

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIVIL DIVISION

SPRINT SPECTRUM LLC, a
foreign limited company d/b/a
T-MOBILE,

Plaintiff,

Case No: 2022-024058-CA-01

v.

Division: CA13

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

Defendants.

_____ /

COMPLAINT

Plaintiff, SPRINT SPECTRUM LLC, etc., a foreign limited liability company d/b/a T-MOBILE, sues Defendants, PEDRO J. GARCIA as Property Appraiser (“Appraiser”), MARCUS SAIZ de la MORA as Tax Collector (“Collector”), and JIM ZINGALE (“Zingale”) as the Executive Director of the Florida Department of Revenue, and alleges:

Allegations Common to All Counts

1. This is an action to contest an ad valorem tax assessment against certain tangible personal property for the tax year **2022** and this Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and article V, section 5 and 20 of the Florida Constitution.

2. Plaintiff is a Delaware limited liability company.
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 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 tangible personal property located in Miami-Dade County, Florida, consisting of leased cellular telephone handsets, that Appraiser assessed using Folio No. **50-012397**, hereinafter referred to as the "Subject Property."
7. Plaintiff has paid the taxes which have been assessed 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. Specifically, this action has been filed within the time period prescribed by section 194.171(2), Florida Statutes.

Count I

9. The allegations contained in Paragraphs 1 - 8 are hereby incorporated as if specifically set forth in full and re-alleged herein.

10. Appraiser estimated the Subject Property's just / assessed value for ad valorem purposes in the amount of **\$7,895,943** (hereinafter, the "assessment").

11. Appraiser failed to comply with section 193.011, Florida Statutes and professionally accepted appraisal practices in assessing the Subject Property.

12. The assessment does not represent the just value of the Subject Property as of the lien date because it exceeds the market value and therefore violates article VII, section 4 of the Florida Constitution.

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 as excessive; establish the proper assessment of the Subject Property in accordance with the Constitution of the State of Florida and section 193.011, Florida Statutes; direct the Collector to cancel the original bill and issue a new tax bill in said reassessed amount; and finally, to award Plaintiffs their 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.

Count II

13. This is an action for declaratory and ancillary relief concerning Appraiser's rejection of Plaintiff's Tangible Personal Property Tax Return (DR-405) filed

for tax year 2022 and declaration that Plaintiff failed to file a tax return as required by law for the 2022 tax year. Jurisdiction is predicated upon Chapter 86, Florida Statutes and section 194.171, Florida Statutes.

14. The allegations contained in Paragraphs 2 - 8 are hereby incorporated as if specifically set forth in full and re-alleged herein.

15. Plaintiff timely filed its tangible personal property tax return (DR-405) (the "Return") for 2022, providing all of the information required by section 195.027(4), Florida Statutes. In so doing, Plaintiff reported its handset assets leased to customers as part of the account as it had done so for many years prior. The rendition included tens of thousands of handsets located throughout the county. Plaintiff provided the original installed cost information and vintages by municipal taxing jurisdiction, allowing Appraiser to create individual accounts for the 33 affected municipalities, for purposes of assigning millage rates. The exact location of each customer leasing a handset is not necessary to establish a just value assessment following Florida law and professionally accepted appraisal practices.

16. Upon receipt of Plaintiff's Return, Appraiser notified Plaintiff that its return was being rejected as incomplete. See letter from M. Cindy Jones dated April 19, 2022 attached hereto as Exhibit "B."

17. Plaintiff replied by pointing out that the Return was in fact complete with all required information having been provided. See letter from Brandon Bays dated May 5, 2022 attached hereto as Exhibit "C."

18. By rejecting the Return as incomplete and treating it as a failure to file altogether, Appraiser deprived Plaintiff of the ability to contest the assessed value before the value adjustment board. See, § 194.034(1)(j), Fla. Stat. Appraiser acted intentionally in doing so as Plaintiff had successfully contested the handset assessment in prior years.

19. Plaintiff's reporting of the handset assets was consistent with its renditions for tax year 2018 and prior years, all of which had been accepted by Appraiser as filed.

20. For tax years 2019 and 2020, Appraiser rejected similar returns by Plaintiff for the same reasons and imposed 25% penalty pursuant to section 193.72(1)(a), Florida Statutes, for the failure to file a return. Plaintiff judicially contested the penalty and Appraiser ultimately conceded that the returns were complete and timely filed. See Agreed Order dated March 17, 2021 attached as Exhibit "D" and Stipulated Final Judgment dated April 19, 2021 attached as Exhibit "E."

21. Because Plaintiff actually filed the Return timely, the statutory prohibition of administrative review was wrongfully invoked.

22. Plaintiff is in doubt concerning the validity of Appraiser's rejection of the Return for tax year 2022 and is entitled to have that doubt removed by the Court.

23. There exists a present, real and bona fide controversy between Plaintiff and Appraiser as to Plaintiff's 2022 tax return.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; enter an order declaring that Plaintiff's tax return satisfied the requirements of law and was timely filed for 2022; 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

(813) 221-3900

rob.kelley@hwhlaw.com

relitrevk@hwhlaw.com

Attorney for Plaintiff