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DEPARTMENT OF REVENUE
OFFICE OF GENERAL COUNSEL

RONALD ROGERS and §
KAREN ROGERS and All §
Others Similarly Situated §
 vs. §
PATRICK PILCHER, Property §
Appraiser, RHONDA SKIPPER, §
Tax Collector of Walton County, §
and LEON M. BIEGALSKI, as §
Executive Director of the Florida §
Department of Revenue §

In the District Court

WALTON COUNTY

1ST Judicial District

Advanced Investigations, Inc. ★
 Served: 12/20/2017 3:55 pm
 By: R.J. Boyce, Certified Process Server #001
 Second Judicial Circuit - Florida



**ACTION FOR DECLARATORY, INJUNCTIVE, and MONETARY RELIEF
 FOR NAMED PLAINTIFFS AND THOSE SIMILARLY SITUATED**

Plaintiffs, Ronald Rogers, Karen Rogers (Rogers), and all others similarly situated, sue Defendants Patrick Pilcher, as Property Appraiser of Walton County, Florida ("Appraiser"), Rhonda Skipper, as Tax Collector of Walton County, Florida ("Collector"), and Leon M. Biegalski, as Executive Director of the Florida Department of Revenue ("Department"), stating:

This is an action for declaratory judgment and injunctive relief challenging denials of property exemptions and subsequent reassessments of property in Walton County, Florida by the Appraiser and Collector. This Court has jurisdiction pursuant to Chapters 86, 194, 195, & 196, Florida Statutes, Article V of the Florida Constitution, and other pertinent Statutes.

Plaintiffs Ronald and Karen Rogers, and all others of this class, own real property in Walton County. Plaintiff Rogers' property is at 216 Fishermans Run, Freeport, Florida, Parcel No. 31-1S-18-14010-000-0720 (Subject Property), which has been classified and assessed as owner-occupied residential.

Patrick Pilcher is sued in his official capacity and is a necessary party pursuant to section 194.181(2), Florida Statutes and may be served at his office, 571 US Hwy. 90 East, DeFuniak Springs, FL 32433.

Rhonda Skipper is sued in her official capacity and is a necessary party pursuant to section 194.181(3), Florida Statutes, and may be served at her office, 571 US HWY 90 East, Defuniak Springs FL 32433.

Defendant Biegalski is sued in his official capacity, a necessary party per section 194.181(5), Florida Statutes, and may be served at his office, Florida Department of Revenue, 5050 W Tennessee St., Tallahassee, FL 32399-0100.

From 1996 to present, Plaintiffs Rogers have continually had legal and equitable ownership of the Subject Property, have made it their permanent residence, and were appropriately issued a homestead exemption for all years from 1996, including the 2016 tax year. 2017 taxes on the Subject Property have been paid under objection in compliance with section 194.171, Florida Statutes.

Plaintiffs have performed all conditions precedent required of Plaintiffs in establishing their right to bring this action, including filing this action within the time period prescribed by Florida Statutes.

Plaintiffs are entitled to the homestead exemption on the Subject Property pursuant to article VII, section 6 of the Florida Constitution and section 196.031, Florida Statutes. However, June 29, 2017, Appraiser issued Notice of Disapproval of Application for Property Tax Exemption or Classification ("Notice") denying Plaintiff's Homestead Exemption for the 2017 tax year and subsequently assessing their property at approximately 32% increase from the previous year. A true copy of the Notice is attached as Exhibit "A" and incorporated herein.

For reasons listed below, denial and reassessment are invalid and unlawful.

**COUNT 1
NOTICE OF DISAPPROVAL AND DISAPPROVAL OF EXEMPTIONS
ARE INVALID**

Plaintiffs incorporate by reference all previous paragraphs as fully set forth.

Appraiser's failure to comply with Denial of Exemption Notice requirements of Florida Statutes invalidates Appraiser's and Collector's attempt to deny Exemptions for Plaintiffs.

A. NO FACTS IN NOTICE = INVALID EXEMPTION DENIAL

Florida Statute 196.193 5(b) states any notice of denial must *“include the specific facts* the property appraiser used to determine that the applicant failed to meet the statutory requirements. *If a property appraiser fails to provide a notice that complies with this subsection, any denial of an exemption or an attempted denial of an exemption is invalid.”* (emphasis added).

Notice served on Plaintiffs and issued by Appraiser (Ex. A) does not include any facts and states only an unsupported conclusion: ... “F.S. 196.061 Rental of Homestead to constitute abandonment.” Since the Appraiser did not include any facts underlying the denial of Plaintiff’s exemption, Florida Statutes mandate that the Notice is invalid and the subsequent Denial of Exemption is also invalid.

B. NO “SPECIFIC REQUIREMENTS” = INVALID EXEMPTION DENIAL

“The notification [of denial] must state in clear and unambiguous language the specific requirements of the state statutes which the property appraiser relied upon to deny the applicant the exemption with respect to the subject property.” F.S. 196.193(5). (Emphasis added)

The Appraiser’s Notice states only an unsupported conclusion: “F.S. 196.061 Rental of Homestead to constitute abandonment.” Exhibit “A”.

