

IN THE CIRCUIT COURT OF THE 9TH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

WEST OAKS MALL FL LLC, a Florida  
limited liability company,

CASE NO. 2017-CA-010668-O

Plaintiff,

**COMPLAINT**

vs.

RICK SINGH, as Property Appraiser of  
Orange County, Florida; SCOTT  
RANDOLPH, as Tax Collector of Orange  
County, Florida; and LEON M.  
BIEGALSKI, as Executive Director of the  
State of Florida Department of Revenue,

Defendant.

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Plaintiff, West Oaks Mall FL LLC (“Taxpayer”), sues Defendants, Rick Singh, as Property Appraiser of Orange County, Florida (“Property Appraiser”), Scott Randolph, as Tax Collector of Orange, Florida (“Tax Collector”), and Leon M. Biegalski, as Executive Director of the State of Florida Department of Revenue (“Department”) (collectively, “Defendants”) and alleges:

**GENERAL ALLEGATIONS**

1. This is an action for statutory relief. This Court has original and exclusive jurisdiction pursuant to *Florida Statutes §§ 194.036 and 194.171*. Venue is proper in Orange County as the subject property, as described below, and the Property Appraiser are located in Orange County, Florida.

2. Taxpayer is a Florida Limited Liability Company which is registered and conducts business in Florida.

3. Property Appraiser lawfully holds the office of Property Appraiser of Orange County, Florida. Property Appraiser is charged with the responsibility of discharging the duties of said office.

4. Tax Collector is the duly appointed and acting Tax Collector for Orange County, Florida, and is obligated to discharge the duties of said office.

5. Department is named as a defendant to this action as mandated by *Florida Statutes §194.181(5)*, because the tax assessment is also being contested on the grounds that it is contrary to the laws and Constitution of the State of Florida.

**COUNT I – TAX YEAR 2017**

6. Taxpayer realleges paragraphs 1 through 5 above.

7. As of the relevant assessment date, *i.e.*, January 1, 2017, Taxpayer was the party responsible for payment of ad valorem taxes associated with real property located in Orange County Florida. Each parcel of property is assigned a separate folio number. All subject folios identified below are collectively referred to as the “Property”. Each folio, and the Property Appraiser’s certified assessed values assigned to each, follow:

	<b><u>Folio Number</u></b>	<b><u>Market Value</u></b>	<b><u>Assessed Value</u></b>
a.	21-22-28-9140-00-030	\$2,751,771	\$2,611,990
b.	21-22-28-9140-00-050	\$7,197,898	\$7,197,898
c.	21-22-28-9140-00-060	\$292,460	\$292,460
d.	21-22-28-9140-00-070	\$426,979	\$426,979
e.	21-22-28-9140-00-080	\$452,662	\$452,662
f.	21-22-28-9140-00-090	\$139,505	\$45,807
g.	21-22-28-9140-00-100	\$84,929	\$27,887
h.	21-22-28-9140-00-120	\$472,545	\$472,545
i.	21-22-28-9140-00-121	\$928,985	\$700,446

j.	21-22-28-9140-00-122	\$902,762	\$897,515
k.	21-22-28-9140-01002	\$29,765	\$29,765
l.	21-22-28-9140-01005	\$215,358	\$215,358
m.	21-22-28-9140-01006	\$284,474	\$284,474
o.	21-22-28-9140-01007	\$582,214	\$582,214
p.	21-22-28-9140-01008	\$456,813	\$456,813

8. Taxpayer is contesting the aforementioned 2017 assessments and the corresponding *ad valorem* taxes on the Property.

9. The assessments are in excess of the just values of the Property, in violation of *Florida Statutes*, including §193.011, and in violation of Article VII, Section 4 of the Florida Constitution.

10. Property Appraiser's assessments of the Property were arbitrarily based on appraisal practices which are not professionally accepted appraisal practices nor acceptable mass appraisal standards within Orange County.

11. Taxpayer has paid the taxes on the Property as required under *Florida Statutes* §194.171. Evidence of said payment is attached hereto and incorporated by reference as Composite Exhibit "A".

12. Taxpayer will be irreparably damaged if Defendants are permitted to keep the collection of the full tax based on the assessments listed in paragraph 6 above.

