

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. 2018-23584 CA ~~02~~ 01

Plaintiff,

vs.

COMPLAINT

BENZOL PROPERTIES CORP., a Florida
corporation, and LEON M. BIEGALSKI, as
Executive Director of the State of Florida
Department of Revenue,

Defendants.

_____/

Plaintiff, PEDRO J. GARCIA, as Property Appraiser for Miami-Dade County, Florida, (the "Property Appraiser") sues defendants BENZOL PROPERTIES CORP., a Florida corporation (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 in connection with the 2017 *ad valorem* tax assessment of certain real property owned by the Taxpayer.

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.

3. The real property that is subject to the challenged *ad valorem* tax assessment is located on the Miami River at South West 6th Street and South Miami Place, and assessed under

the six separate tax folio numbers with corresponding legal descriptions identified below (the “Subject Property”):

Tax Folio Number	Legal Description	Property Address & Deed Bk/Pg
01-0200-000-0030	<p>38 54 41 .19 AC M/L BEG AT X OF ELY R/W/L OF FEC RR WITH C/L OF SW 6 ST PROD WLY FOR POB TH N ALG ELY R/W/L OF FEC 69.65FT TO HIGH WATER LINE OF SLY BK OF MIAMI RIVER ELY & NELY ALG SLY BK OF MIAMI RIVER FOR 101.49FT TO PT WHICH IS 101.49FTE OF ELY R/W/L OF FEC RR TH S PARR TO ELY R/W OF FEC 85FT TO EXT WLY OF C/L OF SAID ST W101.49FT TO POB TOGETHER WITH RIP RTS THERETO LOT SIZE 8654 SQUARE FEET OR 19338-4823 1000 4 (3) COC 24580-3809/24675-1478 0506 4</p>	<p>75 SW Miami Avenue Road Miami, FL 33130-1600 Deed: Bk 27138 Pg 1060</p>
01-0200-000-0040	<p>38 54 41 .08 AC BEG AT A PT ON THE N/L OF SW MIAMI AVE RD & 325FTSWLY OF X OF W/L OF S MIAMI AVE & NLY/L OF SW MIAMI AVE RD NWLY AT R/A 65.48FT TO S BK OF MIAMI RIVER SWLY ALG BK 54FT M/L SELY75FT M/L TO NLY/L OF SW MIAMI AVE RD PT BEING 375FTSWLY OF X OF W/L OF S MIA AVE & NLY/L OF SW MIAMI AVE RD NELY AT R/A 50FT TO POB LOT SIZE 3512 SQUARE FEET OR 19338-4823 1000 4 COC 24580-3809/24675-1478 0506 4</p>	<p>No Property Address Deed: Bk 27138 Pg 1060</p>
01-0200-000-0050	<p>38 54 41 .34 AC M/L BEG 101.49FTE OF E R/W/L OF FEC RR & 25FTN OF C/L OF SW 6 ST E230.85FT NELY34.11FT PT BEING 375FTSWLY OF X OF W/LINE OF S MIAMI AVE & NLY/L OF SW MIAMI AVE RD NWLY AT R/A 75FT M/L TO S BK OF MIAMI RIVER SWLY & WLY MEANDERING ALG BK 215.51FT M/L S62FT M/L TO POB LOT SIZE IRREGULAR OR 19338-4823 1000 4 (3) COC 24580-3809/24678-1478 0506 4</p>	<p>99 SW 6th Street, Miami, FL 33130-3007 Deed: Bk 27138 Pg 1060</p>

01-0205-000-1200	01 54 41 BEG 107.91FTE OF SE COR OF BLK 39 OF PB B-41 TH N O DEG W 108.39FT N 85 DEG E 5.22 FT N O DEG E 276.35FT N 70 DEG E 3.07FT N 49 DEG E 12.74FT N 66 DEG E 6.55FT S 2 DEG E 395.66FT S 87 DEG W 42.09FT TO POB LOT SIZE 11772 SQ FT OR 19165-3454 0600 3	No Property Address Deed: Bk 19165 Pg 3454
01-0205-030-1080	CITY OF MIAMI SOUTH PB 1-74 BEG NE COR LOT 12 BLK 38 A SO FOR A PT OF BEG W101.48FT N25FT E 101.48FT S25FT TO POB LOT SIZE 2537 SQUARE FEET OR 13270-0415 0587 2	98 SW 6th Street, Miami, FL 33130-3008 Deed: Bk 13270 Pg 415
01-0205-030-1090	CITY OF MIAMI SOUTH PB 1-74 BEG SW COR LOT 13 BLK 38A S FOR POB W50FT N299.52FT E50FT S299.52FT TO POB & LOTS 12 & 13 LESS ST BLK 38 A LOT SIZE 29900 SQUARE FEET OR 13270-415 0587 2	No Property Address Deed: Bk 13270 Pg 415

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. The Taxpayer is the owner of record as of the assessment date of January 1, 2016. Thus, it is the proper defendant herein under section 194.181(2), Florida Statutes.

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 commercial retail structure and parking lot abutting the Miami River. The aggregate lot size is 70,526 square feet, or approximately 1.62 acres, while the retail structure (01-205-030-1090) has an adjusted square footage of 25,063.

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

Tax Folio No.	Property Appraiser Assessment
01-0200-000-0030	\$ 4,110,650
01-0200-000-0040	\$ 1,501,380
01-0200-000-0050	\$ 6,049,552
01-0205-000-1200	\$ 5,297,400
01-0205-030-1080	\$ 1,141,650
01-0205-030-1090	\$14,166,502
Aggregate Total:	\$32,267,134

11. 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.

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

13. The Taxpayer filed a petition for each tax folio number with the VAB appealing the Property Appraiser's assessment of the Subject Property's market value for tax year 2017.

14. After the hearing on the Taxpayer's VAB petitions, held on April 12, 2018, Special Magistrate, Luis F. Leonart, recommended that the Subject Property's market value be reduced substantially.

15. The VAB adopted the Special Magistrate's recommendation. Consequently, the Property Appraiser's assessment of the Subject Property for tax year 2017 was unlawfully reduced to the following value:

Tax Folio No.	VAB Reduced Assessment
01-0200-000-0030	\$ 3,300,306
01-0200-000-0040	\$ 1,339,343
01-0200-000-0050	\$ 5,396,653
01-0205-000-1200	\$ 4,489,393
01-0205-030-1080	\$ 967,515
01-0205-030-1090	\$12,114,225
Aggregate Total:	\$27,607,435

16. The aggregate reduction represents a 14.44% decrease 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 challenge.

17. The market value adopted by the VAB was unlawful given that it is below the Subject Property's true "just value."

18. The VAB's unlawful reduction will negatively impact the Subject Property's assessed value not only in tax year 2016, 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.

19. Therefore, the VAB's adjusted assessment of the Subject Property for tax year 2016 violates Florida statutory and constitutional law, including without limitation, sections 193.011 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 assessment 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 for the challenged tax year; 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 to the Taxpayer for the deficiency, if any, in outstanding taxes and interest for tax year 2016 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 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:

Primary e-mail address: ileanac@miamidade.gov

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Respectfully submitted,

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