

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

CASE NO. \_\_\_\_\_

BERKSHIRE CLUB PARTNERS, LTD.;  
LANDINGS ON MILLENIA BLVD.  
PARTNERS, LTD.; and CED LANDINGS  
LESSOR, LLC,

Plaintiffs,

vs.

RICK SINGH, as the Property Appraiser of  
Orange County, Florida; SCOTT RANDOLPH,  
as the Tax Collector of Orange County, Florida;  
and LEON M. BIEGALSKI, as the Executive  
Director of the Florida Department of Revenue,

Defendants.

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**COMPLAINT**

COME NOW the Plaintiffs, BERKSHIRE CLUB PARTNERS, LTD., LANDINGS ON MILLENIA BLVD. PARTNERS, LTD., and CED LANDINGS LESSOR, LLC, and sue the Defendants, RICK SINGH, as the Property Appraiser of Orange County, Florida; SCOTT RANDOLPH, as the Tax Collector of Orange County, Florida; and LEON M. BIEGALSKI, as the Executive Director of the Florida Department of Revenue, and, as their cause of action, would state as follows:

1. The Plaintiffs, BERKSHIRE CLUB PARTNERS, LTD., LANDINGS ON MILLENIA BLVD. PARTNERS, LTD., and CED LANDINGS LESSOR, LLC (hereinafter collectively "Plaintiffs"), own real property located in Orange County, Florida, consisting of affordable housing projects known as Berkshire Club and The Landings on Millenia, the denial of affordable housing exemptions on which properties and its subsequent effect on ad valorem taxes is the subject matter of this action.

2. The parcels are more fully described in the records of the Property Appraiser and Tax Collector under the following Parcel Identification Numbers ("the subject properties"):

OWNER	PARCEL ID
Berkshire Club Partners, Ltd.	22-24-29-1142-00-030
Landings on Millenia Blvd., Ltd.	17-23-29-8876-00-042
CED Landings Lessor, LLC	17-23-29-8876-00-040

3. Plaintiffs are appropriately filing this suit together in a single action because of commonality of overall ownership and because the issues of fact and law are identical for each of the subject properties. Furthermore, the parcels identified as 17-23-29-8876-00-042 and 17-23-29-8876-00-040 comprise a single affordable housing project known as The Landings on Millenia.

4. The Defendant, RICK SINGH, is the Property Appraiser of Orange County, Florida (hereinafter the "Property Appraiser"), and is sued herein in his official capacity, and not individually.

5. The Defendant, SCOTT RANDOLPH, is the Tax Collector of Orange County, Florida (hereinafter the "Tax Collector"), and is sued herein in his official capacity, and not individually.

6. The Defendant, LEON M. BIEGALSKI, is the Executive Director of the Florida Department of Revenue (hereinafter the "DOR"), and is sued herein in his official capacity, and not individually.

7. This Court has jurisdiction of this matter pursuant to Section 194.171(1) of the Florida Statutes.

8. Venue for this action lies in Orange County, Florida pursuant to Section 194.171(1) of the Florida Statutes.

9. Plaintiffs are now, and were on January 1, 2018, responsible for the property taxes on the subject properties located in Orange County, the legal descriptions of which are contained in the Property Appraiser's records as listed in Paragraph 2 above.

10. This is an action by Plaintiffs contesting the legality and validity of the 2018 ad valorem taxation exemption denials on the aforesaid tax parcels.

11. At all times material to this cause of action, the Property Appraiser was responsible for properly assessing the value of Plaintiffs' parcels in accordance with Florida law, including applying any exemptions or discounts to which the properties are entitled.

12. The Tax Collector has the statutory duty to collect the taxes resulting from the assessments of the subject properties. The Tax Collector is joined as a nominal party defendant for the purpose of providing timely notice of this action and to provide this Court with jurisdiction over the Tax Collector to direct a refund of taxes paid upon granting of the relief requested herein.

13. The DOR is joined as a party defendant pursuant to Section 194.181 of the Florida Statutes.

14. The real property for which Plaintiffs are responsible for property taxes is subject to assessment by the Property Appraiser for ad valorem tax purposes. Section 192.001(12) of the Florida Statutes defines "real property" to mean "land, buildings, fixtures, and all other improvements to land."

