

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

SHANDS TEACHING HOSPITAL
AND CLINICS, INC., a Florida Not-For Profit
Corporation,
FLORIDA CLINICAL PRACTICE
ASSOCIATION, INC., a Florida not-for profit
Corporation,

Plaintiffs,

CASE NO. 2022-CA-3922

v.

AYESHA SOLOMON, as Alachua County
Property Appraiser, JOHN POWER,
as Alachua County Tax Collector, and
JAMES ZINGALE, as Executive
Director of the State of Florida
Department of Revenue

Defendants.

COMPLAINT

Plaintiffs, SHANDS TEACHING HOSPITAL AND CLINICS, INC. and
FLORIDA CLINICAL PRACTICE ASSOCIATION, INC. sue Defendants, AYESHA
SOLOMON, as Alachua County Property Appraiser, JOHN POWER, as Alachua County
Tax Collector, and JAMES ZINGALE, as Executive Director of the State of Florida
Department of Revenue, and allege:

1. This action is brought pursuant to Chapter 194, Florida Statutes, for
cancellation of an illegal and invalid ad valorem tax assessment.

2. This Court has jurisdiction over this action pursuant to Sections 68.01 and 194.171(1), Florida Statutes and Article V, Section 20(c)(3), Florida Constitution. Venue is proper in this Court pursuant to Section 194.171(1), Florida Statutes.

3. Plaintiff, Shands Teaching Hospital and Clinics, Inc. (hereafter “Shands”) is a Florida not-for-profit corporation which operates health care facilities as part of University of Florida Health (hereafter “UF Health”), the Southeast’s most comprehensive academic medical center.

4. Plaintiff, Florida Clinical Practice Association, Inc. (hereafter “FCPA”) is a Florida not-for-profit corporation, created at the direction of the UF Board of Trustees to implement a faculty practice plan for the University of Florida College of Medicine. Clinical practice plans facilitate clinical practice opportunities and experiences which the UF Board of Trustees has deemed essential for the training of students and postgraduate health professionals and for enhancing the skills and knowledge of faculty members who teach and train medical and other health professional students. FCPA is an instrumentality of the UF Board of Trustees and operates pursuant to guidelines required by the Board of Governors of the State University System pursuant to section 1001.706(3)(d), Florida Statutes.

5. At all material times Shands and FCPA (hereafter collectively “Plaintiffs”) held legal title to real property located in Alachua County, Florida which Defendant Solomon, as Alachua County Property Appraiser (hereafter “Property Appraiser”) has identified with Parcel Identification number 06041-004-000 (hereafter “Subject Property”). The Subject Property consists of land and two medical office buildings thereon

(hereafter “MOB I” and “MOB II” and collectively “MOBs”). Shands held legal title to the land and FCPA held legal title to the MOBs. Shands and UF College of Medicine faculty provided medical services to patients on the Subject Property as part of the UF Health mission.

6. The physicians rendering services in the MOBs are faculty of the UF College of Medicine, practicing in the fields of dermatology, cardiovascular medicine, psychiatry, obstetrics and gynecology, radiology, allergy, family medicine, integrative medicine, internal medicine, pain medicine, and senior care. Medical laboratories are located at both MOBs, and one of the MOBs includes a Shands pharmacy. These physicians also practice at Shands teaching hospital facilities. The Subject Property was used as described in paragraph 3 and was not and is not used for any profit-making purpose.

7. Defendant Property Appraiser is the official charged by law with rendering assessments of real property for purposes of ad valorem taxation in Alachua County and is a party to this action pursuant to section 194.181(2), Florida Statutes.

8. Defendant Power is the Tax Collector of Alachua County, Florida (hereafter “Tax Collector”). He is the official charged by law with collecting ad valorem taxes levied on property assessed by Defendant Property Appraiser and is a party to this action pursuant to section 194.181(3), Florida Statutes.

9. Defendant James Zingale is Executive Director of the State of Florida Department of Revenue, and is the official of state government responsible for overall supervision of the assessment and collection of ad valorem taxes. Defendant Zingale is a party to this action pursuant to section 194.181(5), Florida Statutes as Plaintiffs maintain

that the assessments and related practices of Defendants Property Appraiser and Tax Collector as alleged herein are contrary to the State Constitution.

