

IN THE CIRCUIT COURT OF THE FOURTH
JUDICIAL CIRCUIT IN AND FOR DUVAL
COUNTY, FLORIDA

CASE NO. _____

KOHL'S DEPARTMENT STORES, INC.,

Plaintiff,

vs.

JERRY HOLLAND, as the Property Appraiser
of Duval County, Florida; JIM OVERTON, as
the Tax Collector of Duval County, Florida; and
LEON M. BIEGALSKI, as the Executive
Director of the Florida Department of Revenue,

Defendants.

COMPLAINT

COMES NOW the Plaintiff, KOHL'S DEPARTMENT STORES, INC., and sues the Defendants, JERRY HOLLAND, as the Property Appraiser of Duval County, Florida; JIM OVERTON, as the Tax Collector of Duval County, Florida; and LEON M. BIEGALSKI, as the Executive Director of the Florida Department of Revenue, and, as its cause of action, would state as follows:

1. The Plaintiff, KOHL'S DEPARTMENT STORES, INC. (hereinafter "Plaintiff"), owns real property located in Duval County, Florida, consisting of one commercial parcel used as a Kohl's Department Store, the valuation of which property for ad valorem tax purposes is the subject matter of this action.

2. The parcel is more fully described in the records of the Property Appraiser and Tax Collector under the following Parcel Identification Number ("the subject property"): 165264-0350.

3. The Defendant, JERRY HOLLAND, is the Property Appraiser of Duval County, Florida (hereinafter the "Property Appraiser"), and is sued herein in his official capacity, and not individually.

4. The Defendant, JIM OVERTON, is the Tax Collector of Duval County, Florida (hereinafter the "Tax Collector"), and is sued herein in his official capacity, and not individually.

5. 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.

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

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

8. Plaintiff is now, and was on January 1, 2018, responsible for the property taxes on the subject property located in Duval County, the legal description of which is contained in the Property Appraiser's records as listed in Paragraph 2 above.

9. The Duval County Value Adjustment Board issued its Final Decision on the subject property on January 10, 2019. This Final Decision was mailed on January 10, 2019.

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

11. This is an action by Plaintiff contesting the legality and validity of the 2018 ad valorem assessment (market value and assessed value) on the aforesaid tax parcel.

12. At all times material to this cause of action, the Property Appraiser was responsible for properly assessing the value of Plaintiff's parcel in accordance with Florida law.

13. The Tax Collector has the statutory duty to collect the taxes resulting from the assessment of the subject property. 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.

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

15. The real property for which Plaintiff is 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."

16. As of the filing of this action, the market value and assessed value assigned to the subject property for 2018 is \$8,424,007.

17. This assessment exceeds the just and fair market value of the subject property, is unlawful, invalid, and/or is not within the range of reasonable assessments because:

(a) Section 193.011 of the Florida Statutes was not properly or lawfully considered by the Property Appraiser;

(b) The Property Appraiser has unlawfully, systematically, and intentionally substituted his own assessment policy instead of following the mandates of Section 193.011 of the Florida Statutes and the Florida Constitution with regard to valuing real property for ad valorem tax purposes;

(c) The assessment is discriminatory in that the assessment is at a higher valuation than other taxable property of like class, nature, character, use, and condition located in Duval County, Florida;

(d) The assessment is arbitrarily based on valuation practices which are different from the valuation practices generally applied to comparable property within the same class and within Duval County, Florida;

(e) The assessment includes the value of certain intangible property, in violation of Article VII, Section 1(a) of the Florida Constitution; and/or

(f) The method of assessment used by the Property Appraiser was unrealistic, unjust, excessive, arbitrary, and is in violation of the general laws of the State of Florida cited above and Article I, Section 4 and Article VII of the Florida Constitution, and violates the valuation methods and practices set forth in the Uniform Standards of Professional Appraisal Practice (USPAP).

18. As a result of the foregoing over-valuation, the 2018 market value and assessed value greatly exceeds the just value of the subject property, and the ad valorem taxes resulting therefrom substantially exceed the taxes which would have been levied on the subject property had it been properly assessed.

19. Plaintiff has paid the taxes due on the subject property 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 this parcel is attached hereto as Exhibit "A" and incorporated herein by this reference.

20. Plaintiff has complied with all conditions precedent to the filing of this action.

WHEREFORE, Plaintiff, KOHL'S DEPARTMENT STORES, INC., respectfully prays for the Court to render a judgment decreeing (a) that the assessed value and market value of the subject property for 2018 exceeds just value and/or the subject property was unlawfully,

unequally, and/or invalidly over-assessed for 2018; (b) that the Court establish and declare the lawful amount of the 2018 assessed value and market value or, in the alternative, that the Court remand this assessment to the Property Appraiser with instructions to comply with the provisions of the Florida Statutes and the Florida Constitution; (c) that the 2018 assessment and the resulting taxes be set aside to the extent the same exceeds the just or fair market value of the subject property; and (d) that the judgment further decree that Plaintiff, KOHL'S DEPARTMENT STORES, INC., is entitled to a refund of taxes paid to the extent that the amount previously paid exceeds the amount of taxes which would be owed on a corrected assessment, and such tax refund 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, Plaintiff, KOHL'S DEPARTMENT STORES, INC., 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: 

S. Brendan Lynch
Florida Bar No. 0048124
215 North Eola Drive
Post Office Box 2809
Orlando, Florida 32802-2809
Phone: 407-418-6461
Fax: 407-843-4444
brendan.lynch@lowndes-law.com
litcontrol@lowndes-law.com
tracy.kennison@lowndes-law.com
Counsel for Plaintiff

0280039\182966\8638458v1