

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

PIX REALTY, L.P., a foreign
limited partnership,

CASE NO.: 22-13625 CA 01

Plaintiff,

vs.

PEDRO J. GARCIA, as Property Appraiser
of Miami-Dade County, Florida, et al.,

Defendants.

_____/

PEDRO J. GARCIA, as Property Appraiser
of Miami-Dade County, Florida,

Counter-Plaintiff/Crossclaimant,

vs.

PIX REALTY, L.P., a foreign,
limited partnership,

Counter-Defendant.

and

JIM ZINGALE, as Executive Director of the
State of Florida Department of Revenue,

Crossclaim-Defendant.

_____ /

COUNTY DEFENDANTS' ANSWER AND DEFENSES TO COMPLAINT

Defendants PEDRO J. GARCIA, as Property Appraiser of Miami-Dade County, Florida
(the "Property Appraiser") and PETER CAM, as Tax Collector of Miami-Dade County, Florida
(the "Tax Collector," and together with the Property Appraiser, the "County"), by and through the

undersigned counsel, hereby answer the Complaint filed by the above-captioned Plaintiff (“Taxpayer”) as follows:

1. The County admits the averments in paragraph 1.
2. The County is without knowledge, and therefore, denies the averments in paragraph 2.
3. The County admits the averments in paragraph 3.
4. The County admits the averments in paragraph 4.
5. The County admits the averments in paragraph 5.
6. The County admits the averments in paragraph 6.
7. The County admits the averments in the first sentence of paragraph 7, but denies the remaining averments in paragraph 7.
8. The County denies the averments in paragraph 8.
9. Exhibit A to the complaint speaks for itself. However, the County admits it appears to show a tax payment was made.
10. The County denies the averments in paragraph 10.
11. The County admits the complaint was timely filed but is without knowledge of the remaining averments in paragraph 11 and therefore denies same.
12. The County denies the averments in paragraph 12.

DEFENSES

Taxpayer is not entitled to the relief requested in its Complaint by reason of the following defenses and/or affirmative defenses. The County does not assume the burden of proof or the burden of persuasion for any of the following defenses where such burden is not otherwise imposed by law.

1. As their First Affirmative Defense, the County asserts that the assessment for the challenged tax year represents just value and was arrived at by complying with all applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices.

2. As their Second Affirmative Defense, the County asserts that the Taxpayer's Complaint fails to state a cause of action that the assessment certified by the Property Appraiser exceeds just value because the allegations do not identify specific factors that the Property Appraiser improperly considered or failed to consider in determining the contested valuation.

3. As their Third Affirmative Defense, the County asserts that the Taxpayer has failed to state a cause of action for relief from an unconstitutional assessment under either the Florida or United States Constitution for the reason that Taxpayer wholly failed to allege how or in what manner Taxpayer's Property was singled out and assessed differently than all or substantially all other property in Miami-Dade County, Florida.

WHEREFORE, the County respectfully requests that this Court dismiss the Complaint or enter judgment in the County's favor, award costs incurred in defending this action in accordance with section 194.192(1), Florida Statutes, and grant any other relief it deems just and proper.

PROPERTY APPRAISER'S COUNTERCLAIM AND CROSSCLAIM

Counter-Plaintiff/Crossclaimant, PEDRO J. GARCIA, as Property Appraiser for Miami-Dade County, Florida, (the "Property Appraiser") hereby files this action against Counter-Defendant, PIX REALTY, L.P. and Crossclaim-Defendant JIM ZINGALE, as Executive Director of the State of Florida Department of Revenue (the "Department"), and alleges:

1. This is an action equitable in nature brought by Counter-Plaintiff/Crossclaimant in his official capacity as Property Appraiser of Miami-Dade County, Florida, to contest a change which the Miami-Dade County Value Adjustment Board (“V.A.B.”) made in the assessment of certain real property for purposes of ad valorem taxation for the year 2021.

2. This Court has jurisdiction of this equitable action pursuant to Sections 194.036 and 194.171, Florida Statutes. This action is timely filed and all conditions precedent to bringing this action have been met.

