IN THE SUPREME COURT
OF THE STATE OF FLORIDA

OYSTER POINTE RESORT CONDOMINIUM ASSOCIATION, INC., etc., et al.,
Petitioners,

v.

DAVID C. NOLTE, etc., et al.,
Respondents.

CASE NO. 69,794
/

CASE NO. 69,795

OYSTER BAY II OWNERS' ASSOCIATION, INC., etc., et al.,
Petitioners,

v.

DAVID C. NOLTE, etc., et al.,
Respondents
/

REPLY BRIEF
OF
PETITIONERS

APPEAL FROM THE DISTRICT COURT OF APPEAL OF FLORIDA
FOURTH DISTRICT
CASE NOS. 85-1290 AND 85-1291

Respectfully submitted by:

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PREFACE

This is a Reply Brief filed in response to the Answer Brief filed by Robert A. Butterworth, Attorney General, counsel for the Florida Department of Revenue. No Reply Brief will be filed as to the Answer Brief filed on behalf of Respondent, David Nolte. Therefore, all references to Respondent's Answer Brief will refer only to that brief filed on behalf of the Department of Revenue in this action.

Petitioners were Plaintiffs in the trial court and Appellants below and, in addition to referring to the parties as they appear before this Court, this Brief will also refer to the parties as they appeared in the trial court, Respondents being Defendants.

References in this Brief will follow the index prepared by the Clerk of the trial court (Circuit Court of the Nineteenth Judicial District in and for Indian River County, Florida), as follows:

R - indicates Record;

T - indicates Transcript;

Plaintiffs' (or Defendants') Exhibit _____ - indicates exhibits marked for identification or in evidence (the numbering being the same) in the trial court.

Unless otherwise indicated, emphasis on quoted material is supplied by Petitioners.

TABLE OF AUTHORITIES

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POINT I

UNDER THE FACTS OF THIS CASE, WAS THE PROPERTY APPRAISER CORRECT IN ASSESSING EACH INDIVIDUAL TIME-SHARE "WEEK" OR SHOULD THAT ASSESSMENT HAVE BEEN RESTRICTED TO THE FAIR MARKET VALUE OF THE ENTIRE TIME-SHARE DEVELOPMENT OR OF THE ENTIRE CONDOMINIUM APARTMENT UNIT WITHOUT REFERENCE TO ITS SUBDIVISION INTO TIME-SHARE INTERESTS?

As a prefatory matter, and because the Answer Brief of the Department of Revenue implies that the plight of the Plaintiffs is a real estate developer's problem, Petitioners would indicate to the Court that, while real estate developers are nominally among the Plaintiffs, the real parties in interest are consumers, the purchasers of time-share interests and their owners' associations. "Developers" are not really in the picture. (T 101, 102).

Respondent, Department of Revenue, confuses the issue before this Court, as it did before the Fourth District Court of Appeal. The issue is not whether an interest in real property is a fee interest, as distinguished from some other interest (presumably not inheritable). The form of interest in real property owned does not determine the proper subject or object of tax assessment. Is a tenancy in common a fee interest in real property? "Every estate which may pass to heirs general by descent and continue forever is a fee. The material difference between a fee simple and other fees is that the former estate will, the latter may, continue forever." 31 Corpus Juris Secundum 24, Estates; §8, Fee Simple. A tenancy in common is not separately assessed or taxed unless the argument of the Respondents is adopted by this Court. It is the thing owned, not the structure or form of ownership of it, that is the object of ad valorem assessment and tax.

Neither is the issue before the Court the use of the thing owned. "Time-share," whether fee or otherwise, is not a form of use of

property -- it is a form of ownership of the property. It is the structure of ownership; a contractual arrangement for possession of the same tract or spatial unit among the co-tenants owning the physical space. A single-family residential unit or a hotel room remains such, whether the ownership is time-shared or not. Time-sharing has no impact or effect on use whatsoever.

It is the taxpayers' position here, as it was below, that the form or structure of ownership should not cause a difference in tax treatment as between physically identical properties put to identical uses. Nor, without a great deal of strangling and effort, can it be inferred from the language of §192.037, Fla. Stat. (1982) that the Legislature has determined that it is the ownership interest that will be the object of assessment and tax rather than the thing owned. The District Court of Appeal, below, acknowledged the ambiguity of the statute on which the Property Appraiser seeks to rely. Spanish River Resort Corp. v. Walker, 497 So.2d 1299, 1302 (Fla. 4th DCA 1986) (App. filed, No. 69797). Plaintiffs cannot be taxed by inference or implication. Florida S & L Services v. Dept. of Revenue, 443 So.2d 120 (Fla. 1st DCA 1983); Walgreen Drug Stores Co. v. Lee, 158 Fla. 260, 28 So.2d 535 (1946).

