

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT IN AND
FOR SEMINOLE COUNTY, FLORIDA

CASE NO. _____

FGHP FUNDING WEST, LP,

Plaintiff,

vs.

DAVID JOHNSON, as the Property Appraiser
for Seminole County, Florida; JOEL M.
GREENBERG, as the Tax Collector for
Seminole County, Florida; and JIM ZINGALE,
as the Executive Director of the Florida
Department of Revenue,

Defendants.

COMPLAINT

COMES NOW Plaintiff, FGHP FUNDING WEST LP, and sues the Defendants, DAVID JOHNSON, as the Property Appraiser of Seminole County, Florida; JOEL M. GREENBERG, as the Tax Collector of Seminole County, Florida; and JIM ZINGALE, as the Executive Director of the Florida Department of Revenue, and, as its cause of action, would state as follows:

1. The Plaintiff, FGHP FUNDING WEST LP (hereinafter "Plaintiff"), owns real property located in Seminole County, Florida, consisting of one commercial parcel known as Casselberry Collection Shopping Center, 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"): 08-21-30-527-0000-0030.

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

4. The Defendant, JOEL M. GREENBERG, is the Tax Collector of Seminole County, Florida (hereinafter the "Tax Collector"), and is sued herein in his official capacity, and not individually.

5. The Defendant, JIM ZINGALE, 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 Seminole 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 Seminole County, the legal description of which is contained in the Property Appraiser's records as listed in Paragraph 2 above.

9. The Seminole County Value Adjustment Board mailed its Final Decision on the subject property on March 15, 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 herein.

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 assigned to the subject property for 2018 is \$9,369,567. The assessed value assigned to the subject property for 2018 is also \$9,369,567.

17. This assessment exceeds the just and fair market values 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 Seminole 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 Seminole County;
- (e) The assessments include 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 exceed 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, FGHP FUNDING WEST LP, respectfully prays for the Court to render a judgment decreeing (a) that the assessed value and market value of the subject property for 2018 exceed 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, FGHP FUNDING WEST LP, 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. Further, Plaintiff, FGHP FUNDING WEST LP, 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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