

IN THE CIRCUIT COURT OF THE SIXTH
JUDICIAL CIRCUIT IN AND FOR PINELLAS
COUNTY, FLORIDA

CASE NO. _____

PRESBYTERIAN RETIREMENT
COMMUNITIES, INC.,

Plaintiff,

vs.

MIKE TWITTY, as the Property Appraiser for
Pinellas County, Florida; CHARLES W.
THOMAS, as the Tax Collector for Pinellas
County, Florida; and JIM ZINGALE, as the
Executive Director of the Florida Department of
Revenue,

Defendants.

COMPLAINT

COMES NOW the Plaintiff, PRESBYTERIAN RETIREMENT COMMUNITIES, INC., by and through its undersigned attorneys, and sues the Defendants, MIKE TWITTY, as the Property Appraiser for Pinellas County, Florida; CHARLES W. THOMAS, as the Tax Collector for Pinellas County, Florida; and JIM ZINGALE, as the Executive Director of the Florida Department of Revenue; and, as its causes of action, the Plaintiff would state as follows:

1. Plaintiff, PRESBYTERIAN RETIREMENT COMMUNITIES, INC., (hereinafter "Plaintiff") owns real property located in Pinellas County, Florida, the valuation of which property for ad valorem tax purposes is the subject matter of this action. This property consists of a senior living facility commonly known as Westminster Palms.

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"): 17-31-17-03435-011-0020.

13. The Tax Collector has the statutory duty to collect the taxes resulting from the assessment of Plaintiff's 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 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 owned by Plaintiff 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 and assessed value assigned to the subject property for 2019 is \$8,640,000. An exemption in the amount of \$1,972,760 has also been applied to the subject property for 2019.

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 Pinellas 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 Pinellas County;
- (e) 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); and/or
- (f) The assessment includes the value of certain intangible property, in further violation of Article VII, Section 1(a) of the Florida Constitution.

18. As a result of the foregoing over-valuation, the 2019 market value and assessed value greatly exceeds 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 2019, 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 these 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, the Plaintiff, PRESBYTERIAN RETIREMENT COMMUNITIES, INC., prays for the Court to render a judgment decreeing (a) that the assessed value and market value of the subject property for 2019 exceeds just value and/or the subject property was unlawfully, unequally, and/or invalidly over-assessed for 2019; (b) that the Court establish and declare the lawful amount of the 2019 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 2019 assessment and the resulting taxes be set aside to the extent the same exceeds the just or fair market value of the property; and (d) that the Plaintiff, PRESBYTERIAN RETIREMENT COMMUNITIES, INC., 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, PRESBYTERIAN RETIREMENT COMMUNITIES, INC., 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: /s/ S. Brendan Lynch

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