

IN THE CIRCUIT COURT IN AND
FOR THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY,
FLORIDA

MICHAEL RABINOVITCH, and
ELENA RABINOVITCH

CASE NO:

15-10833

Plaintiffs

CIVIL DIVISION

v.

JUDGE:

MARTY KIAR, as Property Appraiser
For Broward County; TOM KENNEDY,
as Director of Records, Taxes and Treasury
Division for Broward County; LEON M.
BIEGALSKI, as Executive Director of the
Florida Department of Revenue

Defendants.

COMPLAINT

COMES NOW, Plaintiffs, MICHAEL RABINOVITCH, and ELENA RABINOVITCH (collectively, "RABINOVITCH"), and sues Defendants, MARTY KIAR, as Property Appraiser for Broward County, Florida ("KIAR"), TOM KENNEDY, as Director of Records, Taxes and Treasury Division for Broward County, Florida ("Kennedy"), and, LEON M. BIEGALSKI, as Executive Director of The Florida Department of Revenue ("Biegalski"), and alleges as follows:

1. This is an action to contest ad valorem tax assessments for the tax year 2018.
2. This action is brought pursuant to Florida Statute §194.036.
3. This Court has jurisdiction of this matter pursuant to Florida Statute §194.171(1).
4. Plaintiff, RABINOVITCH, is sui juris in all respects.

5. Defendant KIAR, is the County Property Appraiser for Broward County, Florida. KIAR is sued herein in his official capacity and is a necessary party to this action pursuant to Florida Statute §194.181(2).

6. Defendant, KENNEDY, is the County Tax Collector for Broward County, Florida. KENNEDY is sued herein in his official capacity and is a necessary party to this action pursuant to §194.181(3).

7. Defendant, BIEGALSKI, is the Executive Director of The Florida Department of Revenue. BIEGALSKI is sued herein in his official capacity and is a necessary party to this action pursuant to Florida Statute §194.181(5).

8. At the time of the 2018 ad valorem tax assessments, Plaintiff was the owner of that certain real property located in Broward County, Florida, identified as Parcel ID No. 504018030660 and commonly known as **405 SABAL WAY, WESTON, FL 33326** (the "Subject Property").

9. Defendant, KIAR, assessed the Subject Property for ad valorem purposes at \$622,790.00 for the tax year 2018.

10. The tax on the Subject Property was paid in full pursuant to Florida Statute §194.171(3) and (4); a copy of the property tax records from the Tax Collector's office evidencing such payment is attached hereto and made a part hereof as Exhibit 1.

11. Plaintiff has performed all conditions precedent, which are required to be performed by Plaintiff in establishing its right to bring this action. Specifically, this action has been filed within the time period prescribed by Florida Statute §194.171(2).

12. Defendant, KIAR' assessment of the Subject Property disregards the statutory criteria of §193.011, Florida Statutes, which, in part, provides that in arriving at "just valuation", the Property Appraiser is required by Section 4, Art. VII, of the Florida Constitution, to take into consideration:

- i. The present value of the Subject Property as of January 1, 2018 for the 2018 tax year;
- ii. The highest and best use to which the Subject Property could be expected to be put in the immediate future and the present use of the Subject Property as of January 1, 2018 for the 2018 tax year;
- iii. The location of the Subject Property;
- iv. The quantity and size of the Subject Property;
- v. The cost of the Subject Property and the present replacement value of any improvements thereon as of January 1, 2018 for the 2018 tax year;
- vi. The condition of the Subject Property, including its physical condition, as of January 1, 2018 for the 2018 tax year;
- vii. The income from the Subject Property as of January 1, 2018 for the 2018 tax year; and
- viii. The net proceeds of the sale of the Subject Property, as received by the seller, after deduction of all reasonable fees and costs of the sale under the conditions present as of January 1, 2018 for the 2018 tax year.

13. In violation of the law, Defendant KIAR failed to properly consider the factors enumerated in §193.011, Florida Statutes in determining the 2018 ad-valorem tax assessment on the Subject Property.

14. Defendant, KIAR, in violation of the law, failed to consider the size of the subject property and failed to properly determine the present cash value of the property in determining the 2018 ad valorem tax assessment on the Subject Property.

15. Defendant, KIAR, in violation of the law, assessed the Subject Property's land based on future speculative value rather than actual use as of the assessment date in violation of Florida Statutes and case law, particularly Muckenfuss v. Miller, 421 So2d.170 at 173-174 (5th Cir. 1982).

16. Defendant, KIAR, has arbitrarily and discriminatorily, and not through inadvertence or error, assessed the Subject Property at higher values relatively and comparatively to all or substantially all other property within the same class and within Broward County.

17. Defendant, KIAR, has arbitrarily and discriminatorily utilized appraisal practices which differ from the usual, customary and general appraisal practices applied to comparable property within the same class in the same County.

18. Based in part on the above, Defendant, KIAR' assessment is not entitled to any presumption of correctness pursuant to Section 194.301, Florida Statutes.

WHEREFORE, Plaintiff, RABINOVITCH, requests that this Court grant the following relief:

(a) That this Court take jurisdiction over this cause;

(b) That this Court enter an Order setting aside the 2018 assessment on the Subject Property;

(c) That this Court establish the proper assessments of the Subject Property for 2018 in accordance with the Constitution of the State of Florida and Florida Statute §193.011;

(d) That this Court enter an Order directing the appropriate Defendant to cancel the original tax bills and issue a new tax bills for 2018 in the proper assessed amounts;

(e) That this Court assess costs against the Defendants pursuant to Florida Statute §194.192; and

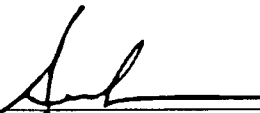
(f) That this Court award such other and further relief as may be just and proper.

Dated this 18th day of May, 2019.

Respectfully Submitted By,

Attorney for Plaintiff

BY:



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