Respondent, Department of Revenue, also misapprehends a distinction between spatial subdivision of property to which ownership interests may attach and a temporal arrangement of possessory interests in the same thing owned. The issue remains whether it is the ownership interest that is the object of tax or the thing owned.

The Department of Revenue quotes the decision of the Fourth District Court of Appeal in Spanish River Resort Corp. v. Walker, 497 So.2d 1299, 1302 (Fla. 4th DCA 1986) (dispositive of this case below) as follows:

> "We are confident that the language employed contemplates that the single assessment entry is to reflect the sum of the individual assessments of each time-share unit." 497 So.2d 1299 @ 1302.

The reference is to §192.037(2), Fla. Stat. (1982). It should be noted that the Fourth District refers to the individual assessments of each time-share unit. Unit, as used in real property law, implies a spatial concept -- something which can be physically located and identified. Is a lease-hold interest a unit? Of course not. A unit of real property, and accordingly, a unit subject to ad valorem tax, has always been defined in the spatial dimension. There is no "trend" or weight of authority upholding the Respondents' position. The matter before this Court has been dealt with by only two trial courts and one appellate court in companion cases: Spanish River Resort Corp. v. Walker, 497 So.2d 1299 (Fla. 4th DCA 1986) and the instant case. High Point Condominium Resorts, Ltd. v. Day, 494 So.2d 508 (Fla. 5th DCA 1986) did not reach the issue.

The fact that an interest in real property is conveyed by deed is not a touchstone for the determination of the proper object of ad valorem assessment and tax. There is no inconsistency in the taxpayers' position that a conveyance of a time-share interest is a transfer of an interest in property rather than of the property itself. A tenancy in common is frequently created and conveyed by a deed. Still, an ownership interest in the form of a tenancy in common has not been deemed to be the object of tax -- it is the thing owned which is taxed. The analogy of a rental apartment building to an identical structure that has been converted to condominium is not apt. There, the conversion does not amount to a change in the ownership structure -- what has occurred is a spatial subdivision of the building into individual physical blocks which are traded

on the market. When ownership of a physical block of space is structured as "time-share," there has been no spatial subdivision, only an arrangement for possession among co-tenants of the thing owned in common by them. The division of ownership into a myriad of tenancies in common does not add anything to value and does not put new units of value into the market -- only spatial subdivision can do this. If a citrus grove is owned by a partnership, is it therefore worth more than the adjoining grove, identical in size and location, planted with the same number and variety of trees, owned by an individual? Of course not. One could carry this to the ridiculous extreme by suggesting that value increases as the number of ownership interests increase: a tenancy in common with two co-tenants is worth twice as much as a piece of land without a tenancy in common; three co-tenants triple the value, etc.

Finally, Respondent would cling to the logical absurdity of taking the injunction of the Legislature to the Appraiser set forth in §192.037(3), Fla. Stat. (1982), to notify the managing entity "of the proportions to be used in allocating the valuation ... on time-share property among the various time-share periods" to mean that the Property Appraiser must go through the following exercise: (1) value individual time-share ownership interests in each spatial unit; then (2) gross up the individual interests "valued" in order to make "a single entry" for the entire "time-share development" on the tax roll; and then (3) break all of the aggregated values back down again to the original valuations in order to be able to serve notice. This is an exercise and nothing more. The only reading of subsection (3) of the statute that makes any sense at all is for the value of the whole to be allocated among the parts -- not to value each of the parts, add them up and then break them down again.

POINT II

IF THE LEGISLATURE CAN BE DEEMED TO HAVE AUTHORIZED AD VALOREM ASSESSMENT OF DISCRETE PARTIAL OWNERSHIP INTERESTS IN THE SAME PHYSICAL UNITS OF PROPERTY, RATHER THAN OF THE PROPERTY ITSELF, THEN SUCH AUTHORIZATION EXCEEDS JUST VALUE, DENIES DUE PROCESS OF, AND EQUAL PROTECTION UNDER, THE LAW TO THE OWNERS OF THE PROPERTY AND REPRESENTS ILLEGAL DELEGATION OF A CONSTITUTIONAL OFFICER'S POWERS.

