

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

CYPRESS HARBOUR CONDOMINIUM
ASSOCIATION, INC., a Florida nonprofit
Corporation,

Plaintiff,

vs.

Case No. 2022-CA-10744-O

AMY MERCADO, as Orange County Property Appraiser;
SCOTT RANDOLPH, as Orange County Tax Collector;
and JIM ZINGALE as Executive Director of the
Florida Department of Revenue,

Defendants.

PLAINTIFF'S COMPLAINT

Plaintiff, CYPRESS HARBOUR CONDOMINIUM ASSOCIATION, INC., a Florida nonprofit Corporation (“**Plaintiff**”), by and through undersigned counsel, hereby sues Defendants, AMY MERCADO as Orange County Property Appraiser (“**Appraiser**”), SCOTT RANDOLPH as Orange County Tax Collector (“**Collector**”) and JIM ZINGALE as Executive Director of the Florida Department of Revenue (“**Zingale**”), and in support states:

1. This is an action to contest ad valorem tax assessments against certain real property for the tax year 2022.
2. Plaintiff is a Florida nonprofit Corporation authorized to transact business in Florida, and is the proper plaintiff under section 194.181(1)(a), Florida Statutes.
3. Appraiser is sued herein in her official capacity and is a necessary party to the action pursuant to section 194.181(2)(a), Florida Statutes.

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

5. 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 real property located in Orange County, Florida, identified as Parcel Number 13-24-28-1877-99999, and as Cypress Harbour Condo Timeshare Phases 1 – 25, which is referred to herein as the “**Subject Property**”.

7. This Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and article V, sections 5 and 20, of the Florida Constitution.

8. Venue is proper in Orange County as the Subject Property is located in Orange County. *See* section 194.171, Florida Statutes

9. For 2022, Appraiser concluded that the Subject Property, under Account No. 0548012-4, had an Assessed Value and Taxable Value of \$255,000,000.00 for State and Local Schools as taxing authorities, and of \$238,425,000.00 for all other taxing authorities, which is referred to herein as the “**Assessment**”. *See Exhibit A.*

10. On November 15, 2022, pursuant to section 194.171(3) and (4), Florida Statutes, Plaintiff paid in full taxes due for the Subject Property based on the Assessment. *See Exhibit A, and Exhibit B.*

11. Plaintiff has performed all conditions precedent that are required to be performed in establishing its right to bring this action, including but not limited to filing this action within the time period prescribed in section 194.171(2), Florida Statutes.

12. Appraiser failed to properly apply applicable statutory requirements because in reaching the Assessment she failed to first look to the resale market for the Subject Property as must be done under section 192.037(10), Florida Statutes, which applies to the assessment given that the Appraiser is assessing and taxing the Subject Property as fee timeshare real property.

13. For that failing and others, Appraiser is not entitled to any presumption of correctness under section 194.301, Florida Statutes.

14. Appraiser failed to properly consider the usual and reasonable fees and costs of the sale for the Subject Property as specified under section 192.037(11), Florida Statutes, and also required under section 193.011, Florida Statutes.

15. Appraiser failed to properly estimate the present cash value of the Subject Property through the sales comparison approach because she both failed to make adjustments that are required to the sale properties she relied on in order to compare them to the Subject Property, and failed to recognize and properly consider the rights associated with the Subject Property.

16. Appraiser failed to comply with sections 193.011 and 192.037, Florida Statutes, and professionally accepted appraisal practices in reaching the Assessment of the Subject Property.

17. 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 requests that the Court take jurisdiction over this action and the parties, enter an order setting aside the Assessment of the Subject Property as excessive and determined without proper consideration of Florida Statutes and professionally accepted appraisal practices, establish the proper assessment of the Subject Property as of January 1, 2022, through the application of professionally accepted appraisal practices and in accordance with the Florida

Constitution and sections 193.011 and 192.037, Florida Statutes, direct the Collector to cancel the original bills and issue new tax bills in the proper reassessed amounts, award Plaintiff a reimbursement of its overpayment based on the Assessment and its costs incurred in pursuing this action under section 194.192, Florida Statutes, and award Plaintiff any additional relief the Court deems just and equitable.

Dated: November 29, 2022.

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