

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

ADAM RICE, FELICIA MOORE,)
KRISTEN MAZOLA, MARIO)
ARTESIANO, DHAM GUPTA,)
TIMOTHY WILLIAMSON,)
ADAM SMITH, and PETE HUMPHREYS,)
suing on behalf of themselves and all others)
similarly situated,)

Plaintiffs,)

v.)

FULTON COUNTY, GEORGIA, CITY)
OF ATLANTA, CITY OF ALPHARETTA,)
CITY OF JOHNS CREEK, CITY OF)
MILTON, and CITY OF ROSWELL,)

Defendants.)

CIVIL ACTION FILE NO.
2018-CV-305307

JURY TRIAL DEMANDED

**FIFTH AMENDED CONSOLIDATED CLASS ACTION
COMPLAINT FOR REFUND OF TAXES**

Plaintiffs Adam Rice, Felicia Moore, Kristen Mazola, Mario Artesiano, Dham Gupta, Timothy Williamson, Adam Smith, and Pete Humphreys (collectively referred to as “Plaintiffs”), individually and on behalf of all others similarly situated (the “County Class,” as defined below, and the various “Subclasses,” as also defined below), allege as follows, based on personal knowledge as to themselves and on information and belief as to all other matters, against Defendants Fulton County, Georgia (“Fulton”), City of Atlanta (“Atlanta”), City of Alpharetta (“Alpharetta”), City of Johns Creek (“Johns Creek”), City of Milton (“Milton”), and City of Roswell (“Roswell”) (collectively, “Defendants”).

NATURE OF ACTION

1.

Plaintiffs, individually and on behalf of all others similarly situated, bring this action

pursuant to O.C.G.A. § 48-5-380(c) against Defendants, taxing entities in Fulton County, seeking a refund of taxes erroneously or illegally assessed and collected on real property identified below for tax years 2016 and thereafter.

2.

The taxing entities collected property taxes from the County Class and Subclasses in 2016 and 2017 based on assessments provided by the Fulton County Board of Assessors (“FCBA”). For tax years 2016 and 2017, the FCBA increased assessments on those properties that sold in 2015 while leaving unchanged the vast majority of assessments for properties that had not sold in that year. This “sales chasing” scheme resulted in assessments that were not uniform or equalized, in violation of the Georgia Constitution. See GA CONST Art. 7, § 1, ¶ III; *Hutchins v. Howard*, 211 Ga. 830, 831, 89 S.E.2d 183, 187 (1955).

3.

To make matters worse, the illegally inflated 2016 and 2017 assessments were used by Defendants when they recalculated homestead exemptions in 2019, at least for those taxpayers that still owned the properties they purchased in 2015. The result of this is that, beginning in 2019 and continuing still, taxpayers that had been sales chased and still owned the properties purchased in 2015, paid (and are still paying) more in taxes than they would have paid had they been treated fairly and uniformly in Tax Years 2016 and 2017.

4.

Plaintiffs and all members of the County Class and Subclasses paid their property taxes based on these illegal assessments and therefore are entitled under O.C.G.A. § 48-5-380 to a reimbursement of the difference between the taxes remitted and the taxes that would have been owed had the assessments been lawful.

PARTIES

5.

Plaintiff Adam Rice is a resident of Fulton County and the City of Atlanta. Mr. Rice may be contacted through the undersigned counsel.

6.

Plaintiff Felicia Moore is a resident of Fulton County and the City of Atlanta. Ms. Moore may be contacted through the undersigned counsel.

7.

Plaintiff Kristen Mazola is a resident of Fulton County and the City of Atlanta. Ms. Mazola may be contacted through the undersigned counsel.

8.

Plaintiff Mario Artesiano is a resident of Fulton County and the City of Atlanta. Mr. Artesiano may be contacted through the undersigned counsel.

9.

Plaintiff Dham Gupta is a resident of Fulton County and the City of Roswell. Mr. Gupta may be contacted through the undersigned counsel.

10.

Plaintiff Timothy Williamson is a resident of Fulton County and the City of Alpharetta. Mr. Williamson may be contacted through the undersigned counsel.

11.

Plaintiff Adam Smith is a resident of Fulton County and the City of Milton. Mr. Smith may be contacted through the undersigned counsel.

12.