In the instant case, the Fourth District Court of Appeal declined to discuss the constitutional issues presented to it. Neither did the case decided simultaneously with the instant case, Spanish River Resort Corp. v. Walker, 497 So.2d 1299 (Fla. 4th DCA 1986), analyze the constitutional issues certified to this Court. The Fifth District Court of Appeal, however, has catalogued the discriminatory denials of due process and equal protection under the laws wrought by the Respondents' reading of §192.037. Fla. Stat. (1982). High Point Condominium Resorts, Ltd. v. Day, 494 So.2d 508 (Fla. 5th DCA 1986) (Case No. 69,796 in this Court), as Respondent notes, found the statute facially unconstitutional.

That the Plaintiffs, Oyster Bay II Owners' Association, Inc. and Oyster Pointe Condominium Association, Inc., suffer present and immediate injury if §192.037, Fla. Stat. (1982) is interpreted as Respondents would have it is beyond doubt. If the statute is read to effect the result Respondents assert, then the burden is on these Associations of owners to undertake tasks that would otherwise be those of constitutional officers, the Property Appraiser and Tax Collector, and deal with each of thousands of owners of interests in the property administered by them. Additionally, should any owner of an interest default in paying the portion of tax allocated to him, then, presumably, the Association will have to advance funds, without compensation, to cure the default and pay the tax. The very worst problem, constitutionally and as a practical matter, presented by the machinery created by §192.037, Fla. Stat. (1982) is that all owners

of interests in a property are placed in jeopardy for the delinquency of any one of them; the entire property, the time-share "development," is at risk for non-payment of taxes -- this anomaly points up the basic problem of having a tax lien res or object different from the assessment res.

Cases involving standing to raise constitutional issues have no bearing on the clear and present injury suffered by the Plaintiffs in this cause. Petitioners do not seek a declaratory decree, they seek to be protected from imminent damage; damage threated because the object of the Defendant, Property Appraiser's, assessment (the individual property owners' interest in the property) is different from the object of the tax lien (the entire development). This represents not a potential for damage, but present harm. Respondent is correct in asserting that there is no allegation (nor evidence) of delinquent taxes or tax sales, since, under the statutory procedure prescribed for judicial protest of ad valorem assessments, suit was filed and trial had before taxes became delinquent.

Petitioners would submit that, heavy as their burden may be in asserting the unconstitutionality of a legislative act, that burden has been sustained in this case -- a mere reading of the statute in issue, §192.037, Fla. Stat. (1982), makes clear that the default of one owner of an interest in property, without the knowledge or consent of thousands of other owners, places all of their interests, and the property, in jeopardy -- these interests are at risk, without any kind of process at all, due or otherwise. Respondent urges that this Court adopt the "rationale" set forth in the opinion of the Fourth District Court of Appeal in Spanish River Resort Corp. v. Walker, 497 So.2d 1299 (Fla. 4th DCA 1986). There is no rationale set forth in the opinion of the Fourth District Court of Appeal. The only constitutional analysis of §192.037, Fla. Stat. (1982) is found in the opinion of the Fifth District Court of Appeal in High Point

Condominium Resorts, Ltd. v. Day, 494 So.2d 508 (Fla. 5th DCA 1986).

The Department of Revenue asserts that the due process afforded all other classes of real property owners in Florida by the provisions of Chapters 197 and 200 of Florida Statutes are really superfluous to all taxpayers: None of the rights and remedies provided by these statutes need be provided and there is no denial of the process enjoyed by other taxpayers because of the presumption created by §197.0151(1), Fla. Stat. (1982), that owners of property know what their taxes are and when they're payable. This being the case, there is really no reason for notice or billing to any taxpayer and the constitutional office of Tax Collector is probably also redundant -- property owners could simply stop by each year at the office of the Property Appraiser and write a check for the taxes they are presumed to know about and on which they need not be heard. Defective descriptions in tax notices are not analogous to singling out an entire class of taxpayer -- time-share owners -- for denial of notice and an opportunity to be heard, rights enjoyed by all other classes of taxpayers. In citing Thompson v. City of Key West, 82 So.2d 749 (Fla. 1955), Respondent neglects to point out that Justice Terrell, in his homespun way, opined that defective legal descritpions in tax notices did not bar a lien for unpaid taxes except:

> " ... where the description is so defective as to amount to a denial of due process when the land is sold for taxes.
>
> In the instant case ... there was no mistaken identity of the land in assessing the city taxes." 82 So.2d 749 @ 753.

