALSKI, as
the Executive Director of the Florida Department
of Revenue,

Defendants. _____ /

COMPLAINT

COMES NOW the Plaintiff, HOLIDAY, CVS, L.L.C. (hereinafter "CVS"), by and through its undersigned attorneys, and sues the Defendants, TIMOTHY E. PARKER, as Property Appraiser for Putnam County, Florida (hereinafter "Property Appraiser"); LINDA MYERS, as Tax Collector for Putnam County, Florida (hereinafter "Tax Collector"); and LEON M. BIEGALSKI, as Executive Director of the Florida Department of Revenue (hereinafter "DOR"), and, as its causes of action, the Plaintiff would state as follows:

**COUNT I - CHALLENGE OF 2016 AD VALOREM ASSESSMENT
ON TAX PARCEL 39-10-27-0000-0430-0000**

1. This is an action brought by Holiday CVS, L.L.C. (hereinafter "CVS") as lessee of the subject real property and the party responsible for the payment of the ad valorem taxes thereon.
2. This is an appeal of the 2017 ad valorem assessment on the subject CVS store located at 238 Highway 17, East Palatka, Florida. This property is identified as Tax Parcel no. 39-10-27-0000-0430-0000. This property is also known as CVS store no. 3519-02.

3. This action is brought pursuant to Sections 194.171 and 194.181 of the Florida Statutes.

4. CVS is the taxpayer with respect to the real property which is the subject of this Count and is responsible for the payment of the ad valorem taxes thereon.

5. CVS has the written permission of the owner of this property to bring this action.

6. The Defendant, TIMOTHY E. PARKER, is sued herein in his official capacity as Property Appraiser of Putnam County, Florida and not individually.

7. The Defendant, LINDA MYERS, is sued herein in her official capacity as Tax Collector of Putnam County, Florida and not individually.

8. The Defendant, LEON M. BIEGALSKI, is sued herein in his official capacity as Executive Director of the Florida Department of Revenue and not individually.

9. This Court has jurisdiction of this matter pursuant to Section 194.171(1) of the Florida Statutes.

10. Venue for this action lies in Putnam County, Florida pursuant to Section 194.171(1) of the Florida Statutes.

11. Plaintiff is now, and was on January 1, 2017, responsible for the property taxes on the subject property located in Putnam County, the legal description of which is contained in the Property Appraiser's records as listed in Paragraph 2 above.

12. The Putnam County Value Adjustment Board issued its Final Decision on the subject property on November 20, 2017. This final decision was mailed on December 8, 2017.

13. This action has been timely filed, and all conditions precedent to the filing of this suit have been satisfied.

14. This is an action by Plaintiff contesting the legality and validity of the 2017 ad valorem assessment (market value and assessed value) on the aforesaid tax parcel.

15. At all times material to this cause of action, the Property Appraiser was responsible for properly assessing the value of Plaintiff's parcel in accordance with Florida law.

16. The Tax Collector has the statutory duty to collect the taxes resulting from the assessment of the subject property. The Tax Collector is joined as a nominal party defendant for the purpose of providing timely notice of this action and to provide this Court with jurisdiction over the Tax Collector to direct a refund of taxes paid upon granting of the relief requested herein.

17. The DOR is joined as a party defendant pursuant to Section 194.181 of the Florida Statutes.

18. The real property for which Plaintiff is responsible for property taxes is subject to assessment by the Property Appraiser for ad valorem tax purposes. Section 192.001(12) of the Florida Statutes defines "real property" to mean "land, buildings, fixtures, and all other improvements to land."

19. As of the filing of this action, the market value assigned to the subject property for 2017 is \$4,682,890. The assessed value assigned to the subject property for 2017 is \$1,630,480.

20. This assessment exceeds the just and fair market values of the subject property, is unlawful, invalid, and/or is not within the range of reasonable assessments because:

(a) Section 193.011 of the Florida Statutes was not properly or lawfully considered by the Property Appraiser;

(b) The Property Appraiser ignored or did not properly apply the Florida Real Property Appraisal Guidelines adopted in 2002 by DOR pursuant to Sections

195.032 and 195.062 of the Florida Statutes and DOR's Manual of Instructions for Ad Valorem Taxation;

(c) The Property Appraiser has unlawfully, systematically, and intentionally substituted his own assessment policy instead of following the mandates of Section 193.011 of the Florida Statutes, the Florida Constitution, and the DOR assessment guidelines with regard to valuing real property for ad valorem tax purposes;

(d) The assessment is discriminatory in that the assessment is at a higher valuation than other taxable property of like class, nature, character, use, and condition located in Putnam County, Florida and/or elsewhere in Florida;

(e) The assessment is arbitrarily based on valuation practices which are different from the valuation practices generally applied to comparable property within the same class and within Putnam County and elsewhere in the State of Florida;

(f) The method of assessment used by the Property Appraiser was excessive, arbitrary, and is in violation of the general laws of the State of Florida cited above and Article I, Section 4 and Article VII of the Florida Constitution, and violates the valuation methods and practices set forth in the Uniform Standards of Professional Appraisal Practice (USPAP); and/or

(g) The assessment includes the value of certain intangible property, in further violation of Article VII, Section 1(a) of the Florida Constitution.