Plaintiff Pete Humphreys is a resident of Fulton County and the City of Johns Creek. Mr. Humphreys may be contacted through the undersigned counsel.

13.

Defendant Fulton County is located at 141 Pryor Street, SW, 10th Floor Atlanta, Georgia 30303. Defendant Fulton County is a proper party to this action pursuant to O.C.G.A. § 48-5-380(c).

14.

Defendant City of Atlanta is located at 55 Trinity Avenue SW, Atlanta, GA 30303. Defendant City of Atlanta is a proper party to this action pursuant to O.C.G.A. § 48-5-380(c).

15.

Defendant City of Alpharetta is located at 2 South Main Street, Alpharetta, GA 30009. Defendant City of Alpharetta is a proper party to this action pursuant to O.C.G.A. § 48-5-380(c).

16.

Defendant City of Johns Creek is located at 10700 Abbotts Bridge Road, Suite 190, Johns Creek, GA 30097. Defendant City of Johns Creek is a proper party to this action pursuant to O.C.G.A. § 48-5-380(c).

17.

Defendant City of Milton is located at 2006 Heritage Walk, Milton, GA 30004. Defendant City of Milton is a proper party to this action pursuant to O.C.G.A. § 48-5-380(c).

18.

Defendant City of Roswell is located at 38 Hill Street, Roswell, GA 30075. Defendant City of Roswell is a proper party to this action pursuant to O.C.G.A. § 48-5-380(c).

JURISDICTION AND VENUE

19.

The above-described Defendants (collectively, “Defendants”) have all either been properly served with process or have acknowledged service.

20.

This action for refund of taxes has been timely filed pursuant to O.C.G.A. § 48-5-380.

21.

This Court has jurisdiction over this action pursuant to O.C.G.A. § 48-5-380.

22.

Venue properly lies in this Court pursuant to O.C.G.A. § 48-5-380.

FACTUAL ALLEGATIONS

A. General Allegations as to the Assessment and Payment of Real Property Taxes in Fulton County

23.

Each year, the FCBA assesses all real property located in Fulton County. The FCBA’s assessments are then used by Fulton County and various municipalities in Fulton County (the “taxing entities”) to generate tax bills for each taxing entity’s residents.

24.

It is the FCBA’s duty to determine the fair market value of all real and personal property in Fulton County. The FCBA is also responsible for preparing a fair and equitable tax digest annually in accordance with applicable laws and professional standards.

25.

For the 2016 tax year, for those properties not purchased during 2015, the FCBA used an assessment generated by the FCBA’s Computer Assisted Mass Appraisal (“CAMA”) platform.

This means that, in the vast majority of instances, the one-hundred percent assessments for tax year 2016 for those taxpayers who did not purchase their homes in 2015 were the same as the assessments for the 2015 tax year.

26.

For the 2016 tax year, the FCBA overrode the CAMA-generated assessed values for properties purchased in 2015, and replaced those system-generated values with amounts either identical to the sales prices of those properties or, in some cases, to an amount rounded off to within \$100 of the sales price.

27.

When the sales prices exceeded the CAMA-generated assessed values, as was almost always the case, the result was that property owners who purchased property in 2015 were required to pay taxes based on assessed values that were higher than the assessed values of homes that did not sell in 2015, and higher than what their assessed values would have been but for the override.

28.

Consequently, Plaintiffs were saddled with a higher tax burden than others in Fulton County in violation of the Georgia Constitution's requirement that property taxes be uniformly assessed and equalized.

29.

For the 2017 tax year, for those properties not purchased during 2015, the FCBA again used an assessment generated by the FCBA's CAMA platform. This means that, in the vast majority of instances, the one-hundred percent assessments for tax year 2017 for those taxpayers who did not purchase their homes in 2015 were the same as the assessments for the 2015 tax year.

30.

Because the 2016 assessments largely remained unchanged in 2017, property owners who purchased property in 2015 also were required to pay taxes in 2017 based on the illegal 2016 assessments, meaning that for both 2016 and 2017 those property owners paid taxes that were higher than the taxes paid by other Fulton County taxpayers who had not purchased homes in 2015.

31.

