

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

TLM VENETIAN, LLC, a
Florida Limited Liability Company,

CASE NO.: CACE 18-012056

Plaintiff,

vs.

MARTY KIAR, as Property Appraiser,
THOMAS KENNEDY, as Director,
Broward County Records, Taxes and
and Treasury Division, and LEON M.
BIEGALALSKI, as Executive Director
of the Florida Department of Revenue,

Defendants.

AMENDED COMPLAINT

COMES NOW, the Plaintiff, TLM VENETIAN, LLC, a Florida Limited Liability Company,, by and through its undersigned attorney and sues the Defendant, MARTY KIAR, as Property Appraiser, THOMAS KENNEDY, as Director of Broward County Records, Taxes and Treasury Division, and LEON BIEGALALSKI, as Executive Director of the Florida Department of Revenue and alleges as follows:

1. That this is an action for statutory relief to contest an ad valorem tax assessment for the tax year 2017 and this Court has jurisdiction pursuant to Florida Statutes 194.036, and 194.171, and Article V, Sections 5 and 20, of the Constitution of the State of Florida. Venue is proper in Broward County as the subject property and Property Appraiser are located in Broward County.
2. That the Plaintiff purchased the real property located at 828 Solar Isle, Ft. Lauderdale, Florida, on July 29, 2016, which property is legally described as follows:

Lot 1, 2 and 3, Amended Plat of Lots 1, 2, 3 and 4, Block 3 of
RIVIERA , according to the Plat thereof, as recorded in Plat Book
26, Page 38, of the Public Records of Broward County, Florida

Parcel Identification No.: 5042 12 09 0020

3. That the Defendant, KIAR is sued herein in his official capacity as a duly elected and constituted Property Appraiser of Broward County, Florida. He is a necessary and property party to this action pursuant to Florida Statutes 194.181(2).

4. That the Defendant, KENNEDY, is sued herein in his official capacity as Director of Records, Taxes and Treasury of Broward County, Florida. He is a necessary and property party to this action pursuant to Florida Statute 194.181(3).

5. That the Defendant, BIEGALSKI is sued herein in his official capacity as Executive Director of the Florida Department of Revenue and is a necessary and proper party to this action pursuant to Florida Statutes 194.181(5), and because the lawsuit alleges that the tax collection are contrary to the laws and Constitution of the State of Florida.

6. That the Plaintiff paid \$6,331,600.00 for the subject property, which sum included, the auction fee of \$ 575,600.00 and therefore, the actual purchase price on the subject property was \$ 5,756,000.00.

7. That the property appraiser originally assessed the just value of the property in the sum of \$7,366,600.00, and after a hearing was held, the property appraiser issued a new assessment is in the sum of \$6,366,600.00, which new assessment is still excess of the just value of the property, in violation of Florida Statutes, including Section 193.011 and in violation of Article VII, Section V, of the Florida Constitution.

8. That for the year 2017, the Special Magistrate issued a report that determined the value of the property to be \$ 6,331,600.00.

9. That the Defendant, Property Appraiser disregarded the statutory criteria of Florida Statute 193.011, which, provides that in arriving at a "just valuation" the Property Appraiser is required by Section 4, Article VII of the Florida Constitution to take into consideration:

- a. The present value of the Subject Property as of January 1, 2017 for the 2017 tax year;
- b. The highest and best use to which the Subject Property could be expected to be put in the immediate future and the present use of the Subject Property as of January 1, 2017, for the tax year;
- c. The location of the Subject Property;
- d. The quantity and size of the Subject Property;
- e. The cost of the Subject Property and the present replacement value of any improvements thereon as of January 1, 2017 for the 2017 tax year;
- f. The net proceeds of the sale of the Subject Property as received by the seller, after deduction of all reasonable fees and costs of the sale under the conditions present as of January 1, 2017, for the 2017 tax year.
- g. That the street the subject property is located on is usually flooded and difficult to traverse, causing damages to vehicles.

11. That the Plaintiff has complied with all conditions precedent to the maintenance of this lawsuit, and has timely brought this action.

12. That the Plaintiff paid the taxes as required under Florida Statute 194.171(3) and (4). Evidence of said payment is attached hereto and incorporated by reference as Exhibit "B."

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

A. 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;

B. 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 Plaintiff of the excess amounts paid;

C. Awarding costs in favor of Plaintiff pursuant to Florida Statute 194.192; and

D. Granting such other and further relief as this Court deems just and proper.

DATED: May 21, 2018

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