

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

JETBLUE AIRWAYS CORPORATION,  
a foreign corporation,

Plaintiff,

Case No.:

v.

Division:

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

Defendants.

COMPLAINT

Plaintiff, JETBLUE AIRWAYS CORPORATION, a foreign corporation, sues Defendants AMY MERCADO, as Property Appraiser ("Appraiser"), SCOTT RANDOLPH, as Tax Collector ("Collector"), and JIM ZINGALE ("Zingale"), as the Executive Director of the Florida Department of Revenue, and alleges:

Allegations Common to All Counts

1. This is an action for declaratory and ancillary relief concerning an ad valorem real estate tax assessment for the tax year 2022. Jurisdiction is predicated upon Chapter 86, Florida Statutes and section 194.171, Florida Statutes.
2. Plaintiff is a Delaware corporation.
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 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 maintains in good faith that the Subject Property is entitled to exemption from ad valorem tax and, therefore, has made no tax payment prior to commencing this action. Under these circumstances, the jurisdictional requirement of section 194.171(3), Florida Statutes, is deemed to have been satisfied. See §196.199(5), Fla. Stat., and *International Society for Krishna Consciousness of Miami Beach, Inc. v. Robbins*, 583 So. 2d 767 (Fla. 3d DCA 1991), *rev. den.* 592 So. 2d 681 (Fla. 1991).

7. Plaintiff has performed all conditions precedent which 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.

### Count I

8. Plaintiff re-alleges and incorporates paragraphs 1-7 as if fully set forth herein.

9. The real property forming the subject of this action is located in Orange County, Florida and identified by Appraiser using the following Folio Numbers:

35-23-30-0000-10-005  
35-23-30-0000-10-006  
35-23-30-0000-10-007  
35-23-30-0000-10-008

hereinafter collectively referred to as the "Subject Property."

10. Plaintiff leases the Subject Property from the Greater Orlando Aviation Authority ("GOAA") and is contractually obligated to pay any and all ad valorem taxes assessed against the Subject Property. The lease further grants Plaintiff the right to contest any such assessment.

11. Folio No. 35-23-30-0000-10-005 is a training facility used exclusively for Plaintiff's employees. Folio No. 35-23-30-0000-10-006 is a dormitory facility used by Plaintiff's employees while undergoing ancillary aviation training. Folio No. 35-23-30-0000-10-007 is a parking lot for Plaintiff's employees and supports the training facility and dormitory facility. Folio No. 35-23-30-0000-10-007 is a maintenance hangar used by Plaintiff to service commercial jet aircraft used to provide passenger service.

12. Appraiser had exempted the leaseholds and the underlying real property comprising the Subject Property in tax year 2020 pursuant to section 196.199(2)(a), Florida Statutes, because Plaintiff was using the leaseholds for governmental, municipal or public purposes as defined in section 196.012(6), Florida Statutes.

13. Plaintiff timely filed applications for exemption of its leasehold interests in the Subject Property for tax year 2022, true copies of which are attached hereto as **Composite Exhibit "A."** Section 196,199(2)(a), Florida Statutes, provides that where the leasehold is exempt, all other interests in the property are exempt. This would include GOAA's reversionary interest.

14. The Subject Property was used at all material times for airport or aviation purposes.

15. These uses of the Subject Property were exclusive; there were no non-aviation or non-airport uses being made of the Subject Property.

16. Section 196.199, Florida Statutes, implements the constitutional exemption from ad valorem taxation for property owned by governmental entities and used for a public purpose. Subsection (2) of the statute extends the scope of the exemption to government-owned property which is leased to non-governmental lessees when the lessee serves or performs a governmental, municipal or public purpose as defined in the Chapter.

17. Section 196.012(6), Florida Statutes, defines a governmental, municipal or public purpose or function. The definition provides that a governmental, municipal or public purpose or function is served or performed when the lessee is performing a function or serving a governmental purpose which would otherwise be the proper subject of the expenditure of public funds.

18. The definition found in section 196.012(6) also recognizes that a governmental, municipal or public purpose is deemed to be served when:

"Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state ... and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport ... purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose."

19. Training commercial airline crews as required by federal law to provide air service for the public at large constitutes aviation and airport activities within the meaning of section 196.012(6), Florida Statutes. Indeed, GOAA is authorized by its Enabling Act to operate the Subject Property to perform the same services that Plaintiff provides.

20. The use of the Subject Property for the foregoing purposes satisfies the requirements of section 196.199(2), Florida Statutes, for exemption from ad valorem taxation because the use of the Subject Property constitutes a governmental, municipal or public purpose or function as defined in section 196.012(6), Florida Statutes.

21. Notwithstanding the exempt use of the Subject Property as described herein above, Appraiser revoked the exemptions previously granted for tax year 2020. A true copy of the Notices of Disapproval are attached hereto as **Composite Exhibit "B."**

22. Plaintiff is in doubt concerning the Subject Property's entitlement to receive a governmental exemption for tax year 2022 and is entitled to have that doubt removed by the Court.

