

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

SHOSHANA SCHECTER,

Plaintiff,

CASE NO. 2017-CA-029552

v.

PEDRO J. GARCIA, as Miami-Dade
County Property Appraiser; and LEON
M. BIEGALSKI, as Executive Director
of the State of Florida Department of
Revenue,

Defendants.

COMPLAINT

Plaintiff, SHOSHANA SCHECTER, (“Schecter”), by and through her undersigned counsel, hereby sues PEDRO J. GARCIA, as Miami-Dade County Property Appraiser (“Property Appraiser”), stating as follows:

PARTIES, JURISDICTION AND VENUE

1. This is an action filed under § § 194.171-194.181, Florida Statutes, seeking reversal of a denial of homestead exemption for the year 2017 (Count I).

2. § 194.171(1), Florida Statutes, provides that the Circuit Courts shall have original jurisdiction over all matters relating to property taxation and that venue shall be in the County where the property is located.

3. Venue is proper because the Plaintiff is a resident of Miami-Dade County and the property is located in Miami-Dade County.

4. Pursuant to § 194.171(3), Florida Statutes, Schecter paid to the tax collector the amount of tax which Schecter admits in good faith to be owed. Receipt for such payment is attached as exhibit "A."

5. Since 1999 and continuously to the present, Plaintiff has been a permanent resident of Miami-Dade County, as defined in § 196.012 (17).

6. Since 1999 and continuously to the present, Plaintiff's property at 637 Flamingo Drive, Miami, Florida 33140, tax Folio Number 02-3226-002-0120, (the "Property") has been and is that place where Plaintiff has her true, fixed, and permanent home and principal establishment to which, whenever absent, she has the intention of returning.

7. Prior to 2016 and since 1999, the owners of the Property were Schecter and her mother, Diamant Candiotti ("Candiottis" or "Owners").

8. As part of a refinancing transaction in 2016, Schecter and Diamant conveyed their interest in the residence to Schecter so Schecter could manage the affairs of the residence.

9. Diamant is permanently, mentally and physically disabled, and Schecter is the primary care giver.

10. All prior tax records since 1999 evidence a homestead exemption in favor of the Candiottis.

11. In granting a homestead exemption for the years 1999 through 2016, the Miami-Dade Property Appraiser necessarily determined the following:

A. Schecter was a permanent resident of the State of Florida as that term is defined in § 196.012(17), Florida Statutes,

B. Schecter had the legal or equitable title to real estate, and

C. Schecter maintained thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner.

12. Defendant, Pedro J. Garcia, the Property Appraiser for Miami-Dade County is made a party Defendant hereto in his official capacity.

13. Defendant, Leon M. Biegalski (“Biegalski”), the Executive Director of the Department of Revenue, is the official of the state government responsible for overall supervision of the assessment and collection of ad valorem taxes. Biegalski is joined pursuant to § 194.181(5), Florida Statutes, since the tax assessment is being contested on the grounds, *inter alia*, that it is contrary to the laws and Constitution of the State of Florida.

COUNT I-DENIAL OF HOMESTEAD EXEMPTION (2017)

14. Plaintiff re-alleges and incorporates by reference paragraphs 1-12 as if fully set forth herein.

15. The Miami-Dade County Property Appraiser denied homestead exemption status of Schecter.

16. Schecter qualifies for homestead exemption under § 196.031, Florida Statutes, since on January 1, 2017, Schecter had legal and beneficial title in equity to the Property located in the state of Florida, in good faith made the Property her permanent residence, and made the Property the permanent residence of her mother, Diamant, who is naturally dependent on her.

COUNT II-DENIAL OF DUE PROCESS

17. Pursuant to § 192.0105(2)(b), Florida Statutes, due process requires that tax payers have the right to petition the Value Adjustment Board over a denial of exemption.

18. Schecter was denied due process by the Property Appraiser’s refusal to send a written decision containing findings of fact, conclusions of law and reasons for upholding or

overturning the determination of the Property Appraiser. Such documents are needed to permit a Petition to the Value Adjustment Board.

WHEREFORE, Plaintiff, SHOSHANA SCHECTER, respectfully requests that this Honorable Court reverse the homestead exemption denial and declare that (a) Plaintiff is entitled to homestead exemption for the year 2017, (b) that the amount of taxes paid in good faith to the Miami-Dade County Tax Collector be accepted in full payment of 2017 taxes, and (c) any such other relief as this Court deems just and equitable.

Respectfully submitted on this 22nd day of December, 2017.

/s/Michael G. Candiotti

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