

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

SALAMANDER INNISBROOK, LLC,
a Florida limited liability company,

Plaintiff,

Case No.: 2018-CA-002273

vs.

Division:

MIKE TWITTY, as Property Appraiser,
CHARLES W. THOMAS, as Tax Collector and
LEON M. BIEGALSKI as Executive Director
of the Florida Department of Revenue,

Defendants.

COMPLAINT

Plaintiff, SALAMANDER INNISBROOK, LLC, a Florida limited liability company, sue Defendants, MIKE TWITTY as Property Appraiser ("Appraiser"), CHARLES W. THOMAS as Tax Collector ("Collector"), and LEON M. BIEGALSKI ("Biegalski"), as the Executive Director of the Florida Department of Revenue, and alleges:

1. This is an action to contest an ad valorem tax assessment 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 Florida 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 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 is the owner of certain real property located in Pinellas County, Florida, known as the "Innisbrook Resort and Golf Club" and identified by Appraiser using Parcel Number 25-27-15-00000-100-0100, referred to hereinafter as the "Subject Property."

7. Appraiser estimated the Subject Property's just value for 2017 in the amount of \$19,800,000 (the "assessment").

8. Plaintiff has paid the taxes which have been assessed in full, pursuant to section 194.171(3)(4), Florida Statutes. A copy of the receipt is attached hereto as Plaintiff's Exhibit "A."

9. 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.

10. The Subject Property encompasses some five-hundred sixty-six (566) acres of land and is improved with three (3) complete eighteen-hole golf courses

(Copperhead, Island and Highlands North) and half of a fourth golf course (The Highlands South), for a total of sixty-three (63) holes of golf.

11. The Subject Property is also improved with golf course clubhouse facilities, three (3) separate free standing conference centers (Edinburgh, Stirling and Inverness), tennis courts, a spa facility, and the "Loch Ness" pool complex.

12. The Subject Property also contains a parcel of excess development land.

13. Plaintiff operates the Subject Property as a going concern in conjunction with certain intangible property rights it possesses in the form of an agreement between itself and various owners of residential condominium units located within the resort complex. The agreement allows Plaintiff to manage the condominium units as transient hotel rooms. The rooms operation provides guests for Plaintiff's food and beverage operation, conference room facilities and golf courses. These condominium units comprising the rooms operation are separately assessed to their respective owners, and are not part of the Subject Property. Because the contract rights between Plaintiff and the condominium unit owners is intangible in nature, it is not subject to ad valorem assessment.

14. Golf course play on the Subject Property is restricted by a covenant which runs with the land. The restrictive covenant limits golf course play to members of the Innisbrook Resort and Golf Club, a private club. Additionally, the golf courses may be played by guests of Club members and persons staying overnight in the condominium units operated by Plaintiff. The restrictive covenant prohibits play of the golf courses by the general public. See, *Golf Host South, Inc. v. Dunbar*, 404 So.2d 162 (Fla. 2nd DCA

1981). The restrictive covenant operates to limit the potential revenue to be derived from the golf courses.

15. In his evaluation of the Subject Property under the income approach method of appraisal, Appraiser has assumed a volume of play and a corresponding level of income which the Subject Property is not capable of achieving given the use restrictions imposed by the restrictive covenant which limits golf course play to Club members and guests of members. Appraiser has therefore failed to properly consider the highest and best use of the Subject Property and the income from the Subject Property.

16. For purposes of his assessment of the Subject Property, Appraiser has characterized certain improvements as "non-golf course" property. These improvements include the sales, accounting and miscellaneous office buildings, the three (3) convention centers, the tennis courts, the spa and fitness centers, the golf course clubhouses, the tennis clubhouse and the Loch Ness pool complex.

17. In his evaluation of the Subject Property using the income approach methodology, Appraiser has ascribed rental income to the non-golf course property improvements despite the fact that they were never rented, nor have they ever generated rental income in the past.

18. In his evaluation of the Subject Property under the sales comparison approach, as improved, Appraiser has assigned a market value to those building improvements which ignore the present use as well as their use expected in the immediate future. Moreover, he has ignored their location in relation to proximity to

public rights of way. The unit value assigned to these buildings was arrived at in an arbitrary manner that does not conform to professionally accepted appraisal practices.

19. In his evaluation of the Subject Property using the replacement cost approach, Appraiser has estimated the value of the Subject Property's land, as though vacant, by reliance on certain land sales transactions. These land sales are not comparable to the Subject Property because their use is not restricted in the same manner that the Subject Property's use is restricted. Consequently, they are not comparable and Appraiser has not fully considered the Subject Property's highest and best use, as vacant, in his development of a cost approach.

20. Appraiser's evaluation of the Subject Property under a cost approach fails to take into account the actual condition of the Subject Property through adjustments for external obsolescence. The income earned by the Subject Property is not capable of providing a reasonable return on the depreciated replacement cost of the improvements combined with the market value of the land as though vacant. Appraiser failed to recognize external obsolescence in his cost approach.


21. The aforementioned errors committed by Appraiser in his assessment of the Subject Property were previously litigated by and between Plaintiff's predecessor in title and Appraiser's predecessor in office (the "prior litigation"). In that case, this Court concluded that the assessments then under challenge were defective for the reasons set forth hereinabove. A true and correct copy of the certain Amended Final Judgment dated February 6, 2004 in the case style *Golf Host Resorts, Inc. v. Jim Smith, etc., et al*, Circuit Court Case No.: 98-8084-CI-21 is attached hereto as Exhibit "B."

22. Appraiser has nonetheless intentionally, and not through mistake or inadvertence, chosen to assess the Subject Property for 2017 using the same appraisal practices which were deemed unlawful in the prior litigation.

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

24. The assessment does not represent the just value of the Subject Property as of the lien date because it exceeds the market value and therefore violates article VII, section 4 of the Florida Constitution.

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



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