21. As a result of the foregoing over-valuation, the 2017 market value and assessed value greatly exceeds the just value of the subject property, and the ad valorem taxes resulting

therefrom substantially exceed the taxes which would have been levied on the subject property had it been properly assessed.

22. Plaintiff has paid the taxes due on the subject property for 2017, less the 4% discount for early payment in November, but payment of these taxes is not an admission that the tax was due and does not prejudice the right to bring this action. Verification of payment of the taxes to the Tax Collector on this parcel is attached hereto as Composite Exhibit "A" and incorporated herein by this reference.

23. CVS has performed all conditions precedent to the bringing of this action.

WHEREFORE, the Plaintiff, HOLIDAY CVS, L.L.C, respectfully prays for the Court to render a judgment decreeing (a) that the assessed value and market value of the subject property for 2017 exceeds just value and/or the subject property was unlawfully, unequally, and/or invalidly over-assessed for 2017; (b) that the Court establish and declare the lawful amount of the 2017 assessed value and market value or, in the alternative, that the Court remand this assessment to the Property Appraiser with instructions to comply with the provisions of the Florida Statutes, the Florida Constitution, and the DOR assessment guidelines; (c) that the 2017 assessment and the resulting taxes be set aside to the extent the same exceeds the just or fair market value of the subject property; and (d) that the judgment further decree that Plaintiff, HOLIDAY CVS, L.L.C, is entitled to a refund of taxes paid to the extent that the amount previously paid exceeds the amount of taxes which would be owed on a corrected assessment, and such tax refund shall be promptly paid by the Tax Collector within thirty (30) days of entry of a Final Judgment by this Court. Further, Plaintiff, HOLIDAY CVS, L.L.C, would request that it be granted such other and further relief as the Court may deem just and proper, as well as the costs of this action.

COUNT II - CHALLENGE OF 2016 AD VALOREM ASSESSMENT
ON TAX PARCEL 15-10-24-0000-0130-0011

24. This is an action brought by Holiday CVS, L.L.C. (hereinafter "CVS") as lessee of the subject real property and the party responsible for the payment of the ad valorem taxes thereon.

25. This is an appeal of the 2017 ad valorem assessment on the subject CVS store located at 1141 State Road 20, Interlachen, Florida. This property is identified as Tax Parcel no. 15-10-24-0000-0130-0011. This property is also known as CVS store no. 3663-02.

26. This action is brought pursuant to Sections 194.171 and 194.181 of the Florida Statutes.

27. CVS is the taxpayer with respect to the real property which is the subject of this Count and is responsible for the payment of the ad valorem taxes thereon.

28. CVS has the written permission of the owner of this property to bring this action.

29. The Defendant, TIMOTHY E. PARKER, is sued herein in his official capacity as Property Appraiser of Putnam County, Florida and not individually.

30. The Defendant, LINDA MYERS, is sued herein in her official capacity as Tax Collector of Putnam County, Florida and not individually.

31. The Defendant, LEON M. BIEGALSKI, is sued herein in his official capacity as Executive Director of the Florida Department of Revenue and not individually.

32. This Court has jurisdiction of this matter pursuant to Section 194.171(1) of the Florida Statutes.

33. Venue for this action lies in Putnam County, Florida pursuant to Section 194.171(1) of the Florida Statutes.

34. Plaintiff is now, and was on January 1, 2017, responsible for the property taxes on the subject property located in Putnam County, the legal description of which is contained in the Property Appraiser's records as listed in Paragraph 25 above.

35. The Putnam County Value Adjustment Board issued its Final Decision on the subject property on November 20, 2017. This final decision was mailed on December 8, 2017.

36. This action has been timely filed, and all conditions precedent to the filing of this suit have been satisfied.

37. This is an action by Plaintiff contesting the legality and validity of the 2017 ad valorem assessment (market value and assessed value) on the aforesaid tax parcel.

38. At all times material to this cause of action, the Property Appraiser was responsible for properly assessing the value of Plaintiff's parcel in accordance with Florida law.

