

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

COLUMBIA MIRADOR LLC, a foreign limited
liability corporation,

Plaintiff,

Case No: 2019-CA-035920

v.

Division:

PEDRO J. GARCIA, as Property Appraiser;
MARCUS SAIZ de la MORA as Tax Collector
and JIM ZINGALE as the Executive Director
of the Florida Department of Revenue;

Defendants.

COMPLAINT

Plaintiff, COLUMBIA MIRADOR LLC., a foreign limited liability corporation, sues Defendants, PEDRO J. GARCIA as Property Appraiser ("Appraiser"), MARCUS SAIZ de la MORA as Tax Collector ("Collector"), and JIM ZINGALE ("Zingale") as the Executive Director of the Florida Department of Revenue, and alleges:

Allegations Common to All Counts

1. This is an action to contest an ad valorem tax assessment against certain tangible personal property for the tax year **2019** and this Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and article V, section 5 and 20 of the Florida Constitution.
2. Plaintiff is a Delaware limited liability corporation.

3. Appraiser is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(2), Florida Statutes.

4. Collector is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(3), Florida Statutes.

5. Defendant Zingale 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. Plaintiff is the owner of certain tangible personal property located in Miami-Dade County, Florida, identified by Appraiser using Folio No. **40-344184**, which property is used in conjunction with its apartment rental business, hereinafter referred to as the "Subject Property."

7. Plaintiff has paid the taxes which have been assessed in full, pursuant to section 194.171(3)(4), Florida Statutes. A copy of the receipt is attached hereto as Plaintiff's Exhibit "A."

8. 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 section 194.171(2), Florida Statutes.

Count I

9. The allegations contained in Paragraphs 1 - 8 are hereby incorporated as if specifically set forth in full and re-alleged herein.

10. Appraiser estimated the Subject Property's just / assessed value for ad valorem purposes in the amount of **\$1,500,000** (hereinafter, the "assessment").

11. Appraiser failed to comply with section 193.011, Florida Statutes and professionally accepted appraisal practices in assessing the Subject Property.

12. The assessment does not represent the just value of the Subject Property as of the lien date because it exceeds the market value and therefore violates article VII, section 4 of the Florida Constitution.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the assessment on the Subject Property as excessive; establish the proper assessment of the Subject Property in accordance with the Constitution of the State of Florida and section 193.011, Florida Statutes; direct the Collector to cancel the original bill and issue a new tax bill in said reassessed amount; and finally, to award Plaintiff its 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.

Count II

13. This is an action for declaratory and ancillary relief concerning the imposition of a penalty by Appraiser pursuant to section 193.072(1)(a), Florida Statutes, for failing to file a tax return as required by law for the tax year **2019**. Jurisdiction is predicated upon Chapter 86, Florida Statutes and section 194.171, Florida Statutes.

14. The allegations contained in Paragraphs 2 - 8 are hereby incorporated as if specifically set forth in full and re-alleged herein.

15. Plaintiff undertook a comprehensive review of its assets for tax year 2019, engaging the services of a third party vendor for that purpose, to ensure that it was accurately rendering only its taxable tangible personal property.

16. Plaintiff requested an extension to file its tangible personal property tax return (DR-405) (the "Return") for 2019, as permitted by section 193.063, Florida Statutes. Appraiser granted the extension to May 1, 2019.

17. Plaintiff timely filed its Return, providing all of the information required by section 195.027(4), Florida Statutes. In doing so, Plaintiff reported the cumulative total cost for all assets acquired, replaced, and or disposed of during the prior year.

18. Upon receipt of Plaintiff's Return, Appraiser requested Plaintiff provide supplemental information regarding replacement assets acquired and those disposed during 2018. Plaintiff provided the requested information to Appraiser.

19. Notwithstanding the fact that Plaintiff filed its Return timely and cooperated by providing the supplemental information Appraiser requested where appropriate, Appraiser imposed a penalty of 25% of the tax assessed, pursuant to section 193.072(1)(a), Florida Statutes, for the failure to file a tax return. The amount of the penalty is **\$6,587.48**.

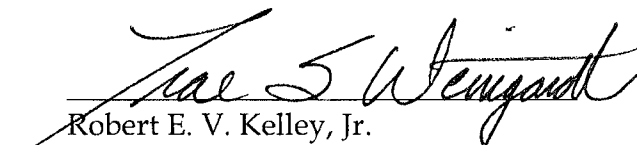
20. Plaintiff's actions in reporting the cumulative original total cost of property acquired, replaced, and or disposed of on its Return were not done with the intent to evade or illegally avoid the payment of lawful taxes, but rather to accurately report its taxable property for taxation.

21. Because Plaintiff actually filed the Return timely, the penalty was unlawfully imposed and should be removed pursuant to section 193.072(4), Florida Statutes, but Appraiser refuses to do so.

22. Plaintiff is in doubt concerning the validity of Appraiser's penalty for tax year 2019 and is entitled to have that doubt removed by the Court.

23. There exists a present, real and bona fide controversy between Plaintiff and Appraiser over the imposition of a penalty for failing to file a tax return for ad valorem tax purposes in 2019.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the penalty imposed in connection with the assessment of the Subject Property; direct the Collector to cancel the original bill and issue a new tax bill with the penalty amounts removed; and finally, to award Plaintiff its 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.



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