3. Crossclaim-Defendant JIM ZINGALE, Executive Director of the State of Florida Department of Revenue (“ZINGALE”), is the official of the state government responsible for overall supervision of the assessment and collection of ad valorem taxes. ZINGALE is joined herein pursuant to Section 194.181(5), Florida Statutes, because the tax assessment, as reduced by the V.A.B., is being contested on the grounds that it is contrary to the laws and Constitution of the State of Florida.

4. As of January 1, 2021, Counter-Defendant PIX REALTY, L.P. was the legal titleholder of record of the real property described by Tax Folio No. 02-3234-008-1091, hereinafter referred to as the "Subject Property."

5. Counter-Defendant PIX REALTY, L.P. was the taxpayer to whom the Subject Property was assessed for 2021 and was responsible for the payment of all ad valorem taxes levied thereon.

6. Counter-Plaintiff/Crossclaimant’s 2021 assessment was arrived at by complying with Section 193.011 of the Florida Statutes, any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices. Counter-Plaintiff/Crossclaimant legally arrived at his assessment, and his assessment represents just values for the Subject Property for 2021.

7. Counter-Defendant/Taxpayer filed a petition with the V.A.B. contesting Counter-Plaintiff/Crossclaimant's assessment. The petition was heard by a Special Magistrate, who recommended reductions to amounts less than Counter-Plaintiff/Crossclaimant's assessment.

8. The V.A.B. adopted the recommendation of the Special Magistrate. Consequently, Counter-Plaintiff/Crossclaimant's assessment for the Subject Property was reduced from a market value of \$18,855,000 to a market value of \$17,600,000, a reduction in excess of the thresholds provided in Section 194.036(1)(b).

9. Additionally, pursuant to Section 194.036(1)(a) of the Florida Statutes, the Counter-Plaintiff/Crossclaimant has determined and affirmatively asserts that the values approved by the V.A.B. are below just value, violate Florida Statutes, including Section 193.011, and violate Article VII, Section 4 of the Florida Constitution of 1968.

10. Furthermore, the V.A.B. reduction will incorrectly impact subsequent years' determination of assessed values pursuant to the application of Article VII, Section 4 of the Florida Constitution of 1968, and the implementing statutes, including Sections 193.155, 193.1554, and 193.1555 of the Florida Statutes.

WHEREFORE, Counter-Plaintiff/Crossclaimant prays that this Court:

1. Inquire into and determine the illegality of the tax assessment as reduced by the V.A.B.

2. Order that Counter-Plaintiff/Crossclaimant's assessment upon the Subject Property be reinstated and certified to the Miami-Dade County Tax Collector for the issuance of a revised tax bill for the deficiency in taxes and interest, including all appropriate adjustments to subsequent years' market and/or assessed value, in accordance with Article VII, Section 4 of the Florida Constitution of 1968.

3. Order ZINGALE to approve Counter-Plaintiff/Crossclaimant's assessment of the Subject Property as reinstated by the Court.

4. Grant Counter-Plaintiff/Crossclaimant his costs and such other relief as is just and proper.

DESIGNATION OF E-MAIL ADDRESSES

Pursuant to Florida Rule of Judicial Administration 2.516, undersigned counsel hereby designates his/her primary and secondary e-mail addresses for purposes of e-mail service as follows:

Primary e-mail address: Mastrucc@miamidade.gov

Secondary e-mail address: Wilma.Morillo@miamidade.gov

GERALDINE BONZON-KEENAN
Miami-Dade County Attorney
Stephen P. Clark Center, Suite 2810
111 Northwest First Street
Miami, Florida 33128-1993

By: *s/Michael J. Mastrucci* _____
Michael J. Mastrucci
Assistant County Attorney
Florida Bar No. 86130
Email: Mastrucc@miamidade.gov
Telephone: (305) 375-5151
Facsimile: (305) 375-5634

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was served on July 28th, 2022 via e-mail generated by the Florida Courts E-Filing Portal upon: Spencer Tew, Esq., RENNERT, VOGEL, MANDLER, & RODRIGUEZ, P.A., 100 SE Second Street, 29th Floor, Miami, FL 33131, servicetax@rvmrlaw.com.

By: *s/Michael J. Mastrucci* _____
Michael J. Mastrucci
Assistant County Attorney