

LEONARD J. ACCARDO and
LYNN M. ACCARDO, et. al.,

Plaintiffs,

vs.

CASE NO.: 06-1064 CA

GREGORY S. BROWN, Property Appraiser
of Santa Rosa County, Florida and
ROBERT G. McCLURE, Tax Collector
for Santa Rosa County, Florida,

Defendants.

**DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT
BASED ON COLLATERAL ESTOPPEL AND RES JUDICATA**

Defendant, GREGORY BROWN, in his capacity as Property Appraiser of Santa Rosa County, Florida (the "Property Appraiser"), and ROBERT McCLURE, in his capacity as Tax Collector of Santa Rosa County, through the undersigned counsel, file this Motion for Partial Summary Judgment Based on Collateral Estoppel and Res Judicata.

1. In this case, the Plaintiffs challenge the Property Appraiser's assessment of land and buildings for purposes of real property ad valorem taxation. The Plaintiffs do not challenge the valuations of their properties. Instead, the Plaintiffs allege that their properties are not subject to any local government ad valorem taxation whatsoever.

2. The Defendants have asserted numerous affirmative defenses, including collateral estoppel and res judicata. The Defendants now seek partial summary judgment with respect to

the affirmative defenses of collateral estoppel and res judicata, as they relate to the assessment of real property taxes on the **buildings and improvements** to land, including all condominium units owned by Plaintiffs. The Defendants do not seek summary judgment in this motion for partial summary judgment against those owning **land** only or those plaintiffs who would challenge an assessment of land underlying non-condominium improvements.¹

3. For tax years 2002 through 2005, the majority of the Plaintiffs in the case at bar were also class members in similar suits, specifically, Case Nos. 02-918-CA, 03-837-CA, 04-857-CA, and 05-1039-CA. In those cases, the class of taxpayers having interests in real property improvements on Navarre Beach entered into a Stipulated Judgment of Dismissal. See Exhibit A. Those class action lawsuits addressed only real property improvements and condominium units.

4. Having entered into the Stipulated Judgment of Dismissal in the above-referenced cases, all Plaintiffs who were class members in those cases are now barred from again challenging the assessment of real property taxes on their improvements and condominium units on Navarre Beach. Therefore, summary judgment is appropriate against all Plaintiffs who were members of any one of the referenced class action lawsuits to the extent that the assessments at issue involve local government ad valorem tax assessments of real property improvements and/or condominium units.

¹ As noted in the previously filed Motion to Dismiss, however, the Defendants do contend that this Court lacks subject matter jurisdiction for all portions of the assessments, including land, if the Plaintiffs owning such interests failed to tender taxes on the portion of the assessment attributable to improvements. *See* §194.171 (Fla. Stat. 2005).

MEMORANDUM OF LAW

The Defendants have asserted affirmative defenses of collateral estoppel and res judicata. The essential elements for collateral estoppel are that the parties and issues are identical and that the particular matter was fully litigated and determined in a contest which rendered a final decision. *Dept. Of Health and Rehabilitative Services v. BJM*, 656 So.2d 906 (Fla. 1995). The doctrine of collateral estoppel applies to preclude litigation of any issue previously litigated. Similarly, the doctrine of res judicata applies to preclude a claim or cause of action that has been previously decided. *Selim v. Pan American Airways*, 889 So.2d 149, 153 (Fla. 4th DCA 2004). Under the doctrine of res judicata, neither party to the previous action shall be allowed to call into question and re-litigate the thing decided. *Id.*

In this case, the issue previously litigated was whether the improvements constructed on long-term government leaseholds and the condominium units on Navarre Beach were subject to local government real property ad valorem taxes. In *Ward v. Brown*, 919 So.2d 462 (Fla. 1st DCA 2005), the First District Court of Appeal held that the improvements and condominium units at issue were equitably owned by the plaintiffs and were fully taxable as real property for purposes of local governmental ad valorem taxation. *Ward v. Brown* addressed the assessment of improvements on Navarre Beach for tax year 2001. The original *Ward v. Brown* case was not brought as a class action for the tax year 2001.

In subsequent years, however, class action suits were filed on behalf of all plaintiffs having interests in real property improvements and condominium units on Navarre Beach. Specifically, in Cases No. 02-918-CA, 03-837-CA, 04-857-CA, and 05-1039-CA, class actions were filed challenging the assessment of improvements and condominium units. Based on the