

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

CIVIL DIVISION

CASE NO. 2019-014250-CA-01

FLEETWOOD APARTMENTS, LLC  
and FLEETWOOD VILLAS I, LLC and  
FLEETWOOD VILLAS II, LLC and  
PLAZA PRINCESSA, LLC

Plaintiffs,

PEDRO J. GARCIA, as Miami-Dade  
Property Appraiser,  
MARCUS SAIZ DE LA MORA, as  
Miami-Dade Tax Collector,  
JAMES ZINGALE, as Executive Director  
of the Florida Department of Revenue, and  
LUIS ORLANDO ARRONDO as Trustee

Defendants,

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**COMPLAINT**

Plaintiffs, Fleetwood Apartments, LLC, Fleetwood Villas I LLC,  
Fleetwood Villas II, LLC and Plaza Princessa, LLC sue Defendants Pedro J.  
Garcia, as Miami-Dade County Property Appraiser, Marcus Saiz de la Mora,  
as Miami-Dade County Tax Collector, James Zingale as Executive Director of  
the Florida Department of Revenue and Luis Orlando Arrondo as Trustee and  
allege:

## SUMMARY

The Plaintiffs are the beneficiaries under four different Florida Land Trusts and seek a declaration that a change in Trustee for the four Trusts did not cause a change in ownership for the four properties owned by the Trusts so that the Trusts, and hence the beneficiary Plaintiffs, do not lose the benefits of the constitutional cap on assessments for the four properties. Alternatively, the Plaintiffs seek to have this Court reform or rescind the quit claim deeds used to change the Trustee and instead record a declaration of change of Trustee as set forth in Section 689.071 Fla. Stat. thereby, eliminating any change in ownership of the four properties and reinstating the constitutional cap on assessments.

## PARTIES, JURISDICTION, AND VENUE

1. This is an action for a declaratory judgment regarding the Property Appraiser's determination that there has been a change in ownership of the four properties thereby eliminating the constitutional cap assessments of the properties. Alternatively, this is an action to reform or rescind the quit claim deeds recorded to change the Trustee of the four trusts. This Court has jurisdiction pursuant sections 68.01, 86.011, 192.0105, and 194.171, Florida Statutes.

2. Section 86.011 vests this court with jurisdiction "to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed...." The court may render declaratory judgments on the existence or nonexistence of (1) any immunity, power, privilege, or right, or (2) any fact upon which the existence or nonexistence of such immunity, power, privilege, or right does or may depend, whether such immunity, power, privilege, or right now exists or will arise in the future. Moreover, any person seeking a declaratory judgment may also demand additional, alternative, coercive, subsequent, or supplemental relief in the same action.

3. Section 194.171(1) vests this Court with jurisdiction over all matters relating to property taxation.

4. This action is timely as it was filed within the limits of section 194.171(2), Florida statutes, and any other applicable statute of limitation.<sup>1</sup>

5. In compliance with Section 194.171(3), the Plaintiffs have paid the taxes for the tax year 2018. Receipts reflecting this payment are attached hereto as **Exhibit A**.

6. Plaintiff Fleetwood Apartments, LLC is the beneficiary of that certain trust instrument dated August 1, 2006 attached hereto as **Exhibit B**. Defendant Luis Orlando Arrondo is the current trustee of that trust. This trust is the owner of that certain real property located at 1874 SW 3 Avenue in Miami-Dade County and identified by folio number 01-4138-001-1769 by the

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<sup>1</sup> With respect to Count I, this action is not timely with respect to Plaintiff Plaza Princessa, LLC as no appeal of the Property Appraisers determination was filed.

Property Appraiser. This property is entitled to the constitutional cap on assessment found in Section 193.1555 Fla. Stat.

7. Plaintiff Fleetwood Villas I, LLC is the beneficiary of that certain trust instrument dated August 1, 2006 attached hereto as **Exhibit C**. Defendant Luis Orlando Arrondo is the current trustee of that trust. This trust is the owner of that certain real property located at 301 SW 19 Road in Miami-Dade County and identified by folio number 01-4138-001-1770 by the Property Appraiser. This property is entitled to the constitutional cap on assessment found in Section 193.1554 Fla. Stat.

8. Plaintiff Fleetwood Villas II, LLC is the beneficiary of that certain trust instrument dated August 1, 2006 attached hereto as **Exhibit D**. Defendant Luis Orlando Arrondo is the current trustee of that trust. This trust is the owner of that certain real property located at 1870 SW 3 Avenue in Miami-Dade County and identified by folio number 01-4138-001-1750 by the Property Appraiser. This property is entitled to the constitutional cap on assessment found in Section 193.1554 Fla. Stat.

9. Plaintiff Plaza Princessa LLC is the beneficiary of that certain trust instrument dated attached hereto as **Exhibit E**. Defendant Luis Orlando Arrondo is the current trustee of that trust. This trust is the owner of that certain real property located at 3901 E 4 Avenue in Miami-Dade County and

identified by folio number 04-3105-005-2190 by the Property Appraiser. (The four properties will be referred to as the Trust Properties) This property is entitled to the constitutional cap on assessment found in Section 193.1555 Fla. Stat.

10. Each of the Trust Properties is held by a Florida Land Trust established in accordance with Section 689.071 Fla. Stat.

