

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

POSITANO APARTMENTS, LLC,
a Florida limited liability company,

Plaintiff,

Case No.: 2022-CA-011191-O

v.

Division:

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.

COMPLAINT

Plaintiff, POSITANO APARTMENTS, LLC, a Florida limited liability company, ("Positano"), sues Defendants, AMY MERCADO 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, and article V, sections 5 and 20 of the Florida Constitution.

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.

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 Orange County, Florida and consists of an apartment complex known as Positano Apartments and identified by parcel numbers 08-23-29-2790-00-010 (the "Property").

8. The Appraiser has estimated the just and assessed value of the Property for ad valorem taxes as: \$40,906,799.

9. Plaintiff has paid the taxes that have been assessed in full on the Property, pursuant to 194.171(3), Florida Statutes. A copy of the receipt is attached as Exhibit "A."

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 Orange County's 2022 property tax assessment for the Property, specifically, its inclusion of ancillary income in its valuation.

12. The Property Appraiser valued the Property using the income approach. In addition

to income from rental of the apartment units in the property, the Property Appraiser included a line item for ancillary income.

13. The ancillary income included in the Property Appraiser's valuation includes income from business or intangible value rather than income derived from the "land, buildings, fixtures, and other improvements to land."

14. For example, the Property Appraiser's valuation includes income from laundry facilities and pet fees, among other things. Renting an apartment does not entitle tenants to free laundry. Instead, tenants are free to decide whether to purchase laundry services on site, or access other laundry services in the community.

15. The Property Appraiser's valuation includes items that are other forms of property where value is based upon that which the property represents rather than its own intrinsic value.

Count I: Tax Assessment Exceeds Just Value

16. Plaintiff restates and realleges Paragraphs one through 15 as if fully set forth herein.

17. 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 Property.

18. Consequently, the assessment of the Property is in excess of just value and in violation Article VII, Section 4 of the Constitution of the State of Florida.

WHEREFORE, Plaintiff requests that this Court take jurisdiction over this cause and the parties hereto, enter an order setting aside the assessment on the Property; remand the assessment to the Property Appraiser with directions to re-assess the Property at just value without the inclusion of ancillary income or other improper 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

SHAINA STAHL, ESQUIRE

Florida Bar No.: 77643

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