10. At all material times the University of Florida (“hereafter “UF”) was a state university and educational institution of the State of Florida, which controlled, governed, and was beneficial owner of an academic medical center known as University of Florida Health, or “UF Health,” including beneficial ownership of real property used to advance the health care mission of UF and UF Health. UF Health includes the UF College of Medicine, five other colleges, Shands teaching hospital and related clinical facilities based in Alachua County, Florida that were and are used to provide patient care and medical education to students, as well as for scientific research and charitable purposes. The Florida Legislature annually appropriates funds to UF and Shands for the purposes described.

11. Plaintiffs have at all material times been under the direct control of the University of Florida as constituent parts of UF Health and have existed for the sole purpose of advancing the UF Health mission to provide health care education, patient care within hospital and out-patient clinical settings, and scientific research. The Subject Property is also used to further the UF Health mission as previously alleged. Revenue from the operations of Shands and FCPA is regularly provided to the University of Florida in support of the University of Florida’s missions.

12. Academic medical centers are generally comprised of three components: a university, a hospital, and a faculty practice plan whereby university medical faculty deliver health care services and provide clinical training of students. These components may exist within a single legal entity and or in separate entities. Prior to 1979, the UF

academic medical center was in the first category, and despite the subsequent separate incorporation of Shands and FCPA, UF continues to control, govern and beneficially own the operations and properties of UF Health, including those of Shands and FCPA.

13. Prior to 2018, the Subject Property consisted of the land and MOB I which was used as described in paragraphs 3 through 6. Plaintiffs originally applied for exemption of the Subject Property for tax year 2013. Defendant Property Appraiser deemed the Subject Property to be entirely exempt from ad valorem taxation, and no taxes were assessed or imposed thereon.

14. Property tax exemptions in Alachua County renew automatically each year absent material changes in circumstances, and the exemption of the Subject Property subsequently renewed automatically each year from Plaintiffs' original application for tax year 2013 through tax year 2017.

15. The events giving rise to this dispute began in 2018. Although no changes in the ownership or use of the Subject Property had occurred, and although the exemption had already renewed automatically, Defendant Property Appraiser on August 22, 2018 notified Shands that the exemption "will not be automatically renewed for Tax Year 2018" (emphasis in original). This notification purported to instruct Shands to file a new application "on or before March 1, 2018," a date which was then nearly six months in the past. Plaintiffs filed a new application, which Defendant Property Appraiser denied on or about October 12, 2018. Plaintiffs timely petitioned the Alachua County Value Adjustment Board (hereafter "VAB"), which overturned the Property Appraiser's denial and granted exemption for the Subject Property in its entirety.

16. Defendant Property Appraiser sued Shands and FCPA to overturn the VAB's decision granting the exemption for tax year 2018, and that case is pending before the court as Case No. 2019 CA 1519.

17. In 2018, MOB II was added to the Subject Parcel, with the same ownership and use as MOB I as previously alleged in paragraphs 3 through 6. For tax year 2019, Plaintiffs timely submitted to Defendant Property Appraiser a new exemption application informing him of such facts. Defendant Property Appraiser notified Shands by letter of June 14, 2019 that the 2019 exemption for the Subject Property had been "granted."

18. The exemption renewed automatically for 2019, and the June 14, 2019 exemption approval letter confirmed such exemption of the Subject Property in its entirety, inclusive of the land and both MOBs, for tax year 2019.

19. For tax year 2019, Defendant Property Appraiser did not send Shands or FCPA a notice of denial of exemption for the Subject Property or any portion thereof.

20. In August 2019, Defendant Property Appraiser issued a "2019 Real Estate TRIM Notice" correctly setting forth a 2019 taxable value of zero for the Subject Property. Thereafter, he issued another document captioned "2019 TRIM Notice" with the word "Corrected" appearing thereon, and purporting to assign the Subject Property a 2019 nonzero taxable value. Defendant Property Appraiser provided no explanation for this purported "correction."

21. Defendant Tax Collector issued a tax notice demanding payment of 2019 ad valorem taxes levied upon Defendant Property Appraiser's "corrected" nonzero taxable value.

