

IN THE CIRCUIT COURT OF THE 9TH
JUDICIAL CIRCUIT IN AND FOR ORANGE
COUNTY, FLORIDA

CASE NO. 2022-CA-010814-O

VISTANA FOUNTAINS
CONDOMINIUM ASSOCIATION, INC.,
a Florida non-profit corporation,

Plaintiff,

vs.

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

Defendant.

_____ /

COMPLAINT

Plaintiff, Vistana Fountains Condominium Association, Inc. (“Taxpayer”), sues Defendants, Amy Mercado, as Property Appraiser of Orange County, Florida (“Property Appraiser”), Scott Randolph, as Tax Collector of Orange County, Florida (“Tax Collector”), and Jim Zingale, as Executive Director of the State of Florida Department of Revenue (“Department”) (collectively, “Defendants”) and says:

1. This is an action for statutory relief. This Court has jurisdiction pursuant to *Florida Statutes §§194.036 and 194.171* and venue is proper in this Court since the subject real property, as described below, and the Property Appraiser are located in Orange County, Florida.

2. Taxpayer is a Florida non-profit corporation conducting business in Orange County, Florida.

3. The Vistana Fountains Condominium (the "Timeshare") is a timeshare property located in Orange County, Florida established pursuant to the Florida Vacation Plan and Time Sharing Act. Pursuant to *Florida Statutes §§192.037(1); 194.181 and 721.13*, Taxpayer is the managing entity of the Timeshare, is an agent of the Timeshare period titleholders and is authorized to file this action.

4. Property Appraiser lawfully holds the office of Property Appraiser of Orange County, Florida. Property Appraiser is charged with the responsibility of discharging the duties of said office.

5. Tax Collector is the duly elected and acting Tax Collector for Orange County, Florida, and is obligated to discharge the duties of said office.

6. Department is named as a defendant to this action as mandated by *Florida Statutes §194.181(5)*, because the tax assessment is also being contested on the grounds that it is contrary to the laws and Constitution of the State of Florida.

7. For the tax year 2022, Property Appraiser has certified the market and assessed values of \$108,564,534 and \$101,507,796, respectively, as the assessments of the Timeshare units assessed under Parcel Number 27-24-28-8930-99-999. Taxpayer is contesting these assessments.

8. Property Appraiser's assessments of the Timeshare units are in excess of the just value of the Timeshare, in violation of *Florida Statutes*, including §§ 193.011 and 192.037, and in violation of Article VII, Section 4 of the Florida Constitution.

9. Property Appraiser's assessments of the Timeshare units are arbitrarily based on appraisal practices which are not professionally accepted appraisal practices nor acceptable mass appraisal standards within Orange County, Florida.

10. Taxpayer paid the taxes under protest as required under *Florida Statutes §194.171*. Evidence of said payment is attached hereto and incorporated by reference as Exhibit "A".

11. Taxpayer will be irreparably damaged if Defendants are permitted to keep the collection of tax based on the assessments identified in paragraph 7.

12. Property Appraiser's failure to properly consider the factors set forth in *Florida Statutes §193.011* and all other Florida statutes related thereto renders the tax assessments inaccurate, illegal, arbitrary and violative of established requirements of law in determining just valuation of real property for *ad valorem* taxation purposes.

13. All conditions precedent to filing this action, including Taxpayer's compliance with *Florida Statutes §194.171(2)*, has occurred, been performed, waived or excused.

WHEREFORE, Taxpayer demands entry of a final judgment in its favor and against the Defendants as follows:

(i) Establishing the just value of the Timeshare and directing such adjustments between the parties as may be necessary in connection therewith, or directing the Property Appraiser to reassess the Timeshare for the 2022 tax year in compliance with Florida law;

(ii) Recalculating the taxes that should have been paid based on an assessment equal to the Timeshare's just value, and ordering a refund to the Taxpayer of the excess amounts paid;

(iii) Awarding costs in favor of Taxpayer pursuant to *Florida Statutes §194.192*; and

(iv) Granting such other and further relief as this Court deems just and proper.

DESIGNATION OF SERVICE E-MAIL ADDRESS

Pursuant to *Fla. R. Civ. P. 1.080* and *Fla. R. Jud. Admin. 2.516*, undersigned counsel's designation of his primary and secondary e-mail addresses for service of all papers and pleadings filed in this action is as follows:

Primary: servicetax@rvmrlaw.com

Respectfully Submitted,

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