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

CONWAY FOREST ACQUISITION, LLC, a Florida limited liability company,

Plaintiff,

v.

AMY MERCADO, in her official capacity as Property Appraiser of Orange County, Florida; SCOTT RANDOLPH, in his official capacity as Tax Collector of Orange County, Florida; and JIM ZINGALE, in his official capacity as Executive Director, Florida Department of Revenue,

Defendants.

Case No.: 2022-CA-011171-O

Division:

COMPLAINT

Plaintiff, CONWAY FOREST ACQUISITION, LLC, a Florida limited liability company ("Conway Forest"), sues Defendants, AMY MERCADO, in her official capacity as Property Appraiser of Orange County, Florida ("Appraiser"), SCOTT RANDOLPH as Tax Collector of Orange County, Florida ("Collector"), and JIM ZINGALE ("DOR"), as the Executive Director of the Florida Department of Revenue, and alleges:

PARTIES, JURISDICTION, AND VENUE

1. This is an action for relief concerning an ad valorem real estate tax assessment for the tax year 2022 pursuant to Chapter 194, Florida Statutes.

2. Jurisdiction is predicated upon Chapter 86, Florida Statutes and section 194.171, Florida Statutes and is proper in this Court.

3. Plaintiff is a Florida limited liability company that owns property in Orange

County, Florida.

3. Appraiser is sued herein in her official capacity and is a necessary party to the action pursuant to section 194.181(2), Florida Statutes.

4. Collector is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(3), Florida Statutes.

5. Defendant DOR 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. The real property forming the subject of this action is located in Orange County, Florida and consists of multiple individual condominium units identified by parcel number on attached **Exhibit "A."** The individual condominium units are two-bedroom units and are collectively referred to as the "Condominium Units."

7. Plaintiff owned Title to each of the Condominium Units on January 1, 2022.

8. Plaintiff has paid the taxes that have been assessed in full on each of the Condominium Units, pursuant to 194.171(3), Florida Statutes. A copy of the receipt is available at www.octaxcol.com.

9. Plaintiff has performed all conditions precedent that are required to be performed by Plaintiff in establishing its right to bring this action and to the relief requested. Specifically, and without limitation, this action has been filed within the time period prescribed by section 194.171(2), Florida Statutes.

GENERAL ALLEGATIONS

10. This action challenges Orange County's 2022 property tax assessments for the

Condominium Units, which include 16 parcels of real property.

11. Each individual Condominium Unit is an individual condominium with a separate parcel number, owned by Plaintiff. Each Condominium Unit was either purchased individually or in groups over a several year period.

12. Each individual Condominium Unit receives its own tax bill. This action contests the valuation method for each of 16 tax bills, for which the Appraiser has not appraised any at just value.

13. Florida's county property appraisers are required to comply with Section 193.011, Florida Statutes, in arriving at just valuation as required under s. 4, Art. VII of the State Constitution. This statute sets out very specific criteria which the property appraiser is mandated to consider, including:

> (1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;
>
> (2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property

appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

(3) The location of said property;

(4) The quantity or size of said property;

(5) The cost of said property and the present replacement value of any improvements thereon;

(6) The condition of said property;

(7) The income from said property; and

(8) The net proceeds of the sale of the property as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section the property appraiser for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

14. A property appraiser's presumption is overcome if they fail to properly consider the criteria in Section 193.011. § 194.301, Fla. Stat. The proper consideration of such criteria requires the property appraiser to follow uniform standards of professional appraisal practice and the real property appraisal guidelines established by the Florida Department of Revenue. Rule 12D-51.003, Fla. Admin. Code.

15. The Appraiser assessed the total value of each of the 16 Condominium Units at

$81,471 for 2022.

16. The vast difference in valuation of the Condominium Units between 2017 and 2022 does not have anything to do with current market conditions or changes to the property, but rather solely has to do with the valuation approach used by the Appraiser.

17. Based upon the uniform standards of professional appraisal practice and the real property appraisal guidelines established by the Florida Department of Revenue, residential property, including condominium units, is assessed by a computer assisted mass appraisal system, which looks at the market.

18. In 2017 the Appraiser used market data to value the Condominium Units.

19. In 2018, 2019, 2020, 2021 and 2022, the Appraiser arbitrarily used the income method to assess the property. Appraiser supported the income value by using the gross income multiplier method.

20. Appraiser knew that the Condominium Units were not an apartment, but intentionally assessed the Condominium Units as though the building was an apartment complex.

21. Residential condominiums differ from apartment units in many ways, one of which is how an appraiser should derive just value.