22. Plaintiffs timely filed suit challenging their alleged liability for 2019 ad valorem taxes on the Subject Property on the grounds of immunity and exemption from said taxes, as well as the procedural bar of irregularities in the Defendant Property Appraiser's "corrected" TRIM notice. That case is currently pending before the Court as Case No. 2019 CA 4133.

23. Case No. 2019 CA 1519 concerning ad valorem taxation of the Subject Property for the 2018 tax year and Case No. 2019 CA 4133 concerning ad valorem taxation of the Subject Property for the 2019 tax year have been consolidated into Case No. 2019 CA 1519, stayed pending final determination of Plaintiffs' declaratory judgment action against Defendants styled *Shands Teaching Hospital and Clinics, Inc. et al. v. Crapo*, Case No. 2019 CA 4348, and administratively closed pursuant to an Order Granting Joint Motion to Consolidate and Stay Related Cases dated March 18, 2020.

24. In August 2020, Defendant Property Appraiser issued a "2020 Real Estate TRIM Notice" setting forth a 2020 nonzero taxable value for the Subject Property.

25. Plaintiffs timely filed suit challenging its alleged liability for 2020 ad valorem taxes on the Subject Property on the grounds of immunity and exemption from said taxes, as well as the procedural bar of irregularities in the Defendant Property Appraiser's 2019 "corrected" TRIM notice. That case is currently pending before the Court as Case No. 2020 CA 3209.

26. Case No. 2020 CA 3209 concerning ad valorem taxation of the Subject Property for the 2020 tax year was consolidated into Case No. 2019 CA 1521, and stayed pending final determination of Plaintiffs' declaratory judgment action , which is currently

pending before the 1st District Court of Appeals, Case No. 1D21-2523,¹ and administratively closed pursuant to an Order Granting Joint Motion to Consolidate and Stay Related Cases dated April 21, 2021.

27. In August 2022, Defendant Property Appraiser issued a “2022 Real Estate TRIM Notice” setting forth a 2022 nonzero taxable value for the Subject Property.

28. Defendant Property Appraiser submitted the Alachua County property tax roll to the Florida Department of Revenue for certification on October 10, 2022.

29. Defendant Tax Collector issued a tax notice demanding payment of 2022 ad valorem taxes levied upon the Subject Property, based on Defendant Property Appraiser’s nonzero taxable value.

30. In addition to the parcel identified in this Complaint, Shands, FCPA, or both of them hold legal title to other real property in Alachua County that Defendants Property Appraiser and Tax Collector have to date not deemed taxable.

31. The varied ad valorem tax treatment of Plaintiffs’ properties in Alachua County as alleged above is based on disparate determinations by Defendant Property Appraiser as to whether the parcels qualify for “exemption” from taxation pursuant to Chapter 196, Florida Statutes. Such determinations have resulted in inconsistent ad

¹ On October 8, 2021, Defendant Tax Collector paid refunds to Shands totaling \$524,486.08 for multiple parcels, including the Subject Property, pursuant to this Court’s Order Denying Plaintiff’s Motion for Summary Judgement as to Counts I and II and Granting Final Summary Judgement as to Court II in Case No. 2019-CA-4348 regarding the 2017, 2018, and 2019 tax rolls.

valorem tax treatment of different parcels, the ownership and use of which are materially indistinguishable, and of the same parcels in different tax years.

32. Upon information and belief, Defendant Property Appraiser relies upon the organizational structure of UF Health, in particular, the incorporation of Shands and FCPA, as the basis for his inconsistent tax treatment. He thus deems property taxable, notwithstanding that the property is: (a) owned by a UF Health entity he recognizes as an exempt entity; (b) occupied by another UF Health entity he recognizes as an exempt or immune entity; and (c) used for a purpose he recognizes as an exempt purpose.

33. Plaintiffs in good faith contest that any ad valorem taxes are due and owing on the Subject Property for tax year 2022 based on this Court's finding that the Plaintiffs' Alachua County real property is immune from ad valorem taxes in its Order Denying Plaintiff's Motion for Summary Judgement as to Counts I and III and Granting Final Summary Judgement as to Count II in Case No. 2019-CA-4348.² Therefore, no payment of any such taxes is required pending final disposition of this case. Without conceding Plaintiffs' liability for ad valorem taxes on the Subject Property for tax year 2022, all non-ad valorem assessments in Defendant Tax Collector's tax notice have been paid. A copy of Defendant Tax Collector's receipt for such payment is attached hereto as Exhibit I.

