

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 22-13646 CA 32

PPF MBL Portfolio, LLC, a Florida limited
liability company,

Plaintiff,

vs.

PEDRO J. GARCIA, as Property Appraiser
of Miami-Dade County, Florida; PETER
CAM, as Tax Collector of Miami-Dade
County, Florida; and JIM ZINGALE, as
Executive Director of the State of Florida
Department of Revenue,

Defendants.

_____ /

PEDRO J. GARCIA, as Property Appraiser
of Miami-Dade County, Florida,

Counter-Plaintiff/Crossclaimant,

vs.

PPF MBL Portfolio, LLC, a Florida limited
liability company,

Counter-Defendant.

and

JIM ZINGALE, as Executive Director of the
State of Florida Department of Revenue,

Crossclaim-Defendant.

_____ /

**PROPERTY APPRAISER’S AND TAX COLLECTOR’S
ANSWER AND DEFENSES TO COMPLAINT**

Defendant PEDRO J. GARCIA, as Property Appraiser for Miami-Dade County, Florida, (the “Property Appraiser”), and Defendant PETER CAM, as Tax Collector for Miami-Dade County, Florida, (the “Tax Collector”) (collectively, the “County”), by and through undersigned counsel, hereby answer the Complaint filed by the above-captioned Plaintiff as follows:

1. The County admits the averments in paragraph 1 but denies Plaintiff is entitled to any relief.
2. The County admits the averments in paragraph 2.
3. The County admits the averments in paragraph 3.
4. The County is without knowledge of, and therefore denies, the averments in paragraph 4.
5. The County admits the averments in paragraph 5.
6. The County denies that the Tax Collector is elected but admits the remaining averments in paragraph 6.
7. The County admits the averments in paragraph 7.
8. The County admits the averments in paragraph 8.
9. The County denies the averments in paragraph 9.
10. The County denies the averments in paragraph 10.
11. The County denies the averments in paragraph 11.
12. The County admits the complaint was timely filed but is without knowledge of the remaining averments in paragraph 12 and therefore denies same.

13. Exhibit A to the complaint speaks for itself but the County admits it appears to show a payment was made.

DEFENSES AND AFFIRMATIVE DEFENSES TO COMPLAINT

Plaintiff is not entitled to the relief requested in its Complaint by reason of the following defenses and/or affirmative defenses. The Property Appraiser and Tax Collector do not assume the burden of proof or the burden of persuasion for any of the following defenses where such burden is not otherwise imposed by law.

14. As their First Defense, the Property Appraiser's assessment for the challenged tax year represents just value and was arrived at by complying with all applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices.

15. As their Second Defense, the Plaintiff fails to state a cause of action that the assessed value approved by the Value Adjustment Board ("VAB") exceeds just value because the allegations do not identify specific factors that the VAB Special Magistrate improperly considered or failed to consider in determining the contested valuation. Further, the Plaintiff fails to state a cause of action because it does not allege what it believes the proper assessed value should be.

16. As their Third Defense, the Plaintiff has failed to state a cause of action for relief from an unconstitutional assessment under either the Florida or United States Constitution for the reason that Plaintiff wholly failed to allege how or in what manner Taxpayer's Property was singled out and assessed differently than all or substantially all other property in Miami-Dade County, Florida.

WHEREFORE, the County respectfully requests that this Court dismiss the Complaint or

enter judgment in the Property Appraiser and Tax Collector's favor; award to the Property Appraiser and Tax Collector the costs incurred in defending this action in accordance with section 194.192(1), Florida Statutes; and grant any further relief it deems just and proper.

PROPERTY APPRAISER'S COUNTERCLAIM AND CROSSCLAIM

Counter-Plaintiff/Crossclaimant, PEDRO J. GARCIA, as Property Appraiser of Miami-Dade County, Florida, files this Complaint against Counter-Defendant PPF MBL Portfolio, LLC, and Crossclaim-Defendant JIM ZINGALE, as Executive Director of the State of Florida Department of Revenue (the "Department"), and alleges:

1. This is an action equitable in nature brought by Plaintiff in his official capacity as Property Appraiser of Miami-Dade County, Florida, to contest a change which the Miami-Dade County Value Adjustment Board ("V.A.B.") made in the assessment of certain real property for purposes of ad valorem taxation for the year 2021.