13. Property Appraiser's failure to properly consider the factors set forth in *Florida Statutes* §193.011 and all other Florida statutes related thereto renders each total tax assessment inaccurate, illegal, arbitrary and violative of established requirements of law in determining just valuation of real property for *ad valorem* taxation purposes.

14. All conditions precedent to bringing this action have occurred, been performed, waived or excused.

WHEREFORE, Taxpayer demands judgment against the Defendants as follows:

(i) Establishing the just value of the Property and directing such adjustments between the Parties as may be necessary in connection therewith or directing the Property Appraiser to reassess the Property for the 2017 tax year in compliance with Florida law;

(ii) Recalculating the taxes that should have been paid based on an assessment equal to the Property's just value, and ordering a refund to the Taxpayer of the excess amounts paid;

(iii) Awarding costs in favor of Taxpayer pursuant to *Florida Statutes §194.192*; and

(iv) Granting such other and further relief as this Court deems just and proper.

**COUNT II – TAX YEAR 2015**

15. Taxpayer realleges paragraphs 1 through 5 above.

16. As of January 1, 2015, Taxpayer was the party responsible for payment of ad valorem taxes associated with the following real property located in Orange County Florida. Each parcel of property is assigned a separate folio number. All subject folios identified below are collectively referred to as the "2015 Property". Each folio, and the Property Appraiser's certified assessed values assigned to each (collectively, the "2015 Assessment"), follow:

	<u>Folio Number</u>	<u>Market Value</u>	<u>Assessed Value</u>
a.	21-22-28-9140-01002	\$100	\$100
b.	21-22-28-9140-01005	\$100	\$100
c.	21-22-28-9140-01006	\$100	\$100
d.	21-22-28-9140-01007	\$100	\$100
e.	21-22-28-9140-01008	\$100	\$100

17. During 2017, as indicated in the following chart, Property Appraiser unlawfully back assessed the 2015 Property (collectively, the “2015 Back Assessment”).

	<u>Folio Number</u>	<u>Market Value</u>	<u>Assessed Value</u>
a.	21-22-28-9140-01002	\$28,876	\$28,876
b.	21-22-28-9140-01005	\$208,930	\$208,930
c.	21-22-28-9140-01006	\$275,982	\$275,982
d.	21-22-28-9140-01007	\$564,835	\$564,835
e.	21-22-28-9140-01008	\$443,177	\$443,177

See Composite Exhibit “B”.

18. The 2015 Back Assessment is unlawful, in violation of *Florida Administrative Code Rule 12D-8.006(1)* and *Florida Statutes § 193.092* since Property Appraiser has attempted to back assess the 2015 Property as a result of the Property Appraiser’s error in judgment when it issued its 2015 assessments. The 2015 Property did not escape taxation.

19. Property Appraiser has certified the 2015 Back Assessment. The 2015 Back Assessment is unlawful. Taxpayer will be irreparably damaged if Defendants are permitted to keep payment of ad valorem taxes based on the 2015 Back Assessment.

20. In the event that the issuance of the 2015 Back Assessment is not deemed unlawful, then it is in excess of the January 1, 2015 just value of the 2015 Property in violation of *Florida Statutes § 193.011* and Article VII, Section 4 of the Florida Constitution. Taxpayer will be irreparably damaged if Defendants are permitted to keep payment of ad valorem taxes based on the 2015 Back Assessment.

21. Property Appraiser’s failure to properly consider the factors set forth in the Florida Statutes and Article VII, Section 4 of the Florida Constitution renders the 2015 Back Assessment

in excess of the property's just value, inaccurate, illegal, arbitrary and violative of the established requirements of law in determining assessment of real property for *ad valorem* taxation purposes.

22. Property Appraiser's 2015 Back Assessment is arbitrarily based on appraisal practices which are neither professionally accepted appraisal practices nor acceptable mass appraisal standards within Orange County, Florida.

23. Taxpayer has timely paid the 2015 Back Assessment under protest as required under *Florida Statutes* § 194.173(3). See Composite Exhibit "C".