Furthermore, for Tax Year 2019 and every Tax Year since, Defendants have used the lowest assessment from Tax Year 2016, 2017 or 2018 to calculate taxpayers' homestead exemptions and to reduce their tax liability thereby. This means that Class members that still own property purchased in 2015 were deprived of a lower base year assessment, and therefore a lower homestead exemption, than they would have received had they been taxed uniformly in Tax Years 2016 and 2017. The result is that the sales chased Class members who still owned their property as of Tax Year 2019 paid more in taxes in that Tax Year, and any subsequent year when they owned the same property, than they would have paid but for the illegal sales chasing scheme.

B. Specific Allegations as to Plaintiff Adam Rice Against Defendants Fulton County and Atlanta

32.

On or about April 13, 2015, Plaintiff Adam Rice purchased the real property known as 1168 Baylor Street NW, Atlanta, Fulton County, Georgia 30318 for a sales price of \$290,000.

33.

For tax year 2015, the FCBA's CAMA system valued 1168 Baylor Street NW at \$189,900.

34.

Then for tax year 2016, the FCBA overrode its CAMA system-generated valuation of \$189,900 for 1168 Baylor Street NW and replaced it with \$290,000, the exact sales price paid for the house in 2015.

35.

The CAMA values of other homes that did not sell in 2015 in Fulton County were not similarly overridden for tax year 2016. Thus, the FCBA treated sold and unsold properties differently for tax year 2016.

36.

Were it not for the 2015 sale, the assessed value of 1168 Baylor Street NW would have remained at its 2016 system-generated value, as did the values of properties in Fulton County that did not sell in 2015. Therefore, but for the 2015 sale, 1168 Baylor Street NW would have been assessed at \$189,900 for tax year 2016.

37.

Mr. Rice paid 2016 taxes generated from the FCBA's illegal assessment to Fulton County and Atlanta.

38.

In 2017, the fair market value of 1168 Baylor Street NW was set at \$290,000, the same value used in the 2016 tax year.

39.

Mr. Rice paid 2017 taxes generated from the FCBA's illegal assessment to Fulton County and Atlanta.

C. Specific Allegations as to Plaintiff Felicia Moore Against Defendants Fulton County and Atlanta

40.

On or about July 29, 2015, Ms. Moore purchased the real property known as 2832 Handy Drive NW, Atlanta, Fulton County, Georgia 30318 for \$133,990.

41.

For tax year 2015, the FCBA valued 2832 Handy Drive at \$27,500.

42.

Then in tax year 2016, the FCBA overrode its system-generated valuation of \$27,500 for 2832 Handy Drive and replaced it with \$133,900, a value rounded down \$90 from the exact price Ms. Moore paid for her house in 2015.

43.

The values of other homes that did not sell in 2015 in Fulton County were not similarly overridden for tax year 2016. Thus, the FCBA treated sold and unsold properties differently for tax year 2016.

44.

Were it not for the 2015 sale, the assessed value of 2832 Handy Drive would have remained at its 2016 system-generated value, as did the values of properties in Fulton County that did not sell in 2015. Therefore, but for the 2015 sale, 2832 Handy Drive would have been assessed at \$27,500 for tax year 2016.

45.

Ms. Moore paid 2016 taxes generated from the FCBA's illegal assessment to Fulton County and Atlanta.

46.

In 2017, the fair market value of 2832 Handy Drive was set at \$133,900, the same value used in the 2016 tax year.

47.

Ms. Moore paid 2017 taxes generated from the FCBA's illegal assessment to Fulton County and Atlanta.

D. Specific Allegations as to Plaintiff Kristen Mazola Against Defendants Fulton County and Atlanta

48.

On or about June 30, 2015, Ms. Mazola purchased the real property known as 2061 Village Crest Drive NW, Atlanta, GA 30318 for \$320,000.

49.

For tax year 2015, the FCBA valued 2061 Village Crest Drive at \$247,700.

50.

Then in tax year 2016, the FCBA overrode its system-generated valuation of \$247,700 for 2061 Village Crest Drive and replaced it with \$320,000, the exact price Ms. Mazola paid for her property in 2015.

51.

The values of other homes that did not sell in 2015 in Fulton County were not similarly overridden for tax year 2016. Thus, the FCBA treated sold and unsold properties differently for tax year 2016.

52.

Were it not for the 2015 sale, the assessed value of 2061 Village Crest Drive would have remained at its 2016 system-generated value, as did the values of Fulton County properties not sold in 2015. Therefore, but for the 2015 sale, 2061 Village Crest Drive would have been assessed at \$247,700 for tax year 2016.

