

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

NED KIMMELMAN and  
PAMELA S. KIMMELMAN,

Plaintiffs,

vs.

Case No.: *JE2018CAD15319XXXXMB*

DOROTHY JACKS, as Property  
Appraiser, and ANNE M. GANNON,  
as Tax Collector, and LEON M.  
BIEGALSKI, as Executive Director  
of the Florida Department of Revenue,

Defendants.

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COMPLAINT

Plaintiffs, NED KIMMELMAN and PAMELA S. KIMMELMAN, sue Defendants, DOROTHY JACKS, as Property Appraiser, ANNE M. GANNON, as Tax Collector, and LEON M. BIEGALSKI, as Executive Director of the Florida Department of Revenue, and allege the following:

1. This is an action to contest an ad valorem tax assessment for tax year 2018.
2. Jurisdiction is predicated upon Chapter 194, Florida Statutes, and article V, sections 5 and 20 of the Florida Constitution.
3. Plaintiffs are husband and wife and residents of Palm Beach County, Florida.
4. Appraiser is sued herein in his official capacity and is a necessary party to the action pursuant to section Fla. Stats. Sec. 194.181(2).
5. Collector is sued herein in his official capacity and is a necessary party to the action pursuant to Fla. Stats. Sec. 194.181(3).

6. Defendant Biegalski is sued in his official capacity as Executive Director of the Florida Department of Revenue and is a necessary party to this action pursuant to Fla. Stats. Sec. 194.181(5).

7. The residential property which is the subject of this action is Plaintiffs' "new homestead" hereinafter known as the **Subject Property,** and is located at **200 East Palmetto Park Road, Apt. 411, Boca Raton, Florida 33432,** and identified by Appraiser as PCN 06-43-47-29-63-004-4110.

8. Plaintiffs have paid the tax on the Subject Property for the 2018 tax year (Exhibit A).

9. Plaintiffs have performed all conditions precedent which are required to be performed by Plaintiffs in establishing their right to bring this action and to the relief requested. Specifically and without limitation, this action has been filed within the time period prescribed by Fla. Stats. Sec. 194.171(2).

10. Appraiser estimated the Subject Property's assessed value for ad valorem purposes as follows:

|                             |              |
|-----------------------------|--------------|
| PCN 06-43-47-29-63-004-4110 | \$943,229.00 |
|-----------------------------|--------------|

(hereinafter, the "assessment").

11. Plaintiffs resided at 19188 Natures View Court in Boca Raton, Florida, and received a homestead exemption on that property for the 2016 tax year (the "Previous Homestead")

12. Plaintiffs transferred their homestead exemption to the Subject Property for tax year 2017 and have claimed homestead for 2018.

13. Plaintiffs are already contesting the Appraiser's calculation of their assessment limitation difference under the "Portability" provisions of Fla. Stats. Sec. 193.155(8), from the

Previous Homestead to the Subject Property for tax year 2017, in the case of *Kimmelmans v. Jacks*, Palm Beach County Circuit Court Case No. 50-2017-CA-13358.<sup>1</sup>

14. Plaintiffs are here contesting the Appraiser's calculation of their assessment limitation difference under the "Portability" provisions of Fla. Stats. Sec. 193.155(8) ("Portability"), from the Previous Homestead to the Subject Property for tax year 2018.

15. Appraiser has underestimated the assessment limitation difference transferred to the Subject Property for tax year 2018, resulting in an assessed value that is higher than it should be. This is because the prior two *Kimmelmans* lawsuits are still in progress and the correct assessment limitation difference for the Subject Property is not yet known. Once those cases have concluded and it is known, then it should be utilized herein to correct the assessments for tax year 2018.

16. There is a bona fide, actual, present practical need for a declaration as to Plaintiffs' right to a correct assessment limitation difference transfer under the "portability" provisions of Fla. Stats. Sec. 193.155(8), and Plaintiffs are in doubt as to their rights and obligations with respect to same.

17. The declaration sought deals with an actual and present controversy as to the assessment limitation difference transfer and the resulting assessment of the Subject Property for 2018.

18. The Plaintiffs have an actual, present, adverse and antagonistic interest with respect to the assessment limitation difference transfer, and the adverse interests of the parties are all before the Court by proper process.

19. The relief sought is not merely the giving of legal advice by the Court or the answer to questions propounded from curiosity.

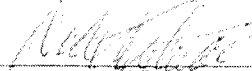
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<sup>1</sup> Plaintiffs are also contesting their 2016 just value assessment on their Previous Homestead in *Kimmelmans v. Nikolits*, Palm Beach County Circuit Court Case No. 2017-CA-001381-XXXX-MB.

20. Plaintiffs request a speedy hearing in this action in accordance with Fla. Stats. Sec. 193.155(8)(i)(5) and Fla. Stats. Sec. 86.111.

**WHEREFORE.** Plaintiffs demand that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the 2018 assessment on the Subject Property; establish the proper assessment limitation difference transfer amount from the Previous Homestead to the Subject Property and credit that amount to the Subject Property; direct Appraiser to reassess the Subject Property for 2018 at the correct classified use value; and further, that this Court enter an order directing Collector to cancel the original bill and issue a new tax bill in said reassessed amount; and finally, to award Plaintiffs their costs incurred in bringing this action pursuant to section 194.192, Florida Statutes, and award such other general relief as may be just and equitable.

NED KIMMELMAN, P.A.



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