

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR FRANKLIN COUNTY, FLORIDA

MHP JORDAN BAYOU, LLC,  
a Florida limited liability company,

Case No.: 2022-CA-000081CAAXMX  
Division:

Plaintiff,

v.

RHONDA MILLENDER SKIPPER, in her official  
capacity as Property Appraiser of Franklin County, Florida;  
RICHARD WATSON, in his official capacity as  
Tax Collector of Franklin County, Florida;  
and JIM ZINGALE, in his official capacity  
as Executive Director, Florida Department of Revenue,

Defendants.

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**COMPLAINT**

Plaintiff, MHP JORDAN BAYOU, LLC, a Florida limited liability company ("Jordan Bayou"), sues Defendants, RHONDA MILLENDER SKIPPER as Property Appraiser of Franklin County, Florida ("Appraiser"), RICHARD WATSON as Tax Collector of Franklin 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 Franklin County, Florida.
4. Appraiser is sued herein in her official capacity and is a necessary party to the

action pursuant to section 194.181(2), Florida Statutes.

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

6. 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.

7. The real property forming the subject of this action is located in Franklin County, Florida and consists of fifty eight (58) individual parcels in a subdivision identified by parcel number on attached Exhibit "A." Thirty-nine (39) contain two- or three-bedroom single family homes (the "Affordable Housing Homes"), two parcels contain a community clubhouse and leasing center, all parcels are used exclusively as affordable housing. All parcels are collectively referred to as the "Parcels" or the "Development."

8. Plaintiff owned Title to each of the Parcels on January 1, 2022.

9. Plaintiff has made a partial payment of the taxes that have been assessed on each of the Parcels, which is not less than the amount of the tax which the taxpayer admits in good faith to be owing pursuant to 194.171(3), Florida Statutes. A copy of the receipt is available at [www.franklincountytaxcollector.com](http://www.franklincountytaxcollector.com).

10. 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**

11. This action challenges Franklin County's 2022 property tax assessments for the

Development, which include 18 vacant parcels and 40 improved parcels of real property.

12. All Parcels were purchased collectively by MHP Jordan Bayou, LLC at a single time on September 1<sup>st</sup> and 2<sup>nd</sup> 2020.

13. At the time of purchase, the Development was controlled by the Jordan Bayou Preserve Homeowner's Association, Inc., which the Plaintiff terminated on May 4, 2020.

14. The Plaintiff purchased the Development with the intent of creating an affordable housing rental community in Franklin County.

15. Florida Housing Finance Corporation ("FHFC") awarded the Development an allocation of funds under the HOME Investment Partnerships Program, under FHFC's RFA 2019-109 HOME Financing To Be Used For Rental Developments In Hurricane Michael Impacted Counties And In Rural Areas ("RFA"). The HOME Investment Partnerships Program is governed by 42 U.S.C. Section 12701 et. seq., Section 420.5089, Fla. Stat., and 24 C.F.R. Part 92 (the "HOME Program").

16. Along with the allocation from the HOME Program, the Plaintiff entered into a recorded Land Use Restriction Agreement (the "LURA") with FHFC, which restricts the income and rents that the Development can apply for a period of 50 years ("Affordability Restrictions". The Affordability Restrictions are two-fold: the Affordable Housing Homes *must* be leased at lower-than-market rates, which are set by the United States Department of Housing and Urban Development ("HUD") *and they must* be leased to tenants who meet low income thresholds set by FHFC and HUD. Importantly, no individual Parcel may be sold on the market at any price for the 50 year term of the LURA. If the Development were to be sold the market price would be predicated on the restricted income generated under the LURA. A copy of the LURA is attached as **Exhibit "B."**

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

18. 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 takes into account the rent restrictions, 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. (emphasis added).

19. 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.

20. The Appraiser assessed the total value of each of the 39 Affordable Housing Homes between \$135,423 and \$136,953 and \$175,516 for the clubhouse, and each of the vacant Parcels at \$4,500 for 2022.

21. The taxes in 2022 on each of the 39 Affordable Housing Homes varied between \$2,493 and \$2,505 and \$3,227 for the clubhouse and \$82.76 on each of the vacant Parcels.

22. The taxes on the Development at the assessed value exceeds \$97,300 for 2022.

This level of taxation nearly equals the Net Operating Income ("NOI") for the Development, rendering the property unviable to operate.

23. The problems with the valuation of the Parcels in 2022 does not have anything to do with current market conditions, but rather has to do with the valuation approach used by the Appraiser as well as her failure to consider the governmental restrictions on the Parcels' usage.

24. Based upon the uniform standards of professional appraisal practice and the real property appraisal guidelines established by the Florida Department of Revenue, property of this type is properly assessed using the income method.

25. In 2022 the Appraiser arbitrarily used market data under a market approach to value the Parcels.

26. In 2022, the Appraiser arbitrarily failed to take into account the restrictions on the Property, including the LURA, when valuing the Parcels.

27. The Appraiser knew that the Parcels were not individually marketable single-family homes, but intentionally assessed the Affordable Housing Homes as though they could individually be bought or sold on the market at market rates.

28. Income generating developments differ from individually marketable single-family homes in many ways, one of which is how an appraiser should derive just value.

29. The Property is a single, restricted, multi-family development and using the market method to arrive at a value is inappropriate. Using the income method to arrive at a value is appropriate and standard.

30. Section 718.117 Florida Statutes provides the basis for how to terminate a homeowner's association and convert a development. This was completed in 2020.

31. Because the homeowner's association was terminated, the sole owner should

receive the benefit of running the entire Development as one integrated property.

32. Selling any individual Parcel, regardless if it is vacant or improved, in the Development is against the LURA and HOME loan covenants and would be against multiple public policy. As such, the Appraiser cannot derive just value from a comparable that would otherwise be impossible.

33. Other income producing properties in Franklin County, like the Development, are valued by taking into account the actual income and expenses, which were provided to the Appraiser for 2022.

34. No other similar properties in Franklin County are valued using the market method.

35. No other similar properties in Franklin County are valued without taking into account affordable housing restrictions.

36. The proper valuation under the income method would result in a lower total valuation and tax bill for each Parcel.

#### **Count I: Tax Assessment Exceeds Just Value**

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

38. 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 Parcels.

39. Consequently, the assessment of each Parcel are in excess of just value and in violation Article VII, Section 4 of the Constitution of the State of Florida.

40. Assessor has arbitrarily and discriminatorily, and not through inadvertence or error, assessed the Parcels at a higher value relatively and comparatively to all or substantially all other property in Franklin 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 Parcels; remand the assessment to the Appraiser with directions to re-assess the Parcels 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**

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

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

43. The Appraiser has arbitrarily refused to comply and follow established standards of professional appraisal practice when assessing the Parcels 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 Franklin County. Specifically, the Appraiser has applied the income appraisal methodology to other affordable housing developments in Franklin County and not the market methodology. The owner of the Parcels, as a for-profit entity providing affordable

housing, has been singled out by the Appraiser and had ownership of the Parcels been parties other than the current owner, the Appraiser would have arrived at a different valuation. The owner of any real property in Franklin County should not be a determining factor in an establishment of just value. Here, ownership was a 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 affordable housing developments.

WHEREFORE, Plaintiff requests that this Court take jurisdiction over this cause and the parties hereto, enter an order setting aside the assessment on the Parcels; remand the assessment to the Appraiser with directions to re-assess the Parcels 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/Ginger Boyd*

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