53.

Ms. Mazola paid 2016 taxes generated from the FCBA's illegal assessment to Fulton County and Atlanta.

54.

In 2017, the fair market value of 2061 Village Crest Drive was set at \$320,000, the same value used in the 2016 tax year.

55.

Ms. Mazola paid 2017 taxes generated from the FCBA's illegal assessment to Fulton County and Atlanta.

E. Specific Allegations as to Plaintiff Mario Artesiano Against Defendants Fulton County and Atlanta

56.

On or about July 10, 2015, Mr. Artesiano purchased the real property known as 2307 Thomas Road NW, Atlanta, GA 30318 for \$349,000.

57.

For tax year 2015, the FCBA valued 2307 Thomas Road NW at \$267,100.

58.

For tax year 2016, the FCBA overrode its system-generated valuation of \$292,200 for 2307 Thomas Road NW and replaced it with \$349,000, the exact price Mr. Artesiano paid for his property in 2015.

59.

The values of other homes that did not sell in 2015 in Fulton County were not similarly overridden for tax year 2016. Thus, the FCBA treated sold and unsold properties differently for tax year 2016.

60.

Were it not for the 2015 sale, the assessed value of 2307 Thomas Road NW would have remained at its system-generated value, as did the values of other Fulton County properties that did not sell in 2015. Therefore, but for the 2015 sale, 2307 Thomas Road NW would have been

assessed at \$292,200 for tax year 2016.

61.

Mr. Artesiano paid 2016 taxes generated from the FCBA's illegal assessment to Fulton County and Atlanta.

62.

In 2017, the fair market value of 2307 Thomas Road NW was set at \$349,000, the same value used in the 2016 tax year.

63.

Mr. Artesiano paid 2017 taxes generated from the FCBA's illegal assessment to Fulton County and Atlanta.

G. Specific Allegations as to Plaintiff Dham Gupta Against Defendants Fulton County and Roswell

64.

On or about March 25, 2015, Mr. Gupta purchased the real property known as 130 Nesbit Reserve Court, Alpharetta, GA 30022 for \$440,000.

65.

For tax year 2015, the FCBA valued 130 Nesbit Reserve Court at \$386,000.

66.

For tax year 2016, the FCBA then overrode its system-generated valuation of \$386,000 for 130 Nesbit Reserve Court and replaced it with \$440,000, the exact price Mr. Gupta paid for his property in 2016.

67.

The values of other homes that did not sell in 2015 in Fulton County were not similarly overridden for tax year 2016. Thus, the FCBA treated sold and unsold properties differently for

tax year 2016.

68.

Were it not for the 2015 sale, the assessed value of 130 Nesbit Reserve Court would have remained at its 2016 system-generated value, as did the values of other Fulton County properties not sold in 2015. Therefore, but for the 2015 sale, 130 Nesbit Reserve Court would have been assessed at \$386,000 for tax year 2016.

69.

Mr. Gupta paid 2016 taxes generated from the FCBA's illegal assessment to Fulton County and Roswell.

70.

In 2017, the fair market value of 130 Nesbit Reserve Court was set at \$440,000, the same value used in the 2016 tax year.

71.

Mr. Gupta paid 2017 taxes generated from the FCBA's illegal assessment to Fulton County and Roswell.

H. Specific Allegations as to Plaintiff Timothy Williamson Against Defendants Fulton County and Alpharetta

72.

On or about July 24, 2015, Timothy Williamson purchased the real property known as 1755 Providence Place Drive, Alpharetta, Georgia 30009 for \$630,000.

73.

For tax year 2015, the FCBA valued 1755 Providence Place Drive at \$259,000.

74.

Then for tax year 2016, the FCBA overrode its system-generated valuation of \$259,000 for 1755 Providence Place Drive and replaced it with \$630,000, the exact price paid by Mr. Williamson for his property in 2015.

75.

The values of other homes that did not sell in 2015 in Fulton County were not similarly overridden for tax year 2016. Thus, the FCBA treated sold and unsold properties differently for tax year 2016.

76.

Were it not for the 2015 sale, the assessed value of 1755 Providence Place Drive would have remained at its 2016 system-generated value, as did the values of other properties in Fulton County that did not sell in 2015. Therefore, but for the 2015 sale, 1755 Providence Place Drive would have been assessed at \$259,000 for tax year 2016.

