

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIVIL DIVISION

ATLANTIC BROADBAND (MIAMI) LLC,
a foreign limited liability company,

Plaintiff,

Case No.: 2017-029462-CA-01

vs.

Division:

PEDRO J. GARCIA, as Property Appraiser;
MARCUS SAIZ de la MORA, as Tax Collector
and LEON M. BIEGALSKI as Executive Director
of the Florida Department of Revenue,

Defendants.

COMPLAINT

Plaintiff, ATLANTIC BROADBAND (MIAMI), LLC, a foreign limited liability company, sues Defendants, PEDRO J. GARCIA as Property Appraiser ("Appraiser"), MARCUS SAIZ de la MORA as Tax Collector ("Collector") and LEON M. BIEGALSKI ("Biegalski") as the Executive Director of the Florida Department of Revenue, and alleges:

Allegations Common to All Counts

1. This is an action to contest ad valorem tax assessments for the tax year 2017 and this Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and article V, sections 5 and 20 of the Florida Constitution.
2. Plaintiff is a Delaware limited liability company.

3. Appraiser is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(2), Florida Statutes.

4. Collector is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(3), Florida Statutes.

5. Defendant Biegalski is sued in his official capacity as the Executive Director of the Florida Department of Revenue and is a necessary party to this action pursuant to section 194.181(5), Florida Statutes.

6. Plaintiff has performed all conditions precedent which are required to be performed by Plaintiff in establishing its right to bring this action. Specifically, this action has been filed within the time period prescribed by section 194.171(2) Florida Statutes.

COUNT I

Plaintiff re-alleges and incorporates the allegations contained in Paragraphs 1 - 6 as if specifically set forth in full and re-alleged herein.

7. Plaintiff is the owner of certain tangible personal property located in Miami-Dade County, Florida, identified by Appraiser using Account Nos. **40-153546, 40-153547, 40-153548, 40-153566, 40-153567, 40-153569, 40-153573, 40-153576, 40-153577, 40-153579, 40-153580, 40-153584, 40-153586, 40-308997, 40-308998, 40-321680 and 40-338797** referred to hereinafter as the "Subject Property."

8. Appraiser estimated the Subject Property's just and assessed value for ad valorem purposes as follows:

| | |
|-----------|--------------|
| 40-153546 | \$2,730,605 |
| 40-153547 | \$138,362 |
| 40-153548 | \$4,277,086 |
| 40-153566 | \$23,019,699 |
| 40-153567 | \$936,101 |
| 40-153569 | \$1,269,671 |
| 40-153573 | \$1,146,835 |
| 40-153576 | \$189,913 |
| 40-153577 | \$1,322,042 |
| 40-153579 | \$3,648,309 |
| 40-153580 | \$1,250,890 |
| 40-153584 | \$97,005 |
| 40-153586 | \$447,117 |
| 40-308997 | \$11,387 |
| 40-308998 | \$31,365 |
| 40-321680 | \$13,958,247 |
| 40-338797 | \$8,311,647 |

(hereinafter, the "assessments").

9. Plaintiff has paid the taxes which have been assessed in full, pursuant to section 194.171(3)(4), Florida Statutes. Copies of the receipts are attached hereto as Plaintiff's Composite Exhibit "A."

10. Appraiser failed to comply with section 193.011, Florida Statutes, and professionally accepted appraisal practices in assessing the Subject Property.

11. The assessments do not represent the just value of the Subject Property as of the lien date because they exceed the market value and therefore violate article VII, section 4 of the Florida Constitution.

12. Additionally, for account **40-338797**, the disputed items are transmission and distribution cable, move, relocation, rebuild and capitalized overhead and expenses from Miami and Massachusetts.

13. The assessment is unlawful because the disputed items are not tangible personal property as defined in section 192.001(11)(d), Florida Statutes.

14. To the extent any of the items in the assessment constitutes tangible personal property, the assessment is unlawful because the items were not located in Miami Dade County as of the lien date.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the assessments on the Subject Property as excessive; establish the proper assessments of the Subject Property in accordance with the Constitution of the State of Florida and section 193.011, Florida Statutes; direct the Collector to cancel the original bills and issue new tax bills in said reassessed amount; and finally, to award Plaintiff its costs incurred in bringing this action pursuant to section 194.192, Florida Statutes, and award such other general relief as may be just and equitable.

COUNT II

Plaintiff re-alleges and incorporates the allegations contained in Paragraphs 1 - 6 as if specifically set forth in full and re-alleged herein.

15. Appraiser notified Plaintiff that he intended to back assess Plaintiff pursuant to section 193.092, Florida Statutes, contending that Plaintiff failed to render certain real estate fixtures annexed to the leased premises for taxation as tangible personal property (the "disputed items").

16. Appraiser has back assessed the disputed items for tax year 2014 as Folio 40-338801 in the amount of **\$12,466,213**. A copy of the back assessment notice is attached hereto as Plaintiff's Exhibit "B."

17. Appraiser has back assessed the disputed items for tax year 2015 as Folio 40-338799 in the amount of **\$11,078,833**. A copy of the back assessment notice is attached hereto as Plaintiff's Exhibit "C."

18. Appraiser has back assessed the disputed items for tax year 2016 as Folio 40-338798 in the amount of **\$9,694,158**. A copy of the back assessment notice is attached hereto as Plaintiff's Exhibit "D."

19. Plaintiff has paid the taxes on the back assessments in full as permitted by section 194.171(3) and (4), Florida Statutes. Copies of the receipts are attached hereto as Plaintiff's Composite Exhibit "E."

20. The disputed items are transmission and distribution cable, move, relocation, rebuild and capitalized overhead and expenses from Miami and Massachusetts.

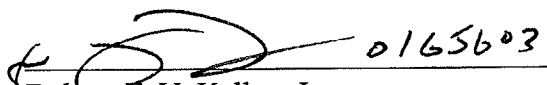
21. The back assessments are unlawful because the disputed items are not tangible personal property as defined in section 192.001(11)(d), Florida Statutes.

22. To the extent any of the items in the back assessments constitute tangible personal property, the back assessments are unlawful because the items were not located in Miami Dade County as of the lien dates.

23. In the alternative, to the extent any of the items in the back assessments constitute tangible personal property, and were located in Miami Dade County as of the lien dates, Appraiser failed to comply with section 193.011, Florida Statutes, and professionally accepted appraisal practices in assessing the Subject Property.

24. The assessments do not represent the just value of the Subject Property as of the lien date because they exceed the market value and therefore violate article VII, section 4 of the Florida Constitution.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; set aside the proposed back assessments on the Subject Property; direct the Collector to cancel the original bills and refund the taxes paid to Plaintiff; and finally, to award Plaintiff its costs incurred in bringing this action pursuant to section 194.192, Florida Statutes, and award such other general relief as may be just and equitable.


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