A managing entity, as contemplated by the disclosure and regulatory scheme of Chapter 721, Florida Statutes, to administer relationships and rights between owners of interests in the same property inter se, is totally different from a "managing entity" upon whom is thrust the responsibility for dealing with taxing authorities for ownership interests at the risk of

the loss of the property to which the owners' interests attach. Petitioners submit that the enactment of §192.037, Fla. Stat. (1982) did, in fact, introduce a radically new (and unconstitutional) concept to the sharing of ownership of real property in the form known as "time-share," by taking away from the owners of interests in property their rights to protect those interests.

Citation to untested statutes of Hawaii and other jurisdictions does not supply the due process and equal protection of the law required by the Constitution and by Florida's Courts.

Respondent correctly points out that legislative classifications are not, in and of themselves, necessarily violative of the equal protection guaranteed by the Constitution -- the classification or differentiation must be "an invidious discrimination" before it runs afoul of Constitutional constraints. That the discrimination represented by the Property Appraiser's reading of Florida Statutes, §192.037, is invidious in the extreme is adequately detailed by the Fifth District Court of Appeal in High Point Condominium Resorts, Ltd. v. Day, 494 So.2d 508 (Fla. 5th DCA 1986).

While Respondent, Department of Revenue, may admire the ingenuity of the creation of the time-share structuring of common ownership interests, the Respondent does not seem to comprehend that the creation of such a construct does not represent a spatial subdivision of real property -- it is only a contractual sharing of the ownership of a single piece of real property, nothing more. The confusion between the sharing of the ownership of a single thing and the cutting up of that thing into spatially defined pieces, separately owned, lies at the heart of the error of Respondents' reading of the statutes involved.

The Legislature has certainly not, in clear terms, established that a method of sharing the ownership of real property has created a new tax

res different from the real property itself -- the ownership interest in it. The Respondents' reading of §192.037, Fla. Stat. (1982), to enable them to tax ownership interests in real property, rather than the real property, creates the problems that they perceive in administering their monster. As the Fifth District Court of Appeal pointed out in High Point Condominium Resorts, Ltd. v. Day, 494 So.2d 508 (Fla. 5th DCA 1986), if all of the parts must first be valued, why should they not then be treated in all respects of the ad valorem tax law as other property? 494 So.2d 508, at 511.

If the Legislature intends that discrete interests in property, rather than the property itself, be the objects of assessment and tax (although the property, and not the interests attached to it, is clearly the object of the lien for the payment of the taxes), then the cost that must be paid is the legislation of the "administrative headaches" of due process and equal protection under the law. Administrative headaches are not a reason to deny due process. A more serious threat to the ad valorem tax process in Florida than the threat to that process's efficacy perceived by the Respondents is the denial of Constitutional rights to one class of taxpayers. If §192.037, Fla. Stat. (1982) is read as logic dictates and as Petitioners assert, then there is no threat to the financial viability of the taxing process: the entire development is assessed--that is, land, buildings and improvements thereon, as "fee time-share real property" is defined by §192.001(14), Fla. Stat. (1982) -- rather than attempting to assess each of a myriad of small ownership interests in the property.

Under the heading of unlawful delegation of the functions of a constitutional officer, it is clear that "fundamental and primary policy decisions" are delegated to a non-governmental entity, the managing entity, under Respondents' reading of §192.037, Fla. Stat. (1982). In

what respect, if any, do the duties and responsibilities of the "managing entity" differ from the duties and responsibilities of the Tax Collector? Nothing less than the full amount of the tax can be paid to the Tax Collector (and so must be collected by the managing entity or, if not collected, advanced by the managing entity). Failure on the part of the managing entity to perform the Tax Collector's functions results in the potential loss of every owner's interest in the property being managed -- whether delinquent in payment of an allocated share of taxes or not.

