

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

1600 Collins Avenue, LLC,

CASE NO.

Plaintiff,

vs.

COMPLAINT

PEDRO J. GARCIA, as Property Appraiser
of Miami-Dade County, Florida; MARCUS
SAIZ DE LA MORA, as Tax Collector of
Miami-Dade County, Florida; and LEON
M. BIEGALSKI, as Executive Director of
the State of Florida Department of
Revenue,

Defendants.

Plaintiff, 1600 Collins Avenue, LLC (“Taxpayer”), sues Defendants, Pedro J. Garcia, as Property Appraiser of Miami-Dade County, Florida (“Property Appraiser”); Marcus Saiz de la Mora, as Tax Collector of Miami-Dade County, Florida (“Tax Collector”); and Leon M. Biegalski, as Executive Director of the State of Florida Department of Revenue (“Executive Director”), and alleges:

GENERAL ALLEGATIONS

1. This is an action for statutory relief. This Court has original and exclusive jurisdiction pursuant to *Florida Statutes §§ 194.036 and 194.171*. Venue is proper in Miami-Dade County as the subject tangible personal property and the Property Appraiser are both located in Miami-Dade County, Florida.

2. Taxpayer is a foreign limited liability company authorized to and conducting business in Miami-Dade County, Florida.

3. Property Appraiser lawfully holds the office of Property Appraiser of Miami-Dade County, Florida. He is charged with the responsibility of discharging the duties of said office.

4. Tax Collector is the duly appointed and acting Tax Collector for Miami-Dade County, Florida, and is obligated to discharge the duties of said office.

5. Department is named as a Defendant to this action as mandated by *Florida Statutes §194.181(5)*, because the subject tax assessments (as described below) are also being contested on the grounds that they are contrary to the laws and Constitution of the State of Florida.

6. During all relevant times, Taxpayer was the owner of the subject tangible personal property located at 1600 Collins Avenue, Miami Beach, Florida.

7. All conditions precedent to filing this action, including Taxpayer's compliance with *Florida Statutes §194.171(2)*, has occurred, been performed, waived or excused.

COUNT I – TAX YEAR 2015

8. Taxpayer realleges the allegations contained in paragraphs 1 through 7 above.

9. During 2015, Property Appraiser issued a tangible personal property tax assessment the "2015 TPP Assessment").

10. Taxpayer was responsible for, and paid in full, the 2015 TPP Assessment.

11. Property Appraiser unlawfully back assessed the property for 2015 under P/P Folio No. 40-347950 in the amount of \$52,814.83 (the "2015 TPP Back Assessment"). See Exhibit "A".

12. The 2015 TPP Back Assessment is unlawful, in violation of *Florida Administrative Code Rule 12D-8.006(1)* and *Florida Statutes § 193.092* since Property Appraiser has attempted to back assess the tangible personal property as a result of the Property Appraiser's error in judgment when it issued its 2015 TPP Assessment; the property did not escape taxation.

13. The 2015 TPP Back Assessment is unlawful. Taxpayer will be irreparably damaged if Defendants are permitted to keep payment of the 2015 TPP Back Assessment.

14. Property Appraiser has certified the 2015 TPP Back Assessment. In the event that the issuance of the 2015 TPP Back Assessment is not deemed unlawful, then it is in excess of the January 1, 2015 just value of the tangible personal property in violation of *Florida Statutes § 193.011* and Article VII, Section 4 of the Florida Constitution. Taxpayer will be irreparably damaged if Defendants are permitted to keep the collection of the entire 2015 TPP Back Assessment.

15. Property Appraiser has certified the 2015 TPP Assessment and 2015 TPP Back Assessment. Additionally, in the event that the issuance of the 2015 TPP Back Assessment is not deemed unlawful, then the totality of the 2015 TPP Assessment and 2015 TPP Back Assessment is in excess of the January 1, 2015 just value of Taxpayer's entire tangible personal property in violation of *Florida Statutes § 193.011* and Article VII, Section 4 of the Florida Constitution. Taxpayer will be irreparably damaged if Defendants are permitted to keep the collection of the entire 2015 TPP Assessment and 2015 Back Assessment.