77.

Mr. Williamson paid 2016 taxes generated from the FCBA's illegal assessment to Fulton County and Alpharetta.

78.

In 2017, the fair market value of 1755 Providence Place was set at \$630,000, the same value used in the 2016 tax year.

79.

Mr. Williamson paid 2017 taxes generated from the FCBA's illegal assessment to Fulton County and Alpharetta.

I. Specific Allegations as to Plaintiff Adam Smith Against Defendants Fulton County and Milton

80.

On or about August 27, 2015, Adam Smith purchased the real property known 4085 Hopewell Springs Drive, Alpharetta, Georgia 30004 for \$645,120.

81.

For tax year 2015, the FCBA valued 4085 Hopewell Springs Drive at \$170,500.

82.

Then for tax year 2016, the FCBA overrode its system-generated valuation of \$536,900 for 4085 Hopewell Springs Drive and replaced it with \$645,100, a value rounded off to the nearest hundredth dollar of the price Mr. Smith paid for his house in 2015.

83.

The values of other homes that did not sell in 2015 in Fulton County were not similarly overridden for tax year 2016. Thus, the FCBA treated sold and unsold properties differently for tax year 2016.

84.

Were it not for the 2015 sale, the assessed value of 4085 Hopewell Springs Drive would have remained at its 2016 system-generated value, as did the values of other Fulton County properties that did not sell in 2015. Therefore, but for the 2015 sale, 4085 Hopewell Springs Drive would have been assessed at \$536,900 for tax year 2016.

85.

Mr. Smith paid 2016 taxes generated from the FCBA's illegal assessment to Fulton County and Milton.

86.

In 2017, the fair market value of 4085 Hopewell Springs Drive was set at \$645,100, the

same value used in the 2016 tax year.

87.

Mr. Smith paid 2017 taxes generated from the FCBA's illegal assessment to Fulton County and Milton.

J. Specific Allegations as to Plaintiff Peter Humphreys Against Defendants Fulton County and Johns Creek

88.

On or about November 9, 2015, Mr. Humphreys purchased the real property known as 10930 Bell Road, Duluth, Georgia 30097 for \$310,000.

89.

For tax year 2015, the FCBA valued 10930 Bell Road at \$114,700.

90.

Then for tax year 2016, the FCBA overrode its system-generated valuation of \$114,700 for 10930 Bell Road and replaced it with \$310,000, the exact price paid by Mr. Humphreys for his property in 2015.

91.

The values of other homes that did not sell in 2015 in Fulton County were not similarly overridden for tax year 2016. Thus, the FCBA treated sold and unsold properties differently for tax year 2016.

92.

Were it not for the 2015 sale, the assessed value of 10930 Bell Road would have remained at its 2016 system-generated value, as did the values of other Fulton County properties not sold in 2015. Therefore, but for the 2015 sale, 10930 Bell Road would have been assessed at \$114,700 for tax year 2016.

93.

Mr. Humphreys paid 2016 taxes generated from the FCBA's illegal assessment to Fulton County and Johns Creek.

94.

In 2017, the fair market value of 10930 Bell Road was set at \$310,000, the same value used in the 2016 tax year.

95.

Mr. Humphreys paid 2017 taxes generated from the FCBA's illegal assessment to Fulton County and Johns Creek.

CLASS ACTION ALLEGATIONS

96.

All Plaintiffs bring this action individually and on behalf of all others similarly situated as a class action pursuant to the provisions of O.C.G.A. § 9-11-23(a) and (b)(2).

97.

The County Class. Each and every named Plaintiff brings this action on behalf of a class comprised of certain Fulton County taxpayers. The County Class is defined as follows:

All persons or entities who purchased property in Fulton County in 2015; whose tax assessments for the following years were overridden from the fair market value assessments generated by the Fulton County Board of Assessors' Computer Assisted Mass Appraisal ("CAMA") system to higher amounts equal to or within \$100 of the sales price the class members paid for their property; and who paid property taxes to Fulton County based on those assessments for tax years 2016 and/or 2017.

98.

Excluded from the County Class are Defendants; all persons who make a timely election to be excluded from the County Class; all claims for wrongful death, survivorship, and/or personal

injury by Class members; and the judge to whom this case is assigned and her immediate family. Plaintiffs reserve the right to revise the Class definition based on information learned through discovery.