Respondents' resort to the requirement of §721.06(1)(h), Fla. Stat. (1982), lifted from the disclosure and regulatory provisions dealing with the sale of time-share interests by a developer, to supply a consensual relationship of principal and agent is meretricious. First, the statute has application only to developers ("seller of a time-share plan"). Secondly, what if a developer, willfully or carelessly, neglects to provide the required statutory language in a contract? Because the developer is required to make a recitation in a contract, and fails to do so, does not make the purchaser from him a consensual party to the appointment of a managing agent. Thirdly, what of the thousands and thousands of time-share interests that have been conveyed by developers prior to the effective date of Florida Statutes, §721.06(1)(h) (January 1, 1983, Chapter 82-226, Laws of Florida), including Plaintiffs in this cause? Are they contractually or consensually bound to the appointment of a managing entity empowered to place the property to which their interests attach at risk for non-payment of taxes? Of course not. That this silly proposition was not attacked in the trial court by the Petitioners does not advance the position of the Respondents one whit -- an assertion so illogical as not to merit a challenge does not entitle that assertion, being unchallenged, to "full force and effect" in this Court.

POINT III

WHEN THE PROPERTY APPRAISER RELIES SOLELY ON THE MARKET APPROACH TO VALUE, HE MUST NET FROM THE SALE PRICE ALL OF THE USUAL AND REASONABLE COSTS OF THE SALE TO THE SELLER, TOGETHER WITH THE COST OF ATYPICAL FINANCING, AND MUST ALSO, CORRESPONDINGLY, SUBTRACT ALL ELEMENTS OF THE PURCHASE PRICE OTHER THAN ITS REAL PROPERTY ELEMENT.

Petitioners do not contend that the Defendant, Property Appraiser's, use of a market approach to value was in error and did not do so in the trial court. Petitioners acknowledge that the methodology elected by the Appraiser is within his discretion; however, having chosen this method of valuation, the Property Appraiser is obliged to consider the factors set forth in §193.011(8), Fla. Stat. (1982) as necessary concomitants to the approach used. He has not done so.

Respondent, Department of Revenue, is in error in asserting to this Court that the Defendant, Property Appraiser, discounted twenty-six percent below the listed sale prices of any of the comparable fee time-share estates to reflect " ... the weight given to ... criteria set forward in §193.011(8), Florida Statutes." This is simply not the case. Fifteen percent of gross list price was allocated by the Chief Deputy Appraiser of Defendant, Property Appraiser, to the usual and reasonable costs of sale as required by the statute. The balance of eleven percent was allowed for personal property admittedly included in the sale. (T 376).

Of more interest, however, under this heading, is the manner in which the Property Appraiser derived the weight to be given to the items prescribed by §193.011(8), Fla. Stat. (1982). Again, the Chief Deputy Appraiser, responsible for the assessments and valuations in the instant case, testified that the costs of sale were not considered or weighed in any meaningful way -- they are programmed into a computer which,

automatically, without thought or instruction or judgment or anything else, deducts the same percentage, fifteen percent, from the assessed value of every piece of property on the tax rolls in Indian River County, to account for the factors mandated by the Legislature, whether commercial, residential, industrial, vacant, improved, time-share, whole ownership or otherwise (T 376). On the other hand, the Chief Deputy Appraiser had no quarrel with, or reason to doubt, the extraordinary costs involved in the sale of time-share interests, as opposed to the sale of real property. (T 377).

There can be no doubt or argument but that subsection (8) of §193.011, Fla. Stat. (1982), requiring the Property Appraiser to consider the usual and reasonable costs of sale, only has application to the market approach to value. Petitioners agree with all authorities and the rationale of all opinions cited to establish a presumption of correctness on the part of the Property Appraiser in making an assessment. The pronouncements of this Court on the presumption as quoted by Respondent are well founded -- Petitioners acknowledge and concede these principles. Petitioners would submit, however, that the presumption of correctness to which a Property Appraiser is initially entitled in his assessment has ceased to be operative in this case.

In the real world, no weight whatsoever was given to subsection (8) of §193.011, Fla. Stat. (1982). A computer arbitrarily made a computation and deduction, as it does to every assessment made by the Defendant, Property Appraiser, of every type of property, regardless of how sold, when sold or the manner or method of appraisal. The Defendant, Property Appraiser, in his discretion, elected to rely on the market approach to value. Having chosen the method, he is then required to apply subsection (8) of the statute. Application of the statute is not

satisfied by a computer calculation made unthinkingly in every case, regardless of the approach to value used -- market, income or cost -- and regardless of what the true "reasonable and necessary costs of sale" might actually be. The Property Appraiser, having conceded that an arbitrary fifteen percent adjustment is made in every single case, regardless of the type of interest involved, has shown the weight given to §193.011(8) by him to be non-existent and not an exercise of discretion or judgment on his part. There is simply no discretion or judgment involved. The Property Appraiser cannot sit back, presumed to be correct, then be shown to be arbitrary and still have the benefit of the presumption of correctness. The burden of proof has shifted once it has been demonstrated that no discretion or judgment on his part operated here. A "conclusory" reduction to account for the factors to be considered under §193.011(8) is not a valid exercise of discretion -- it is no exercise of discretion and ignores the uncontroverted facts. Hausman v. VTSI, 482 So.2d 428 (Fla. 5th DCA 1985).