16. Property Appraiser's failure to properly consider the factors set forth in the Florida Statutes and Article VII, Section 4 of the Florida Constitution renders the 2015 TPP Back Assessment in excess of the property's just value, inaccurate, illegal, arbitrary and violative of the established requirements of law in determining assessment of real property for *ad valorem* taxation purposes.

17. Property Appraiser's failure to properly consider the factors set forth in the Florida Statutes and Article VII, Section 4 of the Florida Constitution renders the totality of the 2015 TPP Assessment and 2015 TPP Back Assessment in excess of the property's just value,

inaccurate, illegal, arbitrary and violative of the established requirements of law in determining assessment of real property for *ad valorem* taxation purposes.

18. Property Appraiser's 2015 TPP Assessment and 2015 TPP Back Assessment were arbitrarily based on appraisal practices which are neither professionally accepted appraisal practices nor acceptable mass appraisal standards within Miami-Dade County.

19. Taxpayer has timely paid the 2015 TPP Back Assessment under protest as required under *Florida Statutes* § 194.173(3). See Exhibit "B".

WHEREFORE, Taxpayer demands entry of a Final Judgment against the Defendants as follows:

(i) Voiding the 2015 TPP Back Assessment and ordering a refund to the Taxpayer of the amount paid, plus prejudgment interest;

(ii) Establishing the just value of the tangible personal property and directing such refund to Taxpayer as may be necessary in connection therewith or directing the Property Appraiser to reassess the tangible personal property for the 2015 tax year in compliance with Florida law;

(iii) Recalculating the taxes that should have been paid based on an assessment equal to the tangible personal property's just value, and ordering a refund to the Taxpayer of the excess amounts paid, plus prejudgment interest;

(iv) Awarding costs in favor of Taxpayer pursuant to *Florida Statutes* § 194.192; and

(v) Granting such other and further relief as this Court deems just and proper.

COUNT II – TAX YEAR 2018

20. Taxpayer realleges the allegations contained in paragraphs 1 through 7 above.

21. Taxpayer is contesting the 2018 assessment of *ad valorem* taxes of its tangible personal property under Folio No. 40-318571 in the amount of \$134,533.44 (the "2018 TPP Assessment"). See Exhibit "C".

22. Property Appraiser has certified the 2018 TPP Assessment. The 2018 TPP Assessment is in excess of the just value of the tangible personal property, in violation of Florida Statutes, including §193.011, and in violation of Article VII, Section 4 of the Florida Constitution.

23. Property Appraiser's 2018 TPP Assessment was arbitrarily based on appraisal practices which are neither professionally accepted appraisal practices nor acceptable mass appraisal standards within Miami-Dade County.

24. Taxpayer has paid the taxes on the 2018 TPP Assessment as required under Fla. Stat. §194.171(3). See Exhibit "C".

25. Taxpayer will be irreparably damaged if Defendants are permitted to keep the collection of the full 2018 TPP Assessment.

26. Property Appraiser's failure to properly consider the factors set forth in *Florida Statutes §193.011* and all other Florida statutes related thereto renders the total tax assessment inaccurate, illegal, arbitrary and violative of established requirements of law in determining just valuation of real property for *ad valorem* taxation purposes.

WHEREFORE, Taxpayer demands judgment against the Defendants as follows:

(i) Establishing the just value of the tangible personal property and directing such adjustments between the parties as may be necessary in connection therewith or directing the Property Appraiser to reassess the tangible personal property for the 2018 tax year in compliance with Florida law, and the Florida Constitution;

(ii) Recalculating the taxes that should have been paid based on a proper assessment of the tangible personal property and ordering a refund to the Taxpayer of the excess amounts paid, plus prejudgment interest;

(iii) Awarding costs in favor of Taxpayer pursuant to Fla. Stat. §194.192; and

(iv) Granting such other and further relief as this Court deems just and proper.

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