

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

PEDRO J. GARCIA, as Property Appraiser for  
Miami-Dade County, Florida,

GENERAL JURISDICTION DIVISION

CASE NO. 2018-23451 CA ~~08~~ 01

Plaintiff,

vs.

**COMPLAINT**

SENYAR MIAMI HOLDING, LLC, a  
Delaware limited liability company, and LEON  
M. BIEGALSKI, as Executive Director of the  
State of Florida Department of Revenue,

Defendants.

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Plaintiff, PEDRO J. GARCIA, as Property Appraiser for Miami-Dade County, Florida,  
(the "Property Appraiser") sues the above-captioned Defendant, SENYAR MIAMI HOLDING  
LLC (the "Taxpayer"), and LEON M. BIEGALSKI, as Executive Director of the State of Florida  
Department of Revenue (the "Department"), and alleges:

1. In this action, the Property Appraiser seeks to reverse a decision of the Miami-Dade County Value Adjustment Board ("VAB") that reduced the Property Appraiser's assessment of market value for 2017 *ad valorem* taxation purposes of those certain condominium units owned by the Taxpayer, which are more fully described in the *Schedule of Subject Units* attached hereto as **Exhibit "A."**

**JURISDICTION, VENUE, PARTIES**

2. This Court has exclusive jurisdiction of this equitable action pursuant to sections 194.036(1)(a) and (b), and 194.171 of the Florida Statutes (2016).

3. The real property at issue is a hotel condominium building located at 485 Brickell Avenue, Miami, FL 33131 (the "Subject Property"). Each individual unit within the Subject Property (each a "Subject Unit") is subject to the challenged *ad valorem* tax assessments. Each Subject Unit is identified by unit number, corresponding tax folio number, and legal description in the attached *Schedule of Subject Units*.

4. Venue is proper because the Subject Property is located in Miami-Dade County.

5. The Property Appraiser is the duly-elected appraiser for Miami-Dade County, Florida, and is a proper plaintiff in this action under section 194.181(1)(b), Florida Statutes.

6. As of January 1, 2017, the Taxpayer was the legal titleholder of record of the Subject Units assessed under the tax folios listed in *Schedule of Subject Units*. Thus, the Taxpayer is the proper defendant herein under section 194.181(2), Florida Statute.

7. The Department is named as a defendant in accordance with section 194.181(5), Florida Statutes, because the tax assessment is contested on the grounds that it is contrary to the laws and Constitution of the state of Florida.

8. This action is timely filed and all conditions precedent have been met.

#### **FACTUAL ALLEGATIONS**

9. The Subject Property is a condo hotel tower located on Brickell Avenue in downtown Miami, formerly known as the Icon/Viceroy. It is operated by the W Hotels group under the name "W Miami." The Subject Property is comprised of 154 tax folios representing 148 hotel units, 5 commercial units, and hotel common areas. The amenities include a pool, restaurant, bar, lounge and a fitness center.

10. The Property Appraiser's assessment of the Subject Property's aggregate market value including all Subject Units for tax year 2017 was:

**Property Appraiser's Assessment**

Aggregate Market Value	\$43,555,770
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11. The Property Appraiser's assessed market value for each Subject Unit is set forth in the attached *Schedule of Subject Units*.

12. To arrive at the Subject Property's assessment for 2017, the Property Appraiser applied professionally accepted appraisal practices, including the sales comparison, cost and income approaches to real property valuation, while simultaneously considering the criteria set forth in sections 193.011 and 193.023, Florida Statutes.

13. Applying this methodology, the Property Appraiser examined recent sales of comparable properties, construction costs, and the Subject Property's location and condition, among other factors.

14. The Taxpayer filed petitions with the VAB seeking to reduce the Property Appraiser's assessment of each Subject Unit's market value for tax year 2017.

15. After a hearing on the VAB petitions, held on January 18, 2018 Special Magistrate Kalle Petrick, recommended that the Subject Property's aggregate market value be reduced substantially.

16. The VAB adopted the Special Magistrate's recommendations. Consequently, the Property Appraiser's aggregate assessment of the Subject Property for tax year 2017 was unlawfully reduced to:

**VAB Adjusted Assessment**

Aggregate Market Value	\$37,619,124
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17. The VAB's adjusted assessed market value for each individual Subject Unit is set forth in the *Schedule of Subject Units*.

18. The VAB's reductions represent an average decrease of thirteen percent (13.63%) from the Property Appraiser's assessment, which exceeds the variance thresholds set forth in section 194.036(1)(b) of the Florida Statutes and meets the criteria thereunder for the instant appeal.

19. The market values adopted by the VAB were unlawful given that they are below each Subject Unit's true "just value."

20. The VAB's unlawful reduction will negatively impact the Subject Property's assessed value not only in tax year 2017, but also in subsequent years as a result of the assessment cap contained in Article VII, Section 4 of the Florida Constitution of 1968, and its implementing statutes, including Sections 193.155, 193.1554, and 193.1555 of the Florida Statutes.

21. Therefore, the VAB's adjusted assessment of the Subject Property for tax year 2017 violates Florida statutory and constitutional law, including without limitation, sections 193.011, 193.155 and 193.1555 of the Florida Statutes, and Article VII, Section 4 of the Florida Constitution.

WHEREFORE, the Property Appraiser respectfully requests that this Court enter an order:

- a. finding that the Property Appraiser's market value assessment for the contested tax year was determined by an appraisal methodology that complies with the criteria of section 193.011 and professionally accepted appraisal practices;
- b. finding that the VAB's adjusted assessment does not represent the just value of the Subject Property; and is arbitrarily based on appraisal practices that are

different from the appraisal practices generally applied by the Property Appraiser to comparable property within Miami-Dade County;

- c. reinstating and certifying the Property Appraiser's assessment for tax year 2017;
- d. directing the Department to approve the Property Appraiser's assessment for tax year 2017;
- e. directing the Tax Collector to issue a revised tax bill for the deficiency, if any, in outstanding taxes and interest for tax year 2017 in accordance with § 194.192, Fla. Stat.;
- f. awarding all of the Property Appraiser's costs pursuant to § 194.192, Fla. Stat.; and
- g. granting such other and further relief as this Court deems just and proper.

**DESIGNATION OF E-MAIL ADDRESSES**

Pursuant to Florida Rule of Judicial Administration 2.516, undersigned counsel hereby designates the following primary and secondary e-mail addresses for purposes of e-mail service:

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Respectfully submitted,

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