Petitioners also concede that, regardless of errors that the Property Appraiser might have made, if the right result was achieved, the presumption of correctness continues to operate. However, there is no evidence that the Property Appraiser arrived at a correct result. He relies solely on the presumption that he is correct. The evidence was that the reasonable and necessary costs of sale, industry-wide, were in the range of seventy-five percent (T 75 - 81; Plaintiffs' Exhibit 13; T 128 - 131, 146, 181 - 188; Plaintiffs' Exhibit 20, pp 37 - 44; Plaintiffs' Exhibit 21, pp 41 - 46). The Property Appraiser agreed that these were the reasonable and necessary costs of sale. (T 377). Having failed to take the actual facts into consideration and having applied an arbitrary computer calculation that had no relevance whatsoever to the interest being

appraised, the result reached by Defendant, Property Appraiser, was outside of the range of any reasonable hypothesis. Accordingly, the presumption to which the Property Appraiser is initially entitled cannot stand in the face of "proof that the appraiser's valuation was arbitrary." Bystrom v. Bal Harbour 101 Condominium Assoc., Inc., 502 So.2d 1312 (Fla. 3d DCA 1987) at 1314. Proof of the arbitrary nature of the Appraiser's valuation was unchallenged.

This Court has stated that the core issue is the amount of an assessment, not the method used in arriving at the amount. Bystrom v. Whitman, 488 So.2d 520 (Fla. 1986). That is precisely the issue that Petitioners seek to address. Petitioners would respectfully suggest that they have demonstrated, from the Property Appraiser's own testimony, that, in the words of the Department of Revenue, "the Property Appraiser's ultimate valuation is so excessive as to be beyond the range of reasonable appraisals." Petitioners are not satisfied with an arbitrary, thoughtless, indiscriminate computer adjustment which ignores reality. Petitioners do not argue that the usual and reasonable expenses of selling and marketing time-share interests decrease the fair market value of the interests -- they don't enter into value, don't add to, or subtract from, it; they simply procure a sale. The Property Appraiser has described identical dwelling units -- in all respects, architecture, construction, location, etc. -- as "like as peas in a pod," different only in the form of ownership; one is assessed at ten times the value of the other because of this difference. The marketing expenses of converting one of two identical units to the time-share form of ownership have not added anything of value to the touchstone of appraisal -- land, building and improvements -- they have simply brought about a sale. There is no difference in the physical, tangible, spatial object of the assessment.

Generally accepted practices in the real estate industry are not generally accepted practices in the industry of marketing time-share interests (T 240 - 241, 242). We are dealing with a different product in a different market with different costs. The Legislature has increased the usual and reasonable costs of sale over the norm by imposing the requirements of Chapter 721, Fla. Stat. (1982), on sales of time-share interests.

The Property Appraiser, in attempting to value interests in real property, rather than the real property itself, wholly failed to comply with the requirements of §193.011(8), Fla. Stat. (1982), acted arbitrarily and capriciously in considering the assessed value of the taxpayers' interests and exercised no judgment or discretion whatsoever in arriving at a grossly excessive valuation, failing to take into account costs not only reasonable and necessary, but absolutely essential to bringing about a sale.

Respectfully submitted,

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By: _____
Michael O'Haire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Reply Brief of Petitioners has been served, by mail, this 26th day of June, 1987, to Robert Jackson, Esq., 2165 15th Avenue, Vero Beach, Florida 32960, Attorney For Respondent, David C. Nolte; Miles B. Mank, II, P.A., P. O. Box 908, Vero Beach, Florida 32961-0908, Attorney for Respondent, Gene E. Morris; and J. Terrell Williams, Esq., Assistant Attorney General, The Capitol, Room LL04, Tallahassee, Florida 32301, Attorney for Respondent, Randy Miller, Department of Revenue.

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Michael O'Haire