

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

WELLTOWER PROPCO GROUP
BORROWER, LLC, a Delaware limited
liability company,

Case Number:

Plaintiff,

v.

DOROTHY JACKS, CFA, AAS, as Property
Appraiser for Palm Beach County; ANNE M.
GANNON, as Tax Collector for Palm Beach
County; and JIM ZINGALE, as Executive Director
of the Florida Department of Revenue,

Defendants.

COMPLAINT

Plaintiff, WELLTOWER PROPCO GROUP BORROWER, LLC (“WPGB”), sues
Defendants, DOROTHY JACKS CFA, AAS, as Property Appraiser for Palm Beach County
 (“Jacks”), ANNE M. GANNON, as Tax Collector for Palm Beach County (“Gannon”), and JIM
 ZINGALE, as Executive Director of the Florida Department of Revenue (“Zingale”), and states as
 follows:

PARTIES, CLAIMS AND JURISDICTION

1. WPGB is a Delaware limited liability company, which is the owner in fee simple
 of that certain improved, commercial real property situated in Palm Beach County, Florida having
 a street address of 6343 Via De Sonrisa Del Sur, Boca Raton, Florida and a Parcel ID No for *ad
 valorem* taxation purposes of 00-42-47-34-24-001-0000 (“Property”). WPGB operates the
 Property as a commercial complex nursing home/assisted living, renting same intending to make
 a profit.

2. Jacks is the Palm Beach County, Florida Property Appraiser and is a proper party to this action pursuant to §194.181(2), *Fla. Stat.*

3. Gannon is the Palm Beach County, Florida Tax Collector and in such capacity is the official charged with collected *ad valorem* taxes on properties situated in Palm Beach County, Florida, including the Property, and is a property party to this action pursuant to §194.181(3), *Fla. Stat.*

4. Zingale is the Executive Director of the Florida Department of Revenue and is a proper party defendant to this action pursuant to §194.181(5), *Fla. Stat.*

5. This is an original proceeding contesting *ad valorem* taxation of the Property pursuant to Ch. 194, Part II, *Fla. Stat.*, following denial of WPGB's Petition to the Palm Beach County Value Adjustment Board ("VAB") for adjustment of the *ad valorem* tax assessment of the Property for the tax year 2022.

6. The Court has jurisdiction of the parties and the cause.

7. Venue is proper in this Court.

8. All conditions present to the initiation and maintenance of this action have occurred, have been performed or have been waived or excused.

GENERAL ALLEGATIONS

9. On or about November 1, 2022, Jacks assessed the "just value" of the Property pursuant to Ch 193, *Fla. Stat.* Jacks assessed the Property at a purported just value of Seventy-two Million, Five Hundred Sixty-eight Thousand, Eighty-nine Dollars (\$72,568,089.00) ("2022 Assessment").

10. A copy of the Gannon 2022 tax bill for the Property rendered to WPGB on or about November 1, 2022 is attached hereto as **Exhibit "A"**.

11. Jacks' 2022 Assessment failed to properly consider that both the occupancy and income for the Property had declined significantly from year-end 2020 to 2021. Jacks' assessment also was based on an income approach which relied upon comparable facilities located in Miami-Dade County, including at least one in Boca Raton, with considerably higher income and occupancy rates than the Property.

12. The effects of the errors and omissions of Jacks set forth above constitute a failure properly to analyze the statutory factors set forth in §193.011 (1)-(8), *Fla. Stat.* Such errors and omissions include, but are not necessarily limited to, failure to consider the Property's declining year-over-year income and occupancy and use of inappropriate comparable facilities for income purposes.

13. Prior to initiation of this action, on or about November 30, 2022, WPGB paid to Gannon the *ad valorem* taxes as determined by the 2022 Assessment, as required by §194.171(3), *Fla. Stat.*, in full as assessed, in the amount of One Million, Two Hundred Sixty-three Thousand, Eight Hundred Eighteen Dollars and One Cent (\$1,263,818.01), as evidenced by the receipt for same attached hereto as **Exhibit "B"**. Such payment was without prejudice to WPGB's rights asserted herein and not an admission the tax was due pursuant to §194.171(4). *Fla. Stat.*

COUNT I
(Tax Contest)

WPGB sues Jacks, Gannon, and Zingale, pursuant to Ch. 194, *Fla. Stat.* contesting the tax assessed by and paid to them respectively, seeking declaratory, monetary and all other appropriate relief, adopts and re-alleges paragraphs 1 through 13 of its Complaint as though fully set forth herein, and states further as follows:

14. For the reasons alleged above, Jacks rendered the 2022 Assessment on the Property at a level which grossly overstates its actual just or fair market value.

15. As a condition precedent to suit and required by law, WPGB paid the taxes levied based upon the 2022 Assessment to Gannon.

16. WPGB is entitled to refund of such portion of the taxes paid as it is determined excessive on the basis of the erroneous calculation by Jacks of the 2022 Assessment.

WHEREFORE, Plaintiff Welltower Propco Group Borrower, LLC, respectfully requests a Judgement of this Court against Defendant, DOROTHY JACKS CFA, AAS, as Property Appraiser for Palm Beach County, declaring the 2022 Assessment unlawful pursuant to Art. I, §9 and Art. VII, §4, *Fla. Const.*, and Ch. 193, *Fla. Stat.*, against Defendant ANNE M. GANNON, as Tax Collector for Palm Beach County, for money damages and directing Gannon refund to WPGB such portion of the 2022 taxes previously paid as are warranted by virtue of the excessiveness of the 2022 Assessment, and against Defendant, JIM ZINGALE, as Executive Director of the Florida Department of Revenue, declaring the 2022 Assessment unlawful pursuant to Art I, §9, and Art. VII, §4, *Fla. Const.* as applied to WPGB, and for such monetary and further relief as may be necessary and appropriate to provide WPGB complete relief against Zingale, together with an award of its taxable costs of this action and any such other relief as the Court deems proper.

Dated this 17th day of April, 2023.

BRENNAN MANNA & DIAMOND

/s/ Scott R. Rost

Scott R. Rost

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