39. The Tax Collector has the statutory duty to collect the taxes resulting from the assessment of the subject property. The Tax Collector is joined as a nominal party defendant for the purpose of providing timely notice of this action and to provide this Court with jurisdiction over the Tax Collector to direct a refund of taxes paid upon granting of the relief requested herein.

40. The DOR is joined as a party defendant pursuant to Section 194.181 of the Florida Statutes.

41. The real property for which Plaintiff is responsible for property taxes is subject to assessment by the Property Appraiser for ad valorem tax purposes. Section 192.001(12) of the Florida Statutes defines "real property" to mean "land, buildings, fixtures, and all other improvements to land."

42. As of the filing of this action, the market value assigned to the subject property for 2017 is \$1,628,400. The assessed value assigned to the subject property for 2017 is also \$1,628,400.

43. This assessment exceeds the just and fair market values of the subject property, is unlawful, invalid, and/or is not within the range of reasonable assessments because:

(a) Section 193.011 of the Florida Statutes was not properly or lawfully considered by the Property Appraiser;

(b) The Property Appraiser ignored or did not properly apply the Florida Real Property Appraisal Guidelines adopted in 2002 by DOR pursuant to Sections 195.032 and 195.062 of the Florida Statutes and DOR's Manual of Instructions for Ad Valorem Taxation;

(c) The Property Appraiser has unlawfully, systematically, and intentionally substituted his own assessment policy instead of following the mandates of Section 193.011 of the Florida Statutes, the Florida Constitution, and the DOR assessment guidelines with regard to valuing real property for ad valorem tax purposes;

(d) The assessment is discriminatory in that the assessment is at a higher valuation than other taxable property of like class, nature, character, use, and condition located in Putnam County, Florida and/or elsewhere in Florida;

(e) The assessment is arbitrarily based on valuation practices which are different from the valuation practices generally applied to comparable property within the same class and within Putnam County and elsewhere in the State of Florida;

(f) The method of assessment used by the Property Appraiser was excessive, arbitrary, and is in violation of the general laws of the State of Florida cited above and Article I, Section 4 and Article VII of the Florida Constitution, and violates the valuation methods and practices set forth in the Uniform Standards of Professional Appraisal Practice (USPAP); and/or

(g) The assessment includes the value of certain intangible property, in further violation of Article VII, Section 1(a) of the Florida Constitution.

44. As a result of the foregoing over-valuation, the 2017 market value and assessed value greatly exceeds the just value of the subject property, and the ad valorem taxes resulting therefrom substantially exceed the taxes which would have been levied on the subject property had it been properly assessed.

45. Plaintiff has paid the taxes due on the subject property for 2017, less the 4% discount for early payment in November, but payment of these taxes is not an admission that the tax was due and does not prejudice the right to bring this action. Verification of payment of the taxes to the Tax Collector on this parcel is attached hereto as Composite Exhibit "A" and incorporated herein by this reference.

46. CVS has performed all conditions precedent to the bringing of this action.

WHEREFORE, the Plaintiff, HOLIDAY CVS, L.L.C, respectfully prays for the Court to render a judgment decreeing (a) that the assessed value and market value of the subject property for 2017 exceeds just value and/or the subject property was unlawfully, unequally, and/or invalidly over-assessed for 2017; (b) that the Court establish and declare the lawful amount of the 2017 assessed value and market value or, in the alternative, that the Court remand this assessment to the Property Appraiser with instructions to comply with the provisions of the Florida Statutes, the

Florida Constitution, and the DOR assessment guidelines; (c) that the 2017 assessment and the resulting taxes be set aside to the extent the same exceeds the just or fair market value of the subject property; and (d) that the judgment further decree that Plaintiff, HOLIDAY CVS, L.L.C, is entitled to a refund of taxes paid to the extent that the amount previously paid exceeds the amount of taxes which would be owed on a corrected assessment, and such tax refund shall be promptly paid by the Tax Collector within thirty (30) days of entry of a Final Judgment by this Court. Further, Plaintiff, HOLIDAY CVS, L.L.C, would request that it be granted such other and further relief as the Court may deem just and proper, as well as the costs of this action.

LOWNDES, DROSDICK, DOSTER, KANTOR &
REED, P.A.

By:  _____

S. Brendan Lynch
Florida Bar No. 0048124
215 North Eola Drive
Post Office Box 2809
Orlando, Florida 32802-2809
brendan.lynch@lowndes-law.com
litcontrol@lowndes-law.com
tracy.kennison@lowndes-law.com
Telephone: 407-843-4600
Facsimile: 407-843-4444
Attorneys for Plaintiff

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