34. This action is timely filed.

² This Court held:

Both [Shands and FCPA] are recognized and relied upon by the State as virtually an arm of the University of Florida in fulfilling its health affairs mission. For these reasons, the Court determines that Plaintiffs' Alachua County real property is equitably owned by the State of Florida and is therefore entitled to immunity from ad valorem taxes.

35. All conditions precedent to the filing of this action have been performed or have occurred.

COUNT I
PROPERTY IS IMMUNE FROM TAXATION
BECAUSE PLAINTIFFS ARE STATE INSTRUMENTALITIES

36. The allegations of paragraphs 1 through 35 are re-alleged as if fully set forth in this Count I.

37. Plaintiffs' disputes with Defendant Property Appraiser over the parsing of exemption language are unnecessary. Plaintiffs are instrumentalities of the State of Florida; all of Plaintiffs' Property is immune from ad valorem taxation; and there is no constitutional authority to tax it or any portion of it. Plaintiffs need not annually apply for exemption or convince Defendant Property Appraiser that they satisfy exemption criteria.

38. The Subject Property is immune from taxation for the additional reason that Shands, an immune state instrumentality, is the equitable owner of the Subject Property.

39. Defendant Property Appraiser lacks authority to assert that any of Plaintiffs' Property is subject to ad valorem taxation, and Defendant lacks authority to seek collection of such taxes from Plaintiffs.

40. The 2022 ad valorem tax assessments and taxes levied on the Subject Property thereon are unlawful and of no force or effect. Any 2022 ad valorem taxes paid by Plaintiffs regarding the Subject Property were not due, and such taxes must be refunded.

41. Defendant Property Appraiser and Tax Collector must be ordered to discontinue attempting to assess and collect ad valorem taxes on Plaintiffs' Subject Property in the future.

WHEREFORE, Plaintiffs pray that this Court:

- a. Determine that Plaintiffs are an instrumentality of the State of Florida and that the Subject Property is and at all material times has been immune from ad valorem taxation;
- b. Determine that the purported assessment of a 2022 nonzero taxable value for the Subject Property and all taxes levied thereon are unlawful and cancel the same; and
- c. Award Plaintiffs' costs and grant such other relief as may be just.

**COUNT II
PROPERTY IS IMMUNE FROM TAXATION
BECAUSE IT IS EQUITABLY OWNED BY THE STATE OF FLORIDA**

42. In the alternative to and without waiving the allegations of Count I, Plaintiffs allege that Plaintiffs' Property is immune from ad valorem taxation for the reasons set forth in this Count II.

43. The allegations of paragraphs 1 through 35 are re-alleged as if fully set forth in this Count II.

44. At all times material hereto the State of Florida has been the equitable owner of all of Plaintiffs' Subject Property. Accordingly, such property has been immune from ad valorem taxation, and there is no constitutional authority to tax it or any portion of it.

45. By reason of the State's equitable ownership, Plaintiffs' disputes with Defendant Property Appraiser over the parsing of exemption language are unnecessary. All of Plaintiffs' Property is immune from ad valorem taxation; and there is no constitutional authority to tax it or any portion of it. Plaintiffs need not annually apply for exemption or convince Defendant Property Appraiser that they satisfy exemption criteria.

46. Defendant Property Appraiser lacks authority to assert that any of Plaintiffs' Subject Property is subject to ad valorem taxation, and Defendant lacks authority to seek collection of such taxes from Plaintiffs.

47. The ad valorem tax assessments and taxes levied thereon for prior years are unlawful and of no force or effect. Any ad valorem taxes paid by Plaintiffs were not due, and such taxes must be refunded.

48. Defendant Property Appraiser and Tax Collector must be ordered to discontinue attempting to assess and collect ad valorem taxes on Plaintiffs' Subject Property in the future.

