

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA
CIVIL DIVISION

KENNETH M. WILKINSON, C.F.A.,
as Property Appraiser of Lee County, Florida,

Plaintiff,

v.

Case No.:

PUBLIX SUPER MARKETS, INC.,
a Florida corporation; LARRY HART,
as Tax Collector of Lee County, Florida; and
LEON M. BIEGALSKI, as Executive Director
of the Florida Department of Revenue,

Defendants.

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COMPLAINT

Plaintiff, KENNETH M. WILKINSON, C.F.A., as Property Appraiser of Lee County, Florida ("Property Appraiser"), sues Defendants, PUBLIX SUPER MARKETS, INC., a Florida corporation ("Publix"), LARRY HART, as Tax Collector of Lee County, Florida ("Tax Collector"), and LEON M. BIEGALSKI, as Executive Director of the Florida Department of Revenue ("the Department"), and alleges:

1. This is an action to contest the decision of the Lee County Value Adjustment Board to reduce the assessment of certain tangible personal property for tax year 2015, and this Court has jurisdiction pursuant to chapter 194, Florida Statutes, and Article V, Sections 5 and 20 of the Florida Constitution.
2. At all times material herein, the Property Appraiser was the duly elected Property Appraiser of Lee County, Florida.
3. Publix is a Florida corporation with its principal offices located in Lakeland,

Florida.

4. Larry Hart is the duly elected Tax Collector of Lee County, Florida, and is included as a nominal party pursuant to section 194.181(3), Florida Statutes (2015).

5. Leon M. Biegalski is the Executive Director of the Florida Department of Revenue and is included as a nominal party pursuant to section 194.181(5), Florida Statutes (2015).

6. This Court has subject matter jurisdiction over this action pursuant to § 194.171(1): *"The circuit courts have original jurisdiction at law of all matters relating to property taxation. Venue is in the county where the property is located ..."*

7. Publix is the owner of certain tangible personal property located in its retail stores in Lee County, Florida. The tangible personal property that is the subject of this action (hereinafter referred to as the "Subject Property") is identified by the account numbers and is situate at the locations shown on Exhibit A attached hereto.

8. The Subject Property was assessed at just value by the Property Appraiser for ad valorem tax purposes as of January 1, 2015 in the amounts shown on Exhibit A attached hereto.

9. In assessing the Subject Property, the Property Appraiser properly considered the criteria described in § 193.011, Florida Statutes, and professionally accepted appraisal practices in his assessment of the Subject Property.

10. The Property Appraiser's assessment was based upon the same appraisal practices generally applied by the Property Appraiser to comparable property within the same class in Lee County, Florida.

11. Publix filed petitions before the Lee County Value Adjustment Board

("VAB") as to each of the Subject Property accounts, requesting that the Property Appraiser's just values be reduced.

12. On November 9, 2015, a Special Magistrate for the Value Adjustment Board heard Publix's petitions.

13. The Special Magistrate granted Defendant's petitions and reduced the just value of the Subject Property to the amounts shown on Exhibit A attached hereto. Copies of the Recommended Decisions of the Value Adjustment Board are attached hereto, marked as Composite Exhibit B.

14. On March 29, 2016, the Value Adjustment Board approved and adopted the recommended decisions of the Special Magistrate and issued its Certification of the Value Adjustment Board.

15. Copies of the Notice of Decision of the Value Adjustment Board for each of Publix's petitions were furnished to Defendants on March 30, 2016. Copies of the Notices of Decision are attached hereto, marked as Composite Exhibit C.

16. The Property Appraiser recertified the 2015 Lee County Tangible Personal Property assessment roll on March 30, 2016. A copy of the Certificate to Roll is attached hereto, marked as Exhibit D.

17. The VAB's reduced values vary from the Property Appraiser's just values by a far greater degree than the minimum required for the Property Appraiser to bring this action pursuant to § 194.036(1)(b), Fla. Stat., as indicated in the chart shown in Exhibit A attached hereto.

18. The decisions of the VAB are unlawful and invalid and result in an assessment of the Subject Property that is less than just value in violation of section

193.011, Florida Statutes, and Article VII, Section 4 of the Florida Constitution.

19. As a result of the VAB's decisions, Defendant Publix will bear a disproportionately smaller share of the 2015 ad valorem tax burden than other taxpayers in Lee County, Florida.

20. The Property Appraiser has performed all conditions precedent required to be performed in establishing his right to bring this action. Specifically, this action is brought pursuant to § 194.036(1)(b), Fla. Stat. (2015), and has been filed within the time provided in § 193.122, Fla. Stat.

WHEREFORE, the Property Appraiser respectfully requests that this Court grant the following relief:

A. declare that the reduced value as a result of the Value Adjustment Board decisions does not represent just value of the Subject Property as of January 1, 2015;

B. enter an order setting aside the Lee County Value Adjustment Board's decisions;

C. reinstate the Property Appraisers' assessment of the Subject Property and/or establish the proper assessment of the Subject Property in accordance with section 193.011, Florida Statutes, and the Florida Constitution

D. require the Defendant, Publix, to pay any and all additional taxes and interest owed on the Subject Property;

D. grant and award the costs of this action to the Property Appraiser; and

E. grant such other and further relief as the Court deems appropriate and proper.

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