2. This Court has jurisdiction of this equitable action pursuant to Sections 194.036 and 194.171, Florida Statutes. This action is timely filed and all conditions precedent to bringing this action have been met.

3. Crossclaim-Defendant JIM ZINGALE, Executive Director of the State of Florida Department of Revenue ("ZINGALE"), is the official of the state government responsible for overall supervision of the assessment and collection of ad valorem taxes. ZINGALE is joined herein pursuant to Section 194.181(5), Florida Statutes, because the tax assessment, as reduced by the V.A.B., is being contested on the grounds that it is contrary to the laws and Constitution of the State of Florida.

4. As of January 1, 2021, Counter-Defendant PPF MBL Portfolio, LLC was the legal titleholder of record of the real property described by Tax Folio No. 02-3234-007-0490, hereinafter referred to as the "Subject Property."

5. Counter-Defendant PPF MBL Portfolio, LLC was the taxpayer to whom the Subject Property was assessed for 2021 and was responsible for the payment of all ad valorem taxes levied thereon.

6. The Property Appraiser's 2021 assessment was arrived at by complying with Section 193.011 of the Florida Statutes, any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices. The Property Appraiser legally arrived at his assessment, and his assessment represents just values for the Subject Property for 2021.

7. Counter-Defendant-Taxpayer filed a petition with the V.A.B. contesting the Property Appraiser's assessment. The petition was heard by a Special Magistrate, who recommended reductions to amounts less than the Property Appraiser's assessment.

8. The V.A.B. adopted the recommendation of the Special Magistrate. Consequently, the Property Appraiser's assessment for the Subject Property was reduced from a market value of \$44,200,000 to a market value of \$34,230,154, a reduction in excess of the thresholds provided in Section 194.036(1)(b).

9. Additionally, pursuant to Section 194.036(1)(a) of the Florida Statutes, the Property Appraiser has determined and affirmatively asserts that the values approved by the V.A.B. are below just value, violate Florida Statutes, including Section 193.011, and violate Article VII, Section 4 of the Florida Constitution of 1968.

10. Furthermore, the V.A.B. reduction will incorrectly impact subsequent years' determination of assessed values pursuant to the application of Article VII, Section 4 of the Florida Constitution of 1968, and the implementing statutes, including Sections 193.155, 193.1554, and 193.1555 of the Florida Statutes.

WHEREFORE, Plaintiff prays that this Court:

1. Inquire into and determine the illegality of the tax assessment as reduced by the V.A.B.

2. Order that the Property Appraiser's assessment upon the Subject Property be reinstated and certified to the Miami-Dade County Tax Collector for the issuance of a revised tax bill for the deficiency in taxes and interest, including all appropriate adjustments to subsequent years' market and/or assessed value, in accordance with Article VII, Section 4 of the Florida Constitution of 1968.

3. Order ZINGALE to approve the Property Appraiser's assessment of the Subject Property as reinstated by the Court.

4. Grant Plaintiff his costs and such other relief as is just and proper.

DESIGNATION OF E-MAIL ADDRESSES

Pursuant to Florida Rule of Judicial Administration 2.516, undersigned counsel hereby designates his/her primary and secondary e-mail addresses for purposes of e-mail service as follows:

Primary e-mail address: jme@miamidade.gov
Secondary e-mail address: kih@miamidade.gov

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of **July 29, 2022**, a true copy of this document was served electronically via the Court's E-filing Portal this upon: Sabrina Robinson, Esquire, email: srobinson@stearnsweaver.com; ifrometa@stearnsweaver.com; Darrell Payne, Esquire, email: dpayne@stearnsweaver.com; cveguilla@stearnsweaver.com; the Department will be served a copy in accordance with Florida law.

By: */s/ Jorge Martinez-Esteve*
Jorge Martinez-Esteve
Assistant County Attorney