

IN THE CIRCUIT COURT IN AND FOR SANTA ROSA COUNTY, FLORIDA

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

Plaintiffs

vs.

CASE NO:06001064CA

GREGORY S. BROWN, PROPERTY
APPRAISER FOR SANTA ROSA COUNTY,
FLORIDA, and ROBERT G. McCLURE, TAX
COLLECTOR FOR SANTA ROSA COUNTY,
FLORIDA,

Defendants.

_____ /

PLAINTIFFS' MOTION TO AMEND

Plaintiffs, LEONARDO J. ACCARDO, et al., pursuant to Fla.R.Civ.P. 1.190, move for leave to file their First Amended Complaint in this action, which will add Santa Rosa County, Florida, as a defendant, and show:

1. Plaintiffs brought this action for declaratory judgment, estoppel and injunctive relief against defendants Brown and McClure, in their respective capacities as Santa Rosa County Property Appraiser and Santa Rosa County Tax Collector.

2. The essential foundation for plaintiffs' action against the Property Appraiser and Tax Collector can be briefly summarized as follows:

A. Certain real property at Navarre Beach, was leased to Santa Rosa County by Escambia County, Florida, its record title owner.

B. Plaintiffs sublease certain parcels of said real property from Santa Rosa County (some parcels include improvements), for which plaintiffs pay rent to Santa Rosa County.

C. Florida Statutes define the leasehold interests of plaintiffs as intangible personal property, to be taxed by the State Department of Revenue, not to be taxed as real property by local taxing units.

D. The present defendants have assessed and levied ad valorem taxes for 2006 on plaintiffs' leasehold interests asserting, among other things, that plaintiffs "are the equitable owners of the real property, including the land and the improvements." (see paragraph 8 of the defendants' answer). This allegation is repeated either directly or by implication in various other places in the answer (see, e.g., paras. 11, 12, 21, 22, 23, 30, 38 and 40).

3. Defendants pray for "a declaration that the assessed real property is owned by the Plaintiffs..." (see the unnumbered paragraph immediately preceding the affirmative defenses in defendants' answer).

4. Since plaintiffs are sublessees of Santa Rosa County, plaintiffs believe the County should be made a party defendant, so that the respective interests in the land and the improvements might be determined and declared by this Court.

5. The First Amended Complaint adds a Count V specifically asserting certain facts and praying for a declaratory judgment against Santa Rosa County.

6. If this motion is granted, plaintiffs pray for entry of an order that the attached First Amended Complaint be deemed filed as of the date of the order.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished to Elliott Messer and Thomas M. Findley, of Messer, Caparello & Self, P.A., 2618 Centennial Place, Tallahassee, FL. 32308, and Roy Andrews, Esquire, Lindsay, Andrews & Leonard, P.A., 5218 Willing Street, Milton, FL. 32570, by U.S. Mail, this ___ day of March, 2007.

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