15. These properties are entitled to the affordable housing property exemption under Section 196.1978, Florida Statutes, which states that affordable multifamily housing projects that meet the requirements of the statute "shall receive a 50 percent discount from the amount of ad valorem tax otherwise owed beginning with the January 1 assessment after the 15<sup>th</sup> completed year of the term of the recorded agreement on those portions of the affordable housing property

that provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in [Section] 420.0004.” In order to receive this exemption (or discount), the following requirements must also be met:

- (a) The affordable multifamily housing project must contain “more than 70 units.”
- (b) The affordable multifamily housing project must also “[b]e subject to an agreement with the Florida Housing Finance Corporation [FHFC] recorded in the official records of the county in which the property is located ....” Copies of the Extended Low-Income Housing Agreements between FHFC and Plaintiffs for both subject properties are attached hereto as Composite Exhibit “A” and incorporated by this reference.
- (c) The subject property “must submit an application to the county property appraiser by March 1.”

16. Plaintiffs met all the requirements outlined above, as identified in Section 196.1978, Florida Statutes, as of January 1, 2018, the date on which all valuations and exemptions are to be determined in Florida, and filed their exemption applications ahead of March 1, 2018, and are therefore entitled to the 50 percent discount under Section 196.1978, Florida Statutes.

17. The Property Appraiser failed to properly or lawfully consider Section 196.1978, Florida Statutes, in making his determination as to the application of this exemption (discount) to the subject properties.

18. As a result of the foregoing failure to apply the appropriate exemptions (discounts) to the subject properties, the ad valorem taxes resulting from the subject properties substantially exceed the taxes which would have been levied on the subject properties had they been properly identified as receiving the 50 percent discount.

19. Plaintiffs have paid the taxes due on the subject properties for 2018, less the 4% discount for early payment in November, but payment of these taxes is not an admission that the tax was due and does not prejudice the right to bring this action. Verification of payment of the

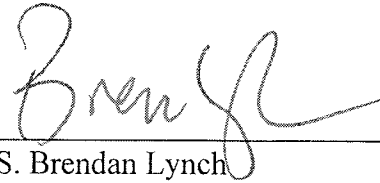
taxes to the Tax Collector on these parcels is attached hereto as Composite Exhibit "B" and incorporated herein by this reference.

20. This action has been timely filed, and all conditions precedent to the filing of this action have been satisfied.

WHEREFORE, the Plaintiffs, BERKSHIRE CLUB PARTNERS, LTD., LANDINGS ON MILLENIA BLVD. PARTNERS, LTD., and CED LANDINGS LESSOR, LLC, respectfully pray for the Court to render a judgment decreeing (a) that the applications for the 50 percent discount (exemption) under Section 196.1978, Florida Statutes, were inappropriately denied by the Property Appraiser; (b) that the Court establish and declare that the subject properties be granted the affordable housing exemptions for 2018 or, in the alternative, that the Court remand this determination to the Property Appraiser with instructions to comply with the provisions of the Florida Statutes and the Florida Constitution in determining the exempt status; (c) that the 2018 assessments and the resulting taxes be set aside to the extent the same exceeds the taxable values of the subject properties; and (d) that the judgment further decrees that Plaintiffs, BERKSHIRE CLUB PARTNERS, LTD., LANDINGS ON MILLENIA BLVD. PARTNERS, LTD., and CED LANDINGS LESSOR, LLC, are entitled to a refund of taxes paid to the extent that the amounts previously paid exceed the amount of taxes which would be owed on corrected assessments with the 50 percent discounts in place, and such tax refunds shall be promptly paid by the Tax Collector within thirty (30) days of entry of a Final Judgment by this Court, along with any statutory interest. Further, Plaintiffs, BERKSHIRE CLUB PARTNERS, LTD., LANDINGS ON MILLENIA BLVD. PARTNERS, LTD., and CED LANDINGS LESSOR, LLC, would request that it be granted such other and further relief as the Court may deem just and proper, as well as the costs of this action.

LOWNDES, DROSDICK, DOSTER, KANTOR &  
REED, P.A.

By: \_\_\_\_\_



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