

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR LEVY COUNTY, FLORIDA

6851, LLC, a Florida Limited Liability Company,

Plaintiff,

vs.

CASE NO.:

JASON WHISTLER, as Property Appraiser for
Levy County, Florida; MICHELLE LANGFORD,
as Tax Collector for Levy County, Florida; and JIM
ZINGALE, as Executive Director of the Florida
Department of Revenue,

Defendants.

COMPLAINT

Plaintiff, 6851, LLC, ("6851"), sues Defendants, JASON WHISTLER, as Property Appraiser for Levy County, Florida ("Property Appraiser"); MICHELLE LANGFORD, as Tax Collector for Levy County, Florida ("Tax Collector"); and JIM ZINGALE, as Executive Director of the Florida Department of Revenue ("Department of Revenue"), and alleges:

NATURE OF ACTION

1. This is an action for declaratory and injunctive relief filed pursuant to Section 194.171(1), Fla. Stat. (2022), to contest the 2022 tax classification and ad valorem property tax assessment of certain real property owned by Plaintiff, 6851, LLC, located in Levy County, Florida, the taxes based on the real property classification and the resulting tax assessment, refund of taxes paid, and for declaratory and injunctive relief.

2. Plaintiff, 6851, LLC, contests the decision of the Property Appraiser and the decision of the Levy County Value Adjustment Board ("VAB") to deny 6851's request that 15 acres of its 90-acre real property be classified as Agricultural, and the tax assessed on the 15 acres

that should have been classified as Agricultural. Plaintiff seeks a declaration and injunction by this Court against the Property Appraiser that its 15-acre property be classified as Agricultural.

JURISDICTION, VENUE AND TIMELINESS

3. This Court has original jurisdiction over these matters pursuant to Sections 26.012 and 194.171(1), Fla. Stat.

4. Venue is proper in Levy County, Florida, where the real property which is the subject of this action is located pursuant to Section 194.171(1), Fla. Stat.

5. This action is timely filed within sixty days from the date the Levy County Property Appraiser certified the tax for collection by entering his "Certificate to Roll" on October 24, 2022. *See Exhibit A, attached.*

THE PARTIES AND THE PROPERTY

6. At all times relevant, Plaintiff, 6851, LLC, a Florida Limited Liability Company, with a principal place of business and in fact doing business in Levy County, Florida, has held and currently holds title to the real property that is the subject of this action. Reid Nagle is the Manager of 6851, LLC. 6851, LLC operates and is also known as the "Black Prong Equestrian Village."

7. The parcel ID number in Levy County for Plaintiff's 90-acre property is 03684-001-00, located at 3890 SE 148th Terrace, Morriston, Florida 32668, and further described as follows:

All that portion of the E ½ of SW ¼ and the SE ¼ of NW ¼ of Section 27, Township 13 South, Range 17 East, Levy County, Florida, lying West of Levy County Road C-337 (f/k/a State Road S-337).

The 15-acre portion that is the subject of this suit is located within this 90-acre parcel. *See Trustee's Deed attached as Exhibit B.*

8. Jason Whistler, in his official capacity as Property Appraiser for Levy County, Florida, is a proper party Defendant pursuant to Section 194.181(2), Fla. Stat.

9. Michelle Langford, in her official capacity as Tax Collector for Levy County, Florida, is a proper party Defendant pursuant to Section 194.181(3), Fla. Stat.

10. Defendant Zingale is the Executive Director of the Florida Department of Revenue and is made a nominal Defendant in this action as required by Section 194.181(5), Fla. Stat.

COUNT I – GENERAL ALLEGATIONS AS TO THE PROPERTY

A. CLASSIFICATION OF THE PROPERTY

11. The facts in paragraphs 1 through 10 are hereby realleged and incorporated herein.

12. In May or June of 2021, the Levy County Property Appraiser determined that 75 acres of Plaintiff's real property be classified as Agricultural. The remaining 15 acres of Plaintiff's 90 acres were not classified as Agricultural.

