

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,

Plaintiff,

CASE NO. 2022-CA-3925

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

Plaintiff, SHANDS TEACHING HOSPITAL AND CLINICS, 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. At all material times Shands 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 07915-010-017 (hereafter “Subject Property”). The Subject Property was and is operated as part of UF Health and used as described in paragraph 3.

5. 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.

6. 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.

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

8. 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.

9. Shands 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 is regularly provided to the University of Florida in support of the University of Florida’s missions.

10. 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, UF continues to control, govern and beneficially own the operations and properties of UF Health, including those of Shands.

11. The Subject Property is used by Shands' Patient Financial Services Department, which bills hospital patients and provides support of patient billings.

12. The Subject Property is also used by Shands' Health Information Management Department, which manages the release of patient medical records and provides other support for medical records.

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

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

15. 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.

16. In addition to the parcel identified in this Complaint, Shands holds legal title to other real property in Alachua County that Defendants Property Appraiser and Tax Collector have to date not deemed taxable.

17. The varied ad valorem tax treatment of Shands' 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 valorem tax

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

18. Upon information and belief, Defendant Property Appraiser relies upon the organizational structure of UF Health, in particular, the incorporation of Shands 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.

19. Shands in good faith contests 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 Shands 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-4348.¹ Therefore, no payment of any such taxes is required pending final disposition of this case. Without conceding Shands' 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.

20. This action is timely filed.

¹ 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.

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

COUNT I
PROPERTY IS IMMUNE FROM TAXATION
BECAUSE SHANDS IS A STATE INSTRUMENTALITY

22. The allegations of paragraphs 1 through 21 are re-alleged as if fully set forth in this Count I.

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

24. 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.

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

26. 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 Shands regarding the Subject Property were not due, and such taxes must be refunded.

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

WHEREFORE, Shands pray that this Court:

- a. Determine that Shands is 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 Shands its 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**

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

29. The allegations of paragraphs 1 through 21 are re-alleged as if fully set forth in this Count II.

30. At all times material hereto the State of Florida has been the equitable owner of all of Shands' 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.

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

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

33. 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 Shands were not due, and such taxes must be refunded.

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

WHEREFORE, Shands 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 Shands its costs and grant such other relief as may be just.

**COUNT III
PROPERTY EXEMPT FROM TAXATION**

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

36. The allegations of paragraphs 1 through 21 are re-alleged as if fully set forth in this Count III.

37. 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.

38. 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.

39. 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, Shands 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 Shands its costs and grant such other relief as may be just.

/s/ H. French Brown, IV
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