99.

The City of Atlanta Subclass. In addition to representing the County Class, Plaintiffs Adam Rice, Felicia Moore, Kristen Mazola and Mario Artesiano also bring this action on behalf of a subclass comprised of certain City of Atlanta taxpayers. The City of Atlanta Subclass is defined as follows:

All persons or entities who purchased property in the City of Atlanta in 2015; whose tax assessments for the following years were overridden from the fair market value assessments generated by the Fulton County Board of Assessors' Computer Assisted Mass Appraisal ("CAMA") system to higher amounts equal to or within \$100 of the sales price the class members paid for their property; and who paid property taxes to the City of Atlanta based on those assessments for tax years 2016 and/or 2017.

100.

Excluded from the City of Atlanta Subclass are Defendants; all persons who make a timely election to be excluded from that Subclass; all claims for wrongful death, survivorship, and/or personal injury by Subclass members; and the judge to whom this case is assigned and her immediate family. Plaintiffs reserve the right to revise the Subclass definition based on information learned through discovery.

101.

The City of Alpharetta Subclass. In addition to representing the County Class, Plaintiff Timothy Williamson also brings this action on behalf of a subclass comprised of certain City of Alpharetta taxpayers. The City of Alpharetta Subclass is defined as follows:

All persons or entities who purchased property in the City of Alpharetta in 2015; whose tax assessments for the following years were overridden from the fair market

value assessments generated by the Fulton County Board of Assessors' Computer Assisted Mass Appraisal ("CAMA") system to higher amounts equal to or within \$100 of the sales price the class members paid for their property; and who paid property taxes to the City of Alpharetta based on those assessments for tax years 2016 and/or 2017.

102.

Excluded from the City of Alpharetta Subclass are Defendants; all persons who make a timely election to be excluded from that Subclass; all claims for wrongful death, survivorship, and/or personal injury by Subclass members; and the judge to whom this case is assigned and her immediate family. Plaintiffs reserve the right to revise the Subclass definition based on information learned through discovery.

103.

The City of Milton Subclass. In addition to representing the County Class, Plaintiff Adam Smith also brings this action on behalf of a subclass comprised of certain City of Milton taxpayers. The City of Milton Subclass is defined as follows:

All persons or entities who purchased property in the City of Milton in 2015; whose tax assessments for the following years were overridden from the fair market value assessments generated by the Fulton County Board of Assessors' Computer Assisted Mass Appraisal ("CAMA") system to higher amounts equal to or within \$100 of the sales price the class members paid for their property; and who paid property taxes to the City of Milton based on those assessments for tax years 2016 and/or 2017.

104.

Excluded from the City of Milton Subclass are Defendants; all persons who make a timely election to be excluded from that Subclass; all claims for wrongful death, survivorship, and/or personal injury by Subclass members; and the judge to whom this case is assigned and her immediate family. Plaintiffs reserve the right to revise the Subclass definition based on information learned through discovery.

105.

The City of Roswell Subclass. In addition to representing the County Class, Plaintiff Dham Gupta brings this action on behalf of a subclass comprised of certain City of Roswell taxpayers. The City of Roswell Subclass is defined as follows:

All persons or entities who purchased property in the City of Roswell in 2015; whose tax assessments for the following years were overridden from the fair market value assessments generated by the Fulton County Board of Assessors' Computer Assisted Mass Appraisal ("CAMA") system to higher amounts equal to or within \$100 of the sales price the class members paid for their property; and who paid property taxes to the City of Roswell based on those assessments for tax years 2016 and/or 2017.

106.

Excluded from the City of Roswell Subclass are Defendants; all persons who make a timely election to be excluded from that Subclass; all claims for wrongful death, survivorship, and/or personal injury by Subclass members; and the judge to whom this case is assigned and her immediate family. Plaintiffs reserve the right to revise the Subclass definition based on information learned through discovery.

107.

The City of Johns Creek Subclass. In addition to representing the County Class, Plaintiff Pete Humphreys brings this action on behalf of a subclass comprised of certain City of Johns Creek taxpayers. The City of Johns Creek Subclass is defined as follows:

All persons or entities who purchased property in the City of Johns Creek in 2015; whose tax assessments for the following years were overridden from the fair market value assessments generated by the Fulton County Board of Assessors' Computer Assisted Mass Appraisal ("CAMA") system to higher amounts equal to or within \$100 of the sales price the class members paid for their property; and who paid property taxes to the City of Johns Creek based on those assessments for tax years 2016 and/or 2017.

