

**IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA**

**CASE NO.: 2020-CA-1499  
DIV MG**

ATLANTIC MULTI FAMILY – VERDANT COVE, LLC  
a Florida limited liability company,

Plaintiff,

vs.

ED CRAPO, as the Property Appraiser of  
Alachua County, Florida; JOHN POWER, as  
the Tax Collector of Alachua County, Florida;  
and JIM ZINGALE, as the Executive Director  
of the Florida Department of Revenue,

Defendants.

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**COMPLAINT**

Plaintiff, ATLANTIC MULTI FAMILY – VERDANT COVE, LLC, a Florida limited liability company, sues the Defendants, ED CRAPO, as the Property Appraiser of Alachua County, Florida; JOHN POWER as the Tax Collector of Alachua County, Florida; and JIM ZINGALE, as the Executive Director of the Florida Department of Revenue, and alleges:

1. The Plaintiff, ATLANTIC MULTI FAMILY – VERDANT COVE, LLC, a Florida limited liability company, owns real property located in Alachua County, Florida, consisting of an affordable housing project known as Verdant Cove Apartments; the denial of an affordable housing exemption on this property and its subsequent effect on ad valorem taxes is the subject matter of this action.

2. On August 31, 2018, an Assignment and Assumption of Extended Low-Income Housing Agreement (“ELIHA”) was entered into by CREATIVE CHOICE HOMES XXII, LTD, a Florida limited partnership, as Seller, and ATLANTIC MULTIFAMILY – VERDANT COVE, LLC, a Florida limited liability company, as Purchaser, and FLORIDA HOUSING FINANCE

CORPORATION, ("Florida Housing"), wherein Florida Housing approved Seller's request for the transfer of ownership of the Development to Purchaser of the ELIHA dated August 11, 2004 and recorded August 26, 2004 in Official Records Book 2983, Page 591, of the Public Records of Alachua County, Florida, in connection with that certain 140-unit multifamily residential rental development known as VERDANT COVE APARTMENTS. The Plaintiff is bound by all terms of the ELIHA.

3. The parcel is more fully described in the records of the Property Appraiser and Tax Collector under the following Parcel Identification Numbers ("the subject property"):

OWNER	PARCEL ID
Atlantic Multi Family – Verdant Cove, LLC	16125-003-000; 16125-003-001 16128-000-000; 16128-001-000

4. The Defendant, ED CRAPO, is the Property Appraiser of Alachua County, Florida (hereinafter the "Property Appraiser"), and is sued herein in his official capacity, and not individually.

5. The Defendant, JOHN POWER, is the Tax Collector of Alachua County, Florida (hereinafter the "Tax Collector"), and is sued herein in his official capacity, and not individually.

6. The Defendant, JIM ZINGALE, is the Executive Director of the Florida Department of Revenue (hereinafter the "DOR"), and is sued herein in his official capacity, and not individually.

7. This Court has jurisdiction of this matter pursuant to Section 194.171(1) of the Florida Statutes.

8. Venue for this action lies in Alachua County, Florida pursuant to Section 194.171(1) of the Florida Statutes.

9. Plaintiff is now, and was on January 1, 2019, responsible for the property taxes on

the subject property located in Alachua County, the legal description of which is contained in the Property Appraiser's records as listed in Paragraph 3 above.

10. This is an action by Plaintiff contesting the legality and validity of the 2019 ad valorem taxation exemption denials on the aforesaid tax parcel.

11. At all times material to this cause of action, the Property Appraiser was responsible for properly assessing the value of Plaintiff's parcel in accordance with Florida law, including applying any exemptions or discounts to which the property is entitled.

12. The Tax Collector has the statutory duty to collect the taxes resulting from the assessments of the subject properties. The Tax Collector is joined as a nominal party defendant for the purpose of providing timely notice of this action and to provide this Court with jurisdiction over the Tax Collector to direct a refund of taxes paid upon granting of the relief requested herein.

13. The DOR is joined as a party defendant pursuant to Section 194.181 of the Florida Statutes.

14. The real property for which Plaintiff is responsible for property taxes is subject to assessment by the Property Appraiser for ad valorem tax purposes. Section 192.001(12) of the Florida Statutes defines "real property" to mean "land, buildings, fixtures, and all other improvements to land."

15. The property is entitled to the affordable housing property exemption under Section 196.1978, Florida Statutes, which states that affordable multifamily housing projects that meet the requirements of the statute "shall receive a 50 percent discount from the amount of ad valorem tax otherwise owed beginning with the January 1 assessment after the 15<sup>th</sup> completed year of the term of the recorded agreement on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in [Section] 420.0004." In order to receive this exemption (or discount), the following requirements must also be met:

- (a) The affordable multifamily housing project must contain "more than 70 units."
- (b) The affordable multifamily housing project must also "[b]e subject to an agreement with the Florida Housing Finance Corporation [FHFC] recorded in the official records of the county in which the property is located ...." A copy of the Extended Low-Income Housing Agreement and Assignment and Assumption of Extended Low-Income Housing Agreement between FHFC and Plaintiff and the 8609 Forms showing use restriction commencement and in-service date of 2003 is attached hereto respectively as Exhibit "A", Exhibit "B" and Exhibit "C" and incorporated by this reference.
- (c) The subject property "must submit an application to the county property appraiser by March 1."

16. Plaintiff met all the requirements outlined above, as identified in Section 196.1978, Florida Statutes, as of January 1, 2019, the date on which all valuations and exemptions are to be determined in Florida, and filed their exemption applications ahead of March 1, 2019, and is therefore entitled to the 50 percent discount under Section 196.1978, Florida Statutes.

17. The Property Appraiser failed to properly or lawfully consider Section 196.1978, Florida Statutes, in making his determination as to the application of this exemption (discount) to the subject property.

18. As a result of the foregoing failure to apply the appropriate exemption (discount) to the subject property, the ad valorem taxes resulting from the subject property substantially exceeds the taxes which would have been levied on the subject property had it been properly identified as receiving the 50 percent discount.

19. Plaintiff has paid the taxes due on the subject property for 2019, less the 4% discount for early payment in November, but payment of these taxes is not an admission that the tax was due and does not prejudice the right to bring this action. Verification of payment of the taxes to the Tax Collector on this parcel is attached hereto as Composite Exhibit "C" and incorporated herein by this reference.

20. This action has been timely filed, and all conditions precedent to the filing of this action have been satisfied.

WHEREFORE, the Plaintiff, respectfully requests for the Court to render a judgment decreeing (a) that the applications for the 50 percent discount (exemption) under Section 196.1978, Florida Statutes, were inappropriately denied by the Property Appraiser; (b) that the Court establish and declare that the subject property be granted the affordable housing exemptions for 2019 or, in the alternative, that the Court remand this determination to the Property Appraiser with instructions to comply with the provisions of the Florida Statutes and the Florida Constitution in determining the exempt status; (c) that the 2019 assessments and the resulting taxes be set aside to the extent the same exceeds the taxable values of the subject property; and (d) that the judgment further decrees that Plaintiff is entitled to a refund of taxes paid to the extent that the amounts previously paid exceed the amount of taxes which would be owed on corrected assessments with the 50 percent discounts in place, and such tax refunds shall be promptly paid by the Tax Collector within thirty (30) days of entry of a Final Judgment by this Court, along with any statutory interest. Further, Plaintiff would request that it be granted such other and further relief as the Court may deem just and proper, as well as the costs of this action.

NELSON MULLINS BROAD AND CASSEL

*/s/ Shaina Stahl*

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