23. There exists a present, real and bona fide controversy between Plaintiff and Appraiser over the classification of the Subject Property for ad valorem tax purposes in 2022.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto, and enter an order: (1) setting aside the assessments on

the Subject Property; (2) directing that the property be classified as exempt for 2022; (3) directing that the original bills be canceled; (4) awarding Plaintiff the costs of this action pursuant to section 194.192, Florida Statutes; and (5) awarding such other general relief as may be just and equitable.

## Count II

24. This is an action for declaratory relief concerning the sufficiency of the notices of disapproval issued by Appraiser, and subject matter jurisdiction is predicated upon Chapter 86, Florida Statutes, and section 194.171, Florida Statutes.

25. Pleading in the alternative to Count I, Plaintiff hereby re-alleges and incorporates paragraphs 1-7 and 9-23 as if fully set forth herein.

26. The Notices of Disapproval stated the reasons for denial as follows:

"The subject property is not used in the administration of some phase of government or governmental-governmental purposes, which is necessary to receive an exemption under Florida Statutes 196.199(2), 196.199(4), 196.012(6), and Article VII, Section 3(a) of the Florida Constitution. *See Sebring Airport Authority v. McIntyre*, 642 So.2d 1072 (Fla. 1994); *Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla. 2001); and *Greater Orlando Aviation Auth. v. Crotty*, 775 So.2d 978 (Fla. 5DCA 2000). The subject Property is used as a training facility for Jet Blue employees."

27. Section 196.193(5)(b), Florida Statutes, provides as follows with respect to notices of disapproval issued to exemption applicants by property appraisers:

The notification must state in clear and unambiguous language the specific requirements of the state statutes which the property appraiser relied upon to deny the applicant the exemption with respect to the subject property. The notification must be drafted in such a way that a reasonable person can understand specific attributes of the applicant or the applicant's use of the subject property which formed that basis of the denial. The notice must also include the specific facts the property appraiser used to determine that the applicant failed to meet the statutory requirements. If a property appraiser fails to provide a notice

that complies with this subsection, any denial of an exemption or an attempted denial of an exemption is invalid.

28. In contrast, the Notices of Disapproval issued to Plaintiff are statutorily deficient because:

- (a) they did not use clear and unambiguous language;
- (b) they did not specify the requirements of the statutes which Appraiser relied on to deny the exemption;
- (c) they were not drafted so a reasonable person could understand specific attributes of the applicant or the use of the property which formed the basis of the denial; and
- (d) they did not provide specific facts the Appraiser used to determine that the Plaintiff failed to meet the statutory requirements.

29. Because the Notices of Disapproval failed to satisfy the requirements of section 196.195(5)(b), Florida Statutes, Appraiser's denial of the exemption applications are invalid.

30. Plaintiff is in doubt concerning the Subject Property's entitlement to receive a governmental exemption for tax year 2022 and is entitled to have that doubt removed by the Court.

31. There exists a present, real and bona fide controversy between Plaintiff and Appraiser over the classification of the Subject Property for ad valorem tax purposes in 2022.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; and enter an order: (1) declaring the denial of the 2022

exemption application invalid; (2) setting aside the assessments on the Subject Property; (3) directing Appraiser to reclassify the Subject Property for 2022 as exempt from tax; (4) directing the Collector to cancel the original bills; (5) awarding Plaintiff its costs incurred in bringing this action pursuant to section 194.192, Florida Statutes, and (6) awarding such other general relief as may be just and equitable.

### **Count III**

32. Pleading in the alternative to Counts I and II, Plaintiff re-alleges and incorporates paragraphs 1 - 7, 9-11 as if fully set forth herein.

33. This is an action to contest an ad valorem tax assessment for the tax year 2022 and this Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and article V, sections 5 and 20 of the Constitution of the State of Florida.

34. Appraiser estimated the Subject Property's just value for ad valorem purposes as follows:

<b>35-23-30-0000-10005</b>	<b>\$30,024,033</b>
<b>35-23-30-0000-10006</b>	<b>\$19,088,838</b>
<b>35-23-30-0000-10007</b>	<b>\$1,046,000</b>
<b>35-23-30-0000-10008</b>	<b>\$13,910,309</b>

hereinafter referred to as "Assessments."

35. The Assessments are unlawful and invalid because the criteria in section 193.011, Florida Statutes, was not considered properly. Additionally, Appraiser did not use professionally accepted appraisal practices in making the Assessments.

36. The Assessments do not represent the just value of the Subject Property as of the lien date because they exceed the market value and therefore violate article VII, section 4 of the Florida Constitution.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto, and enter an order: (1) setting aside the Assessments on the Subject Property as excessive; (2) determining the appropriate appraisal methodology to be used in assessing the Subject Property; (3) establishing the proper just value for the Subject Property in accordance with the Constitution of the State of Florida and section 193.011, Florida Statutes; (4) directing the Collector to cancel the original bill and issue a new tax bill in said reassessed amount; (5) awarding Plaintiff its costs incurred in bringing this action pursuant to section 194.192, Florida Statutes; and (5) awarding such other general relief as may be just and equitable.

Dated: December 13, 2022

Respectfully submitted,

/s/ Michael J. Bowen

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