108.

Excluded from the City of Johns Creek Subclass are Defendants; all persons who make a timely election to be excluded from that Subclass; all claims for wrongful death, survivorship, and/or personal injury by Subclass members; and the judge to whom this case is assigned and her immediate family. Plaintiffs reserve the right to revise the Subclass definition based on information learned through discovery.

109.

Certification of Plaintiffs' claims for class-wide treatment is appropriate because Plaintiffs can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claim.

110.

Numerosity—O.C.G.A. § 9-11-23(a)(1). The members of the County Class and Subclasses are so numerous that individual joinder of all the members is impracticable. On information and belief, there are thousands of property owners who have paid taxes for 2016 and/or 2017 based on illegal assessments as alleged herein. The precise number of County Class and Subclass members and their addresses are presently unknown to Plaintiffs, but may be ascertained from the Defendants' and the FCBA's books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

111.

Commonality and Predominance – O.C.G.A. § 9-11-23(a)(2) and (b)(3). Numerous common questions of law and fact exist as to Plaintiffs and the other County Class and Subclass members. Such questions include, but are not limited to:

- (a) Whether the FCBA illegally reassessed those properties that were purchased in

2015;

(b) Whether the FCBA's decision to override its system-generated values for properties purchased in 2015 by Plaintiffs and other County Class and Subclass members was based solely on the fact that the properties were purchased in 2015;

(c) Whether this "sales chasing" resulted in property value assessments that were not uniform and whether this lack of uniformity violated the Georgia Constitution;

(d) Whether Defendants have acted unlawfully by charging and collecting property taxes based on the illegal assessments of the FCBA;

(e) Whether, but for the FCBA's improper assessments, Plaintiffs and other County Class and Subclass members would have paid property taxes based on 2016/2017 system-generated valuations; and

(f) Whether Plaintiffs and other County Class and Subclass members are entitled to refunds of the difference between the taxes they actually paid and what they would have paid but for the FCBA's illegal assessments.

Defendants have engaged in a common course of conduct toward Plaintiffs and the other County Class and Subclass members. The common issues arising from this conduct that affect Plaintiffs and the other County Class and Subclass members predominate over any individual issues. Adjudication of these common issues in a single action has important and desirable advantages of judicial economy.

112.

Typicality – O.C.G.A. § 9-11-23(a)(3). Plaintiffs' claims are typical of the other County Class and Subclass members' claims because, among other things, all members of the County Class and Subclasses were comparably injured through the uniform misconduct described above.

All County Class and Subclass members were charged and paid taxes based on the FCBA's illegal assessments and all County Class members have similar claims for refunds pursuant to O.C.G.A. § 48-5-380.

113.

Adequacy of Representation – O.C.G.A. § 9-11-23(a)(4). Plaintiffs are adequate County Class and Subclass representatives because their interests do not conflict with the interests of the other County Class and Subclass members they seek to represent; Plaintiffs have retained counsel competent and experienced in tax valuation, complex commercial and class action litigation; and Plaintiffs intend to prosecute this action vigorously. County Class and Subclass members' interests will be fairly and adequately protected by Plaintiffs and their counsel.

114.

Superiority – O.C.G.A. § 9-11-23(b)(3). A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiffs and each of the other County Class and Subclass members are small compared to the burden and expense that would be required to individually litigate their claims against Defendants, thus rendering it impracticable for County Class and Subclass members to individually seek redress for Defendants' wrongful conduct. Even if County Class and Subclass members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

CAUSE OF ACTION

COUNT I – REFUND OF TAXES PURSUANT TO O.C.G.A. § 48-5-380

115.

Plaintiffs incorporate all preceding paragraphs by reference as if specifically restated herein.

116.

Plaintiffs bring this claim individually and on behalf of all other County Class and Subclass members as defined and described above.

117.

“[A]ll taxation shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.” GA CONST Art. 7, § 1, ¶ III. The requirement that all taxation be uniform “means that all kinds of property of the same class not absolutely exempt must be taxed alike, by the same standard of valuation, equally with other taxable property of the same class, and coextensively with the territory to which it applies; meaning the territory from which the given tax, as a whole, is to be drawn. *Hutchins*, 211 Ga. at 830, 186 (1955).

