

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
CIVIL DIVISION

LE CABANON SEASIDE, LLC,
Plaintiff,

Case No: **CACE-009703**

-vs-

Div: **04**

MARTIN KIAR, as Property Appraiser,
BROWARD COUNTY, as Tax Collector, and
LEON M. BIEGALSKI, as Executive Director
of the Florida Department of Revenue,
Defendants

COMPLAINT

Plaintiff, LE CABANON SEASIDE, LLC, a Florida Limited Liability Company, sues Defendants, MARTIN KIAR, as Property Appraiser of Broward County, Florida ("Appraiser"), BROWARD COUNTY, as Tax Collector of Broward County, Florida ("Collector"), and LEON M. BIEGALSKI, as the Executive Director of the Florida Department of Revenue ("Dept of Revenue") and alleges:

1. This is an action to contest an ad valorem tax assessment for the tax year 2018, and this Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and Article V, Sections 5 and 20 of the Constitution of the State of Florida. Venue is proper in Broward County as the subject property, as described below, and the Property Appraiser, is located in Broward County, Florida.

2. Plaintiff is the owner of certain real property located in Broward County, Florida, since May, 2012, identified as Parcel Folio No. 484331-08-0030, hereinafter referred to as the "Subject Property." Plaintiff is legally responsible for the payment of ad valorem tax which is levied against the subject property. Plaintiff is a Florida Limited Liability company registered and authorized to conduct business in Broward County, Florida.

3. Property Appraiser, MARTIN KIAR, is the duly elected Property Appraiser of Broward County, Florida and is sued herein in his official capacity and is a necessary party to the action pursuant to Section 194.181(2), Florida Statutes.

4. BROWARD COUNTY, as Tax Collector, is a political subdivision of the State of Florida, and is named as a necessary party to this action pursuant to Section 194.181(3), Florida Statutes, as it is responsible for the overall supervision of the collection of taxes for Broward County, Florida through its Records, Taxes and Treasury Division.

5. Defendant, LEON M. BIEGALSKI, is sued in his official capacity as Executive Director of the Florida Department of Revenue and is a necessary party to this action pursuant to section 194.181(5), Florida Statutes.

6. The Property Appraiser assessed the Market Valuation for the subject property for ad valorem purposes for the tax year 2018 at \$2,198,210.00. The Property Appraiser assessed the Assessed Valuation for the Subject Property for the tax year 2018 at \$2,198,210.00. The Plaintiff instituted a timely Value Adjustment Board appeal. Upon information and belief a final decision of the Value Adjustment Board has not, to date, been issued on whether to approve and adopt the decision of the special magistrate's written recommendation on March 15, 2019. The Special Magistrate's written recommendation denied the relief requested by the Plaintiff in said appeal, to-wit: a reduction of the market valuation and a reduction of the assessed valuation.

7. Each assessment (Market Valuation and Assessed Valuation) exceeds the subject property's just value, and is in excess of the just value of the subject property, in violation of Florida Statutes, including but not limited to Florida Statute Section 193.011, and in violation of Article VII, Section 4 of the Florida Constitution.

8. The 2018 Assessed Valuation of \$2,198,210.00 increased the prior year's assessment by more than 10 percent of the assessed valuation of the prior year in violation of Florida statute Section 193.1555(3).

9. The assessments are unlawful and invalid because the criteria in Section 193.011, Florida Statutes, were not considered properly. The criteria in Section 193.011 which were not considered properly includes but are not necessarily limited to the using the actual age

and condition of the subject property, comparable property sales, less costs, and appropriate adjustments and deductions, income of the subject property in 2017, and occupancy rates. The Property Appraiser's assessments of the Subject Property are arbitrarily based on appraisal practices which are not professionally accepted appraisal practices nor acceptable mass appraisal standards within Broward County, Florida.

10. The 2018 Assessed Valuation of \$2,198,210.00 is unlawful and invalid because the prohibition in Section 193.1555(3) of the Florida Statutes, was not considered properly and was not applied.

11. The 2018 Assessed Valuation is also unlawful and invalid because the Appraiser wrongfully and erroneously found and determined that a qualifying improvement defined in Section 193.1555(5) of Florida Statutes, existed, and was completed in 2017, and was applicable for the 2018 assessed valuation of the property. The repairs and replacements to the property, necessitated to satisfy code violations and/or code enforcements, were not improvements nor did they constitute a qualifying improvement, as defined and described in Section 193.1555(5). In the alternative, if the repairs relied upon by the Appraiser, were improvements, which is denied, said improvements did not increase the just valuation of the property by 25 percent.

12. The 2018 Assessed Valuation of \$2,198,210.00 also exceeds just value and therefore violates both Florida Statute Sections 193.1555(5), 193.011, and Article VII, Section 4 of the Florida Constitution.

13. Plaintiff has paid the taxes in full, pursuant to Section 194.171(3)(4), Florida Statutes. A copy of the receipt is attached hereto as Plaintiff's Exhibit "A."

14. Plaintiff has performed all conditions precedent which are required to be performed by Plaintiff in establishing it's right to bring this action. Specifically, this action has been filed within the time period prescribed by Section 194.171(2) Florida Statutes.

15. Plaintiff, as the Taxpayer, will be irreparable damaged if Defendants are

permitted to keep the collection of the full tax based on the assessments described in paragraph 6 above and as shown on Exhibit A.

16. Defendants are liable for payment of all taxable costs pursuant to Florida Statutes Section 194.192(1).

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the assessments on the subject property, establish the proper assessment of the subject property in accordance with the Constitution of the State of Florida and Sections 193.011, 193.1555(3), and 193.1555(5), Florida Statutes; and further, that this Court enter an order directing Collector to cancel the original bill and issue a new tax bill in said assessed amounts; and finally, to award Plaintiff it's costs incurred in bringing this action pursuant to section 194.192, Florida Statutes, and award such other general relief as may be just and equitable.

DATED this 3rd day of May, 2019.

/s/
STEVEN DOBROFSKY, ESQ.
Attorney for Plaintiff
Florida Bar Number 247456
3208 N.E. 10th Street,
Pompano Beach, FL 33062
Tel: 954-822-8779
Fax: 312-568-4602
Email: boats@turncenter.com