22. The property comprises Condominium Units and using the income method to arrive at a value is inappropriate.

23. As of January 1, 2022, the Condominium Units were all condominium governed by Chapter 718, Florida Statutes. This means that the owner of each Condominium Unit solely owns the square footage beginning at the interior side of the drywall and continuing into the unit and the condominium association controls the remainder of the structure. Specifically, the area

calculation for each Condominium Unit is based upon the condominium documents.

24. The Appraiser arbitrarily and improperly changed the square footage included in the valuation in 2022 to include square footage outside of the interior drywall of each unit contrary to the ownership of each Condominium Unit specified in the condominium documents.

25. Section 718.117 Florida Statutes provides the basis for how to terminate a condo association and convert a condominium into an apartment complex. Without following the statutory processes, the condo association remains, and all units are not an apartment complex.

26. The **Conway Forest II Condominium** is subject to a recorded declaration of condominium recorded at Instrument Number 20120692272. An excerpt from the recorded declaration of condominium, Instrument Number 20120692272, is attached hereto as **Exhibit "B."**

27. If the condominium association was terminated, a sole owner could receive the benefit of running the entire building as one integrated property. In that case, a property would receive one single tax bill.

28. Instead, Plaintiff owns 16 separate and distinct Condominium Units and has received 16 separate tax bills.

29. Treating the Condominium Units as an apartment complex would inhibit the owner's ability to sell any individual Condominium Unit, which would be against public policy.

30. No other similar residential condominiums in Orange County are valued using the income method.

31. The proper valuation under the market method would result in a lower total valuation for each of the Condominium Units.

Count I: Tax Assessment Exceeds Just Value

32. Plaintiff restates and realleges Paragraphs one through 31 as if fully set forth herein.

33. The Appraiser failed to properly consider the criteria set out in Section 193.011, failed to properly consider and apply established standards of professional appraisal practice, and failed to comply with the real property guidelines of the Florida Department of Revenue in the tax assessment of the Condominium Units, which are 16 parcels of real property.

34. Consequently, the assessment of each parcel of the Condominium Units are in excess of just value and in violation Article VII, Section 4 of the Constitution of the State of Florida.

35. Assessor has arbitrarily and discriminatorily, and not through inadvertence or error, assessed the Condominium Units at a higher value relatively and comparatively to all or substantially all other property in Orange County for 2022.

WHEREFORE, Plaintiff requests that this Court take jurisdiction over this cause and the parties hereto, enter an order setting aside the assessment on the Condominium Units; remand the assessment to the Appraiser with directions to re-assess the Condominium Units at just value; and further, that this Court enter an order directing Collector to cancel the original bill and issue new tax bills in reassessed amounts and refund any excess ad valorem taxes previously paid; and, finally, to award Plaintiff its costs incurred in bringing this action pursuant to section 194.192, Florida Statutes, and award such other general relief as may be just and equitable.

Count II: Arbitrary and Discriminatory Assessment Practices

36. Plaintiff restates and realleges Paragraphs one through 35 as if fully set forth herein.

37. The Assessment is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the Appraiser to comparable property within Orange County contrary to the requirements of Section 194.301 Florida Statutes.

38. The Appraiser has arbitrarily refused to comply and follow established standards of professional appraisal practice when assessing the Condominium Units and has based the Assessment on appraisal methodology and practices that are different from the appraisal practices generally applied to comparable properties within the same class in Orange County. Specifically, the Appraiser has applied the Market appraisal methodology to other condominium units in Orange County and not the income methodology. The owner of the Condominium Units has been singled out by the Appraiser and had ownership of the Condominium Units been parties other than the current owner, the Appraiser would have arrived at a different valuation of each Condominium Unit. The owner of any real property in Orange County should not be a determining factor in an establishment of just value. Here, ownership was the sole driver of the Assessment, and just value has not been established when the Appraiser has targeted this owner and treated valuation of its property differently from other similarly situated residential condominium units.

WHEREFORE, Plaintiff requests that this Court take jurisdiction over this cause and the parties hereto, enter an order setting aside the assessment on the Condominium Units;

remand the assessment to the Appraiser with directions to re-assess the Condominium Units at just value; and further, that this Court enter an order directing Collector to cancel the original bill and issue new tax bills in reassessed amounts and refund any excess ad valorem taxes previously paid; and, finally, to award Plaintiff its costs incurred in bringing this action pursuant to section 194.192, Florida Statutes, and award such other general relief as may be just and equitable.

/s/Shaina Stahl
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