Appraiser “relied on” F.S. 196.061 but did not include specific requirements of that statute which include the “all or substantially all” requirement, the military opt out, or the multi-year rental requirement. Florida Law clearly states that failure to include statutory specifics mandates the Notice is invalid ab initio.

Since Appraiser’s Notice of Denial did not comply with Florida Law, that Notice is invalid. Florida law also provides that any denial of exemption based on an invalid Notice is invalid. Therefore, enforcement of the denial is unlawful. Plaintiff’s 2017 exemption is valid and should be reinstated.

WHEREFORE, Plaintiffs Rogers ask the Court to enter an order: reinstating Plaintiffs’ Exemption for 2017, ordering Collector to cancel original tax bills and issue new tax bills reflecting 2017 exemption, and refunding any overpayments.

Plaintiffs ask the Court to enter an order cancelling Appraiser’s improper assessments based on invalid denials, and order collector to refund all taxes subsequent to the invalid exemption denial.

Plaintiffs ask the Court to enter an order: reinstating all Walton County citizens’ Exemptions denied for 2017 and all previous years in which Defendants engaged in the prohibited practice of issuing and enforcing deficient and invalid notices, ordering Collector to cancel the original tax bills and issue new tax bills that reflect the denied exemptions, and refunding any overpayments.

Plaintiffs ask the Court to order Collector to roll back all taxes improperly assessed based on invalid exemption denials and in violation of the Save Our Homes Cap in Amendment 10 of the Florida Constitution.

Plaintiffs also request an award of Plaintiff's' costs and attorney fees incurred in bringing this action pursuant to Florida Statutes; and awarding such other general relief as may be just and equitable. **All conditions precedent to the award of attorney's fees have been satisfied.**

COUNT II
APPRAISER'S "JUST VALUE" REASSESSMENT IS UNJUST

Plaintiffs incorporate by reference all previous paragraphs as fully set forth.

After issuing Notice of Denial of Plaintiffs' Homestead Exemption, Appraiser reassessed Rogers' property at a 32% increase in valuation for 2017. Tax bill attached as Exhibit "B". Upon information and belief most, if not all, citizens who have had their exemptions denied have suffered unjust reassessments.

Even were Appraiser's Denial of Exemption valid, Florida law prohibits more than 10% increase in valuation from a previous year.

WHEREFORE, Plaintiffs ask the Court to enter an order: cancelling Appraiser's property assessment for Plaintiff Rogers' property in excess of 10% for 2017 and ordering collector to refund any overpayments.

Plaintiffs request this Court enter an order: cancelling Appraiser's property assessment for all Walton County citizens' property in excess of 10% for 2017 and all previous years, and ordering Collector to refund any overpayments, and for an award of attorneys' fees.

ATTORNEY'S FEES

Request is made for all costs and reasonable and necessary attorney's fees incurred by or on behalf of Plaintiffs, including fees necessary in event of appeal to any court of appeals and the supreme court of Florida, as the Court deems equitable and just. **All conditions precedent to the award of attorney's fees have been satisfied.**

Plaintiffs request an award of Plaintiffs' costs and attorney fees incurred in bringing this action pursuant to Florida Statutes; and awarding such other general relief as may be just and equitable.

COUNT III APPRAISER'S PATTERN OF CONDUCT MANDATES ADDITIONAL FINDING TO PROTECT CITIZENS

Plaintiffs incorporate by reference all previous paragraphs as set forth.

Despite clear, unambiguous language of Florida law which Defendants have sworn to enforce, Appraiser has elected to omit from notices required legal information necessary for the citizens of Walton County to understand their rights.

Appraiser has contrived to conceal required inclusion of base facts making it impossible for the citizens of Walton County to address the inevitable errors of Defendants. Appraiser has also contrived to obfuscate and conceal his mendacity.

Appraiser has evaded Florida Statutes' requirements as an intentional course of conduct, part of a scheme to disadvantage Walton County homeowners, and not as a result of mistake or miscalculation limited to the Rogers.

Past Denials show Appraiser has fostered invalid denials of exemptions as a regular course of business for several years. (Ex. "C" sample Notices).

Appraiser will continue to issue invalid Notices and reassessments in violation of Statute 196.193 and in contravention of the Florida Constitution, and Collector will continue to accept these invalid Notices and collect illegal taxes unless the Court intervenes.

To fully make Plaintiffs whole, they should not have to come back to this Court and litigate succeeding invalid Notices issued in the future.

WHEREFORE, in addition to relief sought above, Plaintiffs ask the Court to require Appraiser to obtain independent judicial review to assess facts and legality before issuance of all future Denials of Exemptions and require Collector to monitor Appraiser to ensure that Exemption Denials and assessments comply with

Florida law and any and other such relief as may be determined by this Court, and
for an award of attorneys' fees.

Respectfully submitted,

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