13. In July of 2022, Plaintiff filed its request pursuant to Section 193.461, Fla. Stat., with the Levy County Property Appraiser to have the remaining 15 acres of its 90-acre real property parcel classified as Agricultural. *See* Exhibit C.

14. The Levy County Property Appraiser, then Randall S. Rutter, determined that the property should not be classified as Agricultural, but should be assessed as "Non Agricultural" land." *See* Exhibit D.

15. Thereafter, Plaintiff filed its petition with the Levy County Value Adjustment Board ("VAB") seeking to have the remaining 15 acres classified as Agricultural. *See* Exhibit E. At a duly noticed hearing, the VAB took testimony and evidence and thereafter rendered its decision to deny Plaintiff's request to declare the 15 remaining acres should be classified as Agricultural. *See* Exhibit A.

16. On October 24, 2022, Jason Whistler, the then-acting Levy County Property Appraiser, issued his "Certificate to Roll" as to real property, based in part on the Property Appraiser's decision and the VAB's decision not to classify Plaintiff's remaining 15 acres as Agricultural. *See* Exhibit A.

**B. SATISFACTION OF CONDITIONS PRECEDENT
REGARDING THE PROPERTY**

17. In accordance with Section 194.171(3), Fla. Stat., 6851, LLC has paid the Tax Collector not less than the amount of the tax which 6851, LLC admits in good faith to be owing. A copy of the tax payment is attached hereto as Exhibit F.

18. All conditions precedent to the institution or maintenance of this action have been performed, have occurred or have been excused.

C. 6851 LLC's ENTITLEMENT TO COSTS

19. 6851, LLC has incurred, and will continue to incur, costs in the prosecution of this action and is entitled to an award of its costs pursuant to Section 194.192(1), Fla. Stat.

**D. ACTION FOR RELIEF - CLASSIFICATION OF THE
PROPERTY AS AGRICULTURAL**

20. This is an action for relief filed pursuant to Section 194.171, Fla. Stat. whereby 6851, LLC seeks a *de novo* proceeding concerning the just and proper classification of the remaining 15 acres of its 90-acre real property, the proper calculation of the tax owed for the remaining 15 acres, and any refunds due of taxes already paid on the remaining 15 acres.

21. Defendant Property Appraiser has denied Plaintiff's application to have its remaining 15 acres of its 90 acres classified as Agricultural. *See* Exhibit D.

22. The VAB denied Plaintiff's request to have its remaining 15 acres of its 90 acres classified as Agricultural. *See* Exhibit A.

23. Plaintiff maintains that the remaining 15 acres of its 90 acres which is the subject of this case should be classified by the Levy County Property Appraiser for 2022 as Agricultural lands in accordance with Florida law and has filed this suit contesting the denial of Agricultural classification for the property, the assessment of the property by the Property Appraiser and the taxes based upon the Non-Agricultural classification as levied by the Tax Collector.

24. 6851, LLC, operates the "Black Prong Equestrian Village," on its property, consisting of existing structures and ongoing equestrian agricultural activities that have occurred on the subject property over the previous 20 years. This is the basis for the Agricultural classification of the 75 acres of the 90 acres owned by 6851, LLC.

25. Section 570.87(1), Fla. Stat., provides, in pertinent part, that "[a]n agricultural classification pursuant to s. 193.461 may not be denied or revoked solely due to the conduct of agritourism activity on a bona fide farm or the construction, alteration, or maintenance of a nonresidential farm building, structure, or facility on a bona fide farm which is used to conduct agritourism activities. So long as the building, structure, or facility is an integral part of the agricultural operation, the land it occupies shall be considered agricultural in nature. However, such buildings, structures, and facilities, and other improvements on the land, must be assessed under s. 193.011 at their just value and added the agriculturally assessed value of the land." (Emphasis added). Thus, the legislative intent of Section 570.87(1), Fla. Stat., is that the presence of agritourism activities on a bona fide farm should not be a basis to deny the Agricultural classification. 6851's remaining 15 acres of land consist of a pavilion, pool, gym, parking, food truck and RV pads. These buildings, structures and facilities, along with the agritourism, education, recreation, cultural, ceremonial, training, exhibition and supporting equine uses and