WHEREFORE, Plaintiffs prays that this Court:

a. Determine that the Subject Property is equitably owned by the State of Florida and that such property is and at all material times has been immune from ad valorem taxation;

b. Determine that the purported assessment of a 2022 nonzero taxable value for the Subject Property and all taxes levied thereon are unlawful and cancel the same; and

c. Award Plaintiffs its costs and grant such other relief as may be just.

**COUNT III
PROPERTY EXEMPT FROM TAXATION**

49. In the alternative to and without waiving the allegations of Counts I and II, Plaintiffs allege that the Subject Property is exempt from ad valorem taxation for the reasons set forth in this Count III.

50. The allegations of paragraphs 1 through 35 are re-alleged as if fully set forth in this Count III.

51. Notwithstanding the actions of Defendant Property Appraiser, no statute of this State denies exemption to property used for an exempt purpose on the ground that legal title and occupancy are in different exempt or immune entities. No statute requires UF Health to abandon a longstanding organizational structure as a condition to retaining lawfully claimed exemptions that Defendant Property Appraiser has approved for many years.

52. At all times material hereto the Subject Property has qualified in its entirety for statutory exemptions afforded to property used for educational, hospital, scientific, and charitable purposes, and there is no statutory authority to tax it or any portion of it.

53. The Subject Property is exempt from taxation for the additional reason that Shands, which qualifies for exemption, is the equitable owner of the MOB's.

54. Defendant Property Appraiser's assessments purporting to assign nonzero taxable values to Subject Property was unlawful, and no ad valorem taxes may be collected on such properties in the future.

WHEREFORE, Plaintiffs prays that this Court:

- a. Determine that the Subject Property is exempt from taxation in its entirety for tax year 2022;
- b. Determine that the purported assessment of a 2022 nonzero taxable value for the Subject Property and all taxes levied thereon are unlawful and cancel the same; and
- c. Award Plaintiffs their costs and grant such other relief as may be just.

**COUNT IV
DENIAL OF EXEMPTION FOR SUBJECT PROPERTY
IS PROCEDURALLY BARRED**

55. In the alternative to and without waiving the allegations of Counts I, II and III, Plaintiffs allege that the Subject Property is exempt from ad valorem taxation for tax year 2022 for the reasons set forth in this Count IV.

56. The allegations of paragraphs 1 through 35 are re-alleged as if fully set forth in this Count IV.

57. Pursuant to section 196.011(9)(e), Florida Statutes, a property appraiser intending to deny an exemption in the absence of a refiled application must notify the owner of such intent prior to February 1 of the tax year, and pursuant to section 196.193(5), Florida Statutes, a property appraiser must issue notice of his denial of an exemption no later than July 1 of the tax year. Defendant Property Appraiser issued neither of these notices with respect to the Subject Property for tax year 2019.

58. Defendant Property Appraiser's issuance of a "corrected" TRIM notice in August 2019 does not constitute a denial of exemption as required by law and is a legally insufficient substitute for such a denial or for the required notices.

59. By reason of Defendant Property Appraiser's failure to notify Plaintiffs of exemption denial for tax year 2019, the exemption was automatically renewed.

60. Defendant Property Appraiser's "corrected" 2019 TRIM notice purporting to assign a nonzero taxable value to the Subject Property was unlawful and of no force or effect.

61. Defendant Property Appraiser has failed to comply with the requirements of sections 196.011(9)(e) and 196.193(5), Florida Statutes and, accordingly, Plaintiffs' exemption for the Subject Property for tax year 2022 automatically renewed as a matter of law.

WHEREFORE, Plaintiffs pray that this Court:

- a. Determine that Plaintiffs are entitled to exemption of the Subject Property in its entirety for tax year 2022;
- b. Determine that the purported assessment of a 2022 nonzero taxable value for the Subject Property and all taxes levied thereon are unlawful and cancel the same; and
- c. Award Plaintiffs their costs and grant such other relief as may be just.

/s/ H. French Brown IV
H. French Brown, IV
Florida Bar #040747
fbrown@deanmead.com (primary)
jherzfeldt@deanmead.com (secondary)
DEAN, MEAD & DUNBAR
106 East College Avenue, Suite 1200
Tallahassee, FL 32301
Telephone (850) 270-5525
Fax (850) 577-0095
Attorneys for Plaintiff Plaintiffs