WHEREFORE, Taxpayer demands entry of a Final Judgment against the Defendants as follows:

(i) Voiding the 2015 Back Assessment and ordering a refund to the Taxpayer of the amounts paid, plus prejudgment interest;

(ii) In the alternative, establishing the just value of the 2015 Property and directing such refund, plus prejudgment interest, to Taxpayer as may be necessary in connection therewith or directing the Property Appraiser to reassess the 2015 Property for the 2015 tax year in compliance with Florida law;

(iii) Awarding costs in favor of Taxpayer pursuant to *Florida Statutes* § 194.192; and

(iv) Granting such other and further relief as this Court deems just and proper.

### **COUNT III – TAX YEAR 2016**

24. Taxpayer realleges paragraphs 1 through 5 above.

25. As of January 1, 2016, Taxpayer was the party responsible for payment of ad valorem taxes associated with the following real property located in Orange County Florida. Each parcel of property is assigned a separate folio number. All subject folios identified below are

collectively referred to as the “2016 Property”. Each folio, and the Property Appraiser’s certified assessed values assigned to each (collectively, the “2016 Assessment”), follow:

	<u>Folio Number</u>	<u>Market Value</u>	<u>Assessed Value</u>
a.	21-22-28-9140-01002	\$100	\$100
b.	21-22-28-9140-01005	\$100	\$100
c.	21-22-28-9140-01006	\$100	\$100
d.	21-22-28-9140-01007	\$100	\$100
e.	21-22-28-9140-01008	\$100	\$100

26. During 2017, as indicated in the following chart, Property Appraiser unlawfully back assessed the 2016 Property (collectively, the “2016 Back Assessment”).

	<u>Folio Number</u>	<u>Market Value</u>	<u>Assessed Value</u>
a.	21-22-28-9140-01002	\$28,876	\$28,876
b.	21-22-28-9140-01005	\$208,930	\$208,930
c.	21-22-28-9140-01006	\$275,982	\$275,982
d.	21-22-28-9140-01007	\$564,835	\$564,835
e.	21-22-28-9140-01008	\$443,177	\$443,177

See Composite Exhibit “D”.

27. The 2016 Back Assessment is unlawful, in violation of *Florida Administrative Code Rule 12D-8.006(1)* and *Florida Statutes § 193.092* since Property Appraiser has attempted to back assess the 2016 Property as a result of the Property Appraiser’s error in judgment when it issued its 2016 assessments. The 2016 Property did not escape taxation.

28. Property Appraiser has certified the 2016 Back Assessment. The 2016 Back Assessment is unlawful. Taxpayer will be irreparably damaged if Defendants are permitted to keep payment of ad valorem taxes based on the 2016 Back Assessment.

29. In the event that the issuance of the 2016 Back Assessment is not deemed unlawful, then it is in excess of the January 1, 2016 just value of the 2016 Property in violation of *Florida Statutes § 193.011* and Article VII, Section 4 of the Florida Constitution. Taxpayer will be irreparably damaged if Defendants are permitted to keep payment of ad valorem taxes based on the 2016 Back Assessment.

30. Property Appraiser's failure to properly consider the factors set forth in the Florida Statutes and Article VII, Section 4 of the Florida Constitution renders the 2016 Back Assessment in excess of the property's just value, inaccurate, illegal, arbitrary and violative of the established requirements of law in determining assessment of real property for ad valorem taxation purposes.

31. Property Appraiser's 2016 Back Assessment is arbitrarily based on appraisal practices which are neither professionally accepted appraisal practices nor acceptable mass appraisal standards within Orange County, Florida.

32. Taxpayer has timely paid the 2016 Back Assessment under protest as required under *Florida Statutes § 194.173(3)*. See Composite Exhibit "E".

WHEREFORE, Taxpayer demands entry of a Final Judgment against the Defendants as follows:

(i) Voiding the 2016 Back Assessment and ordering a refund to the Taxpayer of the amounts paid, plus prejudgment interest;

(ii) In the alternative, establishing the just value of the 2016 Property and directing such refund, plus prejudgment interest, to Taxpayer as may be necessary in connection therewith or directing the Property Appraiser to reassess the 2016 Property for the 2016 tax year in compliance with Florida law;

(iii) Awarding costs in favor of Taxpayer pursuant to *Florida Statutes § 194.192*; and



(iv) Granting such other and further relief as this Court deems just and proper.

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