118.

Notably, “the duty to assess at full value is not supreme but yields to the duty to avoid discrimination.” *McLennan v. Undercofler*, 149 S.E.2d 705, 222 Ga. 302 (Ga., 1966). “For want of uniformity in taxable values, the assessments made against the property of [the taxpayer] and other similarly situated taxpayers are null and void; they are clearly violative of the uniform-taxation clause of our Constitution and the equal-protection clauses of our present Constitution and the Federal Constitution.” *Hutchins*, 211 Ga. at 831, 186.

119.

The board of assessors must also see “that all taxable property within the county is assessed and returned at its fair market value and that fair market values as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as nearly as possible only such taxpayer's proportionate share of taxes.” O.C.G.A. § 48-5-306(a).

120.

By overriding the CAMA system-generated appraisals in tax years 2016 and/or 2017 with a higher value equal to or rounded off from the sales price paid by Plaintiffs in 2015, while leaving in place the CAMA system-generated appraisals for properties that did not sell in 2015, the FCBA violated the uniform-taxation clause of the Georgia Constitution and the FCBA’s duty to fairly and justly equalize fair market value between taxpayers so that all taxpayers pay as nearly as possible only their proportionate share of taxes.

121.

Because of the FCBA’s illegal assessments, Plaintiffs and other County Class and Subclass members were made to bear a higher share of the tax burden than those who owned properties that were not purchased in 2015.

122.

Plaintiffs and the other County Class and Subclass members have paid the illegal and overinflated tax bills sent by Defendants (either directly or contractually through Dr. Arthur Ferdinand, Tax Commissioner of Fulton County).

123.

Plaintiffs and other County Class and Subclass members are due a refund of illegal taxes charged by Defendants in 2016 and 2017 pursuant to O.C.G.A. § 48-5-380.

124.

Plaintiffs and other County Class and Subclass members also are entitled to pre-judgment and post-judgment interest at the amount provided by law.

125.

Defendants are liable to Plaintiffs and other County Class and Subclass members for their expenses of litigation, including reasonable attorneys' fees, pursuant to and to the fullest extent allowed under, *inter alia*, O.C.G.A. § 13-6-11 and other applicable law.

126.

The acts of Defendants alleged herein are or were related to ministerial acts or duties. For this and other reasons, Defendants are not entitled to any immunity.

WHEREFORE, Plaintiffs and the other County Class and Subclass members pray:

- (a) That each Defendant appear and make answer to this Action in the time and manner required by law;
- (b) That the proposed County Class and Subclass be certified, and that Plaintiffs be appointed as Class Representatives and their counsel as Class Counsel;
- (c) For a judgment awarding Plaintiffs and the other County Class and Subclass members the amount they overpaid in taxes as a result of the FCBA's illegal assessments;
- (d) For a judgment awarding Plaintiffs and the other County Class and Subclass members pre-judgment and post-judgment interest at the amount provided by law;
- (e) For a judgment awarding all attorneys' fees to the Plaintiffs and the other County Class and Subclass members pursuant to and to the fullest extent allowed under, *inter alia*, O.C.G.A. § 13-6-11.
- (f) For a judgment awarding all costs of this action against Defendants; and
- (g) For all such other and further relief as is just and proper.

Respectfully submitted this 28th day of February, 2025.

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IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

ADAM RICE, FELICIA MOORE,)
KRISTEN MAZOLA, MARIO)
ARTESIANO, DHAM GUPTA,)
TIMOTHY WILLIAMSON, ADAM)
SMITH, and PETE HUMPHREYS,)
suing on behalf of themselves and all others)
similarly situated,)

Plaintiffs,)

v.)

FULTON COUNTY, GEORGIA, CITY)
OF ATLANTA, CITY OF ALPHARETTA,)
CITY OF JOHNS CREEK, CITY OF)
MILTON, and CITY OF ROSWELL,)

Defendants.)

CIVIL ACTION FILE NO.
2018-CV-305307

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the opposing parties a true and correct copy of the within and foregoing FIFTH AMENDED CONSOLIDATED CLASS ACTION COMPLAINT FOR REFUND OF TAXES by statutory electronic service, addressed as follows:

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Respectfully submitted this 28th day of February, 2025.

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