11. Defendant Pedro J. Garcia, as the Property Appraiser for Miami-Dade County, is responsible for determining whether property in Miami-Dade County is subject to or exempt from ad valorem taxation, and is a necessary party to this action under section 194.181(2), Florida Statutes.

12. Defendant Marcus Saiz de la Mora, as the Tax Collector for Miami-Dade County, is a necessary party under section 194.181(3), Florida Statutes.

13. Defendant James Zingale, as the Executive Director of the Florida Department of Revenue, is a necessary party under section 194.181(5), Florida Statutes.

14. Defendant Luis Orlando Arrondo is the current trustee of all four trusts.

15. Venue is proper in Miami-Dade County because the Trust Properties are located here.

16. All jurisdictional prerequisites to this action have been satisfied.

17. Unless entitled to an exemption, all real property in Florida is subject to ad valorem taxation.

18. The trustee of the Trust Properties was changed in 2017. This change of Trustee was occasioned by the resignation of the former Trustee. See **Exhibit F**. In each instance, the change of trustee was erroneously accomplished by the execution and recording of a quit claim deed for each of the Trust Properties. See **Exhibit G**.

#### The Property Appraiser's Erroneous Position

19. The Property Appraiser asserts that because the change in Trustee was, in each case, done through a quit claim deed, there was a new owner of each of the Trust Properties and therefor the caps on assessment found in Sections 193.1555 and 193.1554 Fla. Stat. are no longer available to the Trust Properties for the historical period prior to the new trustee. In each instance, significant increases in the assessed value of the Trust Properties occurred thereby causing significant increases in the ad valorem tax for each Trust Property.

20. The Property Appraiser asserts that because Section 689.071 Fla. Stat. merges the legal and equitable interest in the Trustee, there is not sufficient interest in the beneficiaries to be entitled to the constitutional cap on assessment.

21. In light of the provisions of Section 689.071 Fla. Stat. which call for the recording of a declaration as the means by which a trustee is changed, the quit claim deeds filed with respect to the Trust Properties were clearly erroneous and should not have been recorded. In light of the provisions, the quit claim deeds do not change the ownership of the Trust Properties.

**COUNT I**  
**REQUEST FOR DECLARATORY RELIEF REGARDING THE**  
**OWNERSHIP OF THE TRUST PROPERTIES**

22. Plaintiff repeats and re-alleges paragraphs 1 through 21 as if fully set forth herein.

23. The act by the trustee of recording the quit claim deeds that were clearly erroneous did not cause a change of ownership and were in fact void, or at least voidable.

24. The Property Appraiser should have recognized the error of the form of using a quit claim deed and should have ignored the error and instead looked at the substance of the matter and retained the cap on assessment. In this matter, the Property Appraiser is placing form above substance to reap a significant increase in taxes.

25. The Property Appraiser knew or should have known that the quit claim deeds were a mistake and were not intended to effect a change in ownership of the Trust Properties but were only to change the trustee for the Trusts. The action of the Property Appraiser in removing the cap caused significant financial impact to the Plaintiffs.

Wherefore Plaintiffs seek a declaration from this Court that the quit claim deeds recorded in this matter did not change the ownership of the Trust Properties and order the Property Appraiser to reinstate the cap on assessments in each instance and for such other relief as this Court deems proper.

**COUNT II**  
**REFORMATION**

26. Plaintiffs adopt and re-allege paragraphs 1-20 as if fully set forth here.

27. The recording of the quit claim deeds in this matter was done by mistake. It was the intent of the parties to said deeds to merely change the trustee of each trust and not to effect a change in ownership to the Trust Properties. The intent of the parties would have been effected had the declaration provided for in Section 689.071 Fla. Stat. been recorded instead of the quit claim deeds.



28. The quit claim deeds should be reformed to reflect a Section 689.071 Fla. Stat. declaration.

Wherefore the Plaintiffs seek a declaratory judgment from this Court reforming the quit claim deeds to the Trust Properties to be declarations as set forth in Section 689.071 Fla. Stat. Upon reformation of the quit claim deeds, the Property Appraiser should be required to reinstate the cap on assessments. Plaintiffs also seek such other relief as this Court deems proper.

**COUNT III**  
**RESCISSION**

29. Plaintiffs adopt and re-allege paragraphs 1-20 as if fully set forth here.

30. The quit claim deeds as recorded are mistaken and do not reflect the intent of the parties and impact the Plaintiffs in a substantial way. The quit claim deeds should not have been executed or recorded.

31. The quit claim deeds are a nullity and are void as not being the intent of the parties.

Wherefore the Plaintiffs seek a declaratory judgment from this Court rescinding the quit claim deeds and returning the public records to the status as they existed prior to the recording of the quit claim deeds, requiring the

Property Appraiser to reinstate the assessment cap and for such other relief as this Court deems proper.

Signed on this 10<sup>th</sup> day of May, 2019

Respectfully submitted,  
/S/ Thomas H. Robertson  
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**DESIGNATION OF E-MAIL ADDRESSES**

Below signed counsel, in conformance with Rule 2.516(b)(A) hereby designates the e-mail addresses presented below as the primary and secondary e-mail addresses for this matter.

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Signed on this 10<sup>th</sup> day of May, 2019

Respectfully submitted,  
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