

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

NEAPOLITAN ENTERPRISES, LLC,
a Florida limited liability company

Plaintiff,

Case No.:

vs.

Division:

ABE SKINNER, as Collier County Property
Appraiser; LARRY H. RAY, as Collier County
Tax Collector and LEON M. BIEGALSKI,
as Executive Director of the Florida Department
of Revenue,

Defendants,

COMPLAINT

Plaintiff, NEAPOLITAN ENTERPRISES, LLC, a Florida limited liability company, sues Defendants, ABE SKINNER, as Collier County Property Appraiser ("Appraiser"), LARRY H. RAY, as Collier County Tax Collector ("Collector") and LEON M. BIEGALSKI, as Executive Director of the Florida Department of Revenue, and alleges:

1. This is an action to contest an ad valorem tax assessment on real property for the tax year 2015, and this Court has jurisdiction pursuant to Chapter 194, Florida Statutes, and Article V, Sections 5 and 20 of the Constitution of the State of Florida.
2. Plaintiff is a Florida limited liability company authorized to transact business in the State of Florida.

3. Plaintiff is the owner of certain real property located in Collier County, Florida, identified as follows:

Parcel ID Nos. Addresses

14012520001 215 13th Avenue South, Naples FL (hereinafter referred to as "Lot K-1");

14012760007 245 13th Avenue South, Naples FL (hereinafter referred to as "Lot K-2");

and

14019880003 1135 3rd Street South, Naples (hereinafter referred to as "Lot A"),

also as shown on "Exhibit A" attached hereto (hereinafter Lot K-1, Lot K-2 and Lot A are collectively referred to as the "Subject Properties").

4. Appraiser is sued herein in his official capacity and is a necessary party to the action pursuant to Section 194.181 (2), Florida Statutes.

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

6. Defendant Leon M. Biegalski 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.

7. Appraiser assessed the Subject Properties for ad valorem purposes in the following amounts:

<u>Parcel</u>	<u>Just (Market) Value</u>	<u>Assessed (Taxable) value</u>
Lot K-1	\$4,391,572.00	\$2,439,758.00
Lot K-2	\$2,004,509.00	\$1,111,024.00
Lot A	\$2,445,338.00	\$991,984.00

8. Venue for this action lies in Collier County, Florida pursuant to Section 194.171(1).

9. Plaintiff, pursuant to Section 194.171 (3) and (4), Florida Statutes, has paid the taxes in full for 2015 for each of the Subject Properties, less the 4% discount for early payment in November, but payment of these taxes is not an admission that the taxes were due and does not prejudice Plaintiff's right to bring this action. A copy of the paid tax receipts for each of the Subject Properties is attached hereto as Plaintiff's "Exhibit A".

10. 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 ACTION TO CONTEST TAX ASSESSMENT

11. Plaintiff incorporates the allegations of paragraphs 1 through 10 as if fully set forth therein.

12. Appraiser certified the values, reductions and exemptions of the Subject Properties for tax year 2015 as follows:

<u>Parcel</u>	<u>Just (Market) Value</u>	<u>10 Percent Cap</u>	<u>Assessed (Taxable) value</u>
Lot K-1	\$4,391,572.00	\$1,951,814.00	\$2,439,758.00
Lot K-2	\$2,004,509.00	\$893,485.00	\$1,111,024.00
Lot A	\$2,445,338.00	\$1,453,354.00	\$991,984.00

13. Pursuant to Section 194.301, Florida Statutes, Plaintiff is entitled to a determination by the Court of the appropriateness of the appraisal methodology used.

14. The values of each of the Subject Properties must be determined by an appraisal methodology that complies with the criteria of Section 193.011 and professionally acceptable appraisal practices.

15. This assessment of Lot K-1 was in excess of the just value of Lot K-1, in violation of Florida Statutes, including Section 193.011 and Article VII, Section 4 of the Florida Constitution.

16. This assessment of Lot K-2 was in excess of the just value of Lot K-2, in violation of Florida Statutes, including Section 193.011 and Article VII, Section 4 of the Florida Constitution.

17. This assessment of Lot A was in excess of the just value of Lot A, in violation of Florida Statutes, including Section 193.011 and Article VII, Section 4 of the Florida Constitution.

18. Property Appraiser's assessments of the Subject Properties was arbitrarily based on appraisal practices which are different from the appraisal practices generally applied by the Property Appraiser to comparable property within Collier County, Florida.

19. The assessments of the Subject Properties are unlawful and invalid because the criteria in Section 193.011, Florida Statutes were not properly considered.

20. The assessments of the Subject Properties are inaccurate, illegal and violative of established requirements of law in determining just valuation of real property for ad valorem taxation purposes.

WHEREFORE, Plaintiff demands that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the assessments of each of the Subject Properties on the basis that such assessments are excessive; establish the proper assessments for each of the Subject Properties in accordance with the Constitution of the State of Florida and Section 193.011, Florida Statutes; direct the Collector to cancel the original tax bills for each of the Subject Properties and issue new tax bills in said reassessed amounts; enter an order enjoining Collector from retaining the amount of the 2015 taxes paid for each of the Subject Properties in excess of the new tax bills

and ordering Collector to refund to Plaintiff such excess 2015 taxes paid for each of the Subject Properties; 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.

COUNT II DECLARATORY JUDGMENT

21. Plaintiff incorporates the allegations of paragraphs 1 through 10 as if fully set forth herein.

22. Plaintiff requests the Court either: (1) determine the just value of each of the Subject Properties and either direct such adjustment between the Plaintiff and Defendants as may be just and proper in connection therewith; or 2) declare that the assessments of each of the Subject Properties does not reflect the just value of each of the Subject Properties and direct the Property Appraiser to reassess each of the Subject Properties for the 2015 tax year in compliance with Florida law and to refund the excess portion of the taxes that were paid by Plaintiff.

23. There is a bona fide, actual, present, practical need for the declaratory relief.

24. The declaratory relief request deals with a present controversy as to a concrete set of facts.

25. Plaintiff's rights are dependent upon the facts or the law applicable to the facts.

26. Plaintiff has an actual, present, adverse and antagonistic interest in the subject matter, either in fact or law.

27. Plaintiff's antagonistic and adverse interests are all before the Court by proper process.

28. The relief sought is not merely the giving of legal advice by the Court or answer to questions propounded by curiosity.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

- 1) Determining the just and proper values of each of the Subject Properties and directing such adjustments between the parties as may be necessary in connection therewith or directing the Property Appraiser to reassess each of the Subject Properties for the 2015 tax year in compliance with Florida law.
- 2) Recalculating the taxes that should have been paid based on assessments equal to the Subject Properties' respective, just and proper values, and ordering a refund to the Plaintiff of the excess amounts paid;
- 3) Awarding costs in favor of Plaintiff pursuant to Section 194.192, Florida Statutes; and
- 4) Granting such other and further relief as this Court deems just and proper.

Dated: May 5, 2016



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