

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

GENERAL JURISDICTION DIVISION

CASE NO.

MERRITT PLACE, LTD.,

Plaintiff,

v.

LAZARO SOLIS, as Property Appraiser
for Miami-Dade County, Florida,

MARCUS SAIZ as Tax Collector for Miami-
Dade County, Florida, and

MARSHALL STRANBURG, as Executive
Director of the State of Florida Department of
Revenue,

Defendants.

COMPLAINT

Plaintiff and Property Owner Merritt Place, Ltd. ("Taxpayer"), sues Defendants, Honorable Lazaro Solis, as Property Appraiser of Miami-Dade County, Florida ("Property Appraiser"), Honorable Marcus Saiz, as Tax Collector for Miami-Dade County, Florida ("Tax Collector"), and Honorable Marshall Stranburg, as Executive Director of the State of Florida Department of Revenue (the "Department") (collectively, "Defendants") and alleges:

1. This is an action for equitable and statutory relief. This Court has jurisdiction pursuant to Sections 26.012, 86.011, 194.036 and 194.171 of the Florida Statutes.

2. This lawsuit concerns certain real properties situated in Miami-Dade County, Florida at or near 1200 S.W. 8th Avenue with Folio Numbers 16-7825-039-0010, 16-7825-039-0250, 16-7825-039-0500, 16-7825-039-0800, and 16-7825-039-1200 (collectively the

"Property"). This lawsuit concerns the real estate taxes imposed on the Property for Tax Year 2012.

3. Property Appraiser lawfully holds the office of the Property Appraiser of Miami-Dade County, Florida. He is charged with the responsibility of discharging the duties of said office.

4. Tax Collector is the duly appointed and acting tax collector for Miami-Dade County, Florida, and is obligated to discharge the duties of said office.

5. Department is named as a Defendant to this action as required by Subsection 194.181(5) of the Florida Statutes because the tax assessment is also being contested on the grounds that it is contrary to the laws and Constitution of the State of Florida.

6. Taxpayer has paid the taxes as required by Subsection 194.171(4) of the Florida Statutes. Evidence of said payment is attached as Exhibit A. Taxpayer has also otherwise complied with all other conditions precedent to the maintenance of this lawsuit, and has timely brought this action.

7. Property Appraiser has certified the assessments of the Property for the Tax Year 2012 in the amounts of \$5,415,000 (hereafter the "Assessment"). The Assessment was in excess of the just value of the Property, in violation of the Florida Statutes, including, but not limited to, Section 193.011, as well as in violation of Article VII, Section 4 of the Florida Constitution.

8. Taxpayer duly filed a formal appeal for property tax reduction with the Value Adjustment Board of Miami-Dade County ("VAB") pursuant to Section 194.011 of the Florida Statutes, contesting the Assessment of the Property for the Tax Year 2012.

9. Following a hearing occurring on February 18, 2014, under Agenda No. 12-37918, the Special Magistrate appointed to hear Taxpayer's claim found that the preliminary

Assessment was unlawful and not in compliance with Florida law and recommended a reduction in the preliminary Assessment to the final value of \$5,415,000.

10. Despite this reduction, such final assessment exceeds just value, and is therefore in violation of the Florida Statutes, including, but not limited to, Section 193.011, as well as in violation of Article VII, Section 4 of the Florida Constitution. As such, the Assessment is inaccurate, illegal, arbitrary and violative of the established requirements of law in determining assessment of real property for *ad valorem* taxation purposes.

11. Specifically, Special Magistrate violated established Florida case and statutory law mandating that Land Use Restriction Agreements (or "LURA"s) for affordable housing projects such as the instant Property be specially recognized and taken into consideration by the taxing authority, and appropriate reductions consequently imposed.

12. The LURA pertaining to this subject Property is entitled Land Use Restriction Agreement for Merritt Place Estates/SAIL, and is recorded in the Official Records of Miami-Dade County at Book 21661 and Page 2394, and is attached hereto as Exhibit B.

13. The Florida Statutes are perfectly clear in section 193.011 that these recorded LURA documents must be considered and treated with equal force as any "land use regulation" limiting the use (and thus the value) of the Property.

14. This reading of section 193.011 is actually cross-referenced in subsequent Statutes governing affordable housing projects. Section 420.5099 of the Florida Statutes is particularly relevant to the instant Case:

(5) For purposes of implementing this program in Florida and in assessing the property for ad valorem taxation under s. 193.011, neither the tax credits, nor financing generated by tax credits, shall be considered as income to the property, and the actual rental income from rent restricted units in a low-income tax credit development shall be recognized by the property appraiser. In considering or

using the market or cost approaches under s. 193.011, neither the costs paid for by tax credits nor the costs paid for by additional financing proceeds received because the property is in the program shall be included in the valuation.

(6) For the further purpose of implementing this program in Florida and in assessing the property for ad valorem taxation under s. 193.011, any extended low income housing agreement and all amendments and supplements thereto which are recorded and filed in the official public records of the county where the property is located *shall be deemed a land use regulation during the term of any such agreement, amendment, or supplement.*

§420.5099(5) and (6) Fla. Stat (2010) (emphasis added).

15. If there were any doubt whatsoever concerning the foregoing statutory provisions, case law has explicated these provisions and made perfectly clear their mandatory nature. *See Holly Ridge Ltd. Partnership v. Pritchett*, 936 So. 2d 694 (Fla. 5th DCA 2006).

16. Despite all of the foregoing, the taxing authority and the challenged decision of the Special Master gave no reduction based upon the LURA recorded for this Property.

17. The decision of the Special Magistrate was authenticated and approved in his Findings of Fact/Conclusions of Law and Recommendations to the Dade County Value Adjustment Board Real Property Valuation Issues for Tax Year 2012, dated February 18, 2014.

18. Taxpayer will be irreparably damaged if forced to pay the full taxes based on the above referenced Assessment totaling \$5,415,000.

WHEREFORE, Taxpayer demands judgment against the Defendants as follows:

- a. Declaring the just value of the Property and directing such adjustments between the parties as may be necessary in connection therewith or directing the Property Appraiser to reassess the Property for the 2012 Tax Year in compliance with Florida law, and the Florida Constitution;
- b. Recalculating the taxes that should have been paid based on a property assessment of the Property and ordering a refund to the Taxpayer of the excess amounts paid;
- c. Awarding costs in favor of Taxpayer pursuant to Section 194.192 of the Florida Statutes; and
- d. Granting such other and further relief as this Court deems just and proper.

DATED this 21th day of July, 2014.

Respectfully submitted,
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By: 

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