

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION

SOUTH CREEK EQUESTRIAN CLUB,
INC., a Florida corporation,

Plaintiff,

Case No.: 2023-CA-003106

vs.

Section: B

MIKE WELLS, as Property Appraiser;
MIKE FASANO, as Tax Collector; and
JIM ZINGALE, as Executive Director of the
Florida Department of Revenue,

Defendants.

_____ /

COMPLAINT

Plaintiff SOUTH CREEK EQUESTRIAN CLUB, INC., a Florida corporation sues Defendants MIKE WELLS as Property Appraiser (“Appraiser”), MIKE FASANO as Tax Collector (“Collector”) and JIM ZINGALE (“Zingale”) as the Executive Director of the Florida Department of Revenue, and alleges:

1. This is an action to contest ad valorem tax assessments against certain real property for the tax year **2022** and this Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and article V, sections 5 and 20 of the Florida Constitution.
2. Plaintiff is a Florida corporation.
3. Appraiser is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(2), Florida Statutes.

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

5. Defendant Zingale is sued in his official capacity as the Executive Director of the Florida Department of Revenue and is a necessary party to this action pursuant to section 194.181(5), Florida Statutes.

6. Plaintiff is the owner of certain real property located in Pasco County, Florida, identified as Folio Nos. **16-25-21-0000-01000-0050**, hereinafter referred to as the "Subject Property."

7. Plaintiff has paid the taxes which have been assessed for the Subject Property in full, pursuant to section 194.171(3)(4), Florida Statutes. A copy of the receipt is attached hereto as Plaintiff's Exhibit "A."

8. Plaintiff has performed all conditions precedent which are required to be performed by Plaintiff in establishing its right to bring this action and to the relief requested. Specifically, this action has been filed within the time period prescribed by section 194.171(2) Florida Statutes.

9. The Subject Property is located at 36425 Covington Road, Dade City, Pasco County, Florida. The site is ten (10) acres in size, seven (7) of which are wetlands. Of the three (3) upland acres, one (1) is improved with a residence. The other two (2) upland acres are improved with fencing and a kennel complex.

10. On January 1, 2022, two (2) upland acres of the Subject Property were used primarily for a bona fide agricultural purpose, to wit: breeding, boarding and training

hounds used for fox hunting. This use of the Subject Property by Plaintiff has been continuous since 1997.

11. Plaintiff is the successor to the Two Rivers Hunt, which was started in 1965 by Bob Thomas. For over 50 years, Plaintiff has staged organized fox hunts in Hernando, Pasco, Hillsborough and Manatee Counties. This activity generates revenue in the form of fees paid by club members and non-members alike to participate in the hunts. The foxhounds are integral to this activity.

12. The two acres of the Subject Property are therefore “used primarily for bona fide agricultural purposes” because the foxhounds that are bred, boarded and trained on the land provide entertainment, pleasure and sport to those participating in the fox hunts. See, § 193.461(3)(b), Fla. Stat.; § 193.461(5), Fla. Stat.; § 823.14(3), Fla. Stat.; and *McLendon v. Nikolits*, 211 So. 3d 92 (Fla. 4th DCA 2017).

13. On February 25, 2022, Plaintiff submitted an application and return for agricultural classification of the Subject Property. The application was accompanied by five years of financial statements, detailing the revenue and expenses associated with the agricultural activity taking place on the Subject Property.

14. Appraiser issued a notice of disapproval of application for property tax classification on June 1, 2022.

15. Plaintiff is in doubt concerning the Subject Property’s entitlement to agricultural classification for assessment purposes in 2022. Plaintiff is entitled to have that doubt removed by this Court.

16. There exist a present, real and bona fide controversy between Plaintiff and Appraiser over the classification of the Subject Property for ad valorem tax purposes in 2022.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the assessment on the Subject Property; direct that the two (2) acre portion of the Subject Property used for agricultural activity be classified as agricultural and reassessed in accordance with its classified use; and further, that this Court enter an order directing Collector to cancel the original bill and issue a new tax bill in said reassessed amount; 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/ Robert E. V. Kelley, Jr.

Robert E. V. Kelley, Jr.
Florida Bar No. 451230
Hill, Ward & Henderson, P.A.
101 E. Kennedy Boulevard, Suite 3700
Tampa, FL 33602
rob.kelley@hwhlaw.com
relitrevk@hwhlaw.com
(813) 221-3900
Attorney for Plaintiff