

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

L. LOWRY BALDWIN and
JENNIFER L. BALDWIN,

Plaintiffs,

Case No.: 2018-CA-011743

vs.

BOB HENRIQUEZ, as Property Appraiser;
DOUG BELDEN, Tax Collector and
LEON M. BIEGALSKI, Executive Director
of the Florida Department of Revenue,

Defendants.

COMPLAINT

Plaintiffs, L. LOWRY BALDWIN and JENNIFER L. BALDWIN ("Plaintiffs"), sue Defendants BOB HENRIQUEZ, as Property Appraiser ("Appraiser"), DOUG BELDEN, as Tax Collector ("Collector"), and LEON M. BIEGALSKI ("Biegalski") as the Executive Director of the Florida Department of Revenue, and allege:

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 Hillsborough County, Florida.

4. Appraiser is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(2), Florida Statutes.

5. Collector is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(3), Florida Statutes.

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 section 194.181(5), Florida Statutes.

7. The residential real property which is the subject of this action, hereinafter referred to as the "Subject Property," is located at 3601 S. Beach Drive, Tampa, Hillsborough County, Florida, and identified by Appraiser as **Folio No. 122980-0000**.

8. 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 section 194.171(2), Florida Statutes.

9. Appraiser estimated the Subject Property's assessed values for ad valorem purposes in the amount of **\$2,107,667** (hereinafter, the "assessment").

10. Plaintiffs have paid the taxes which have been assessed in full, pursuant to section 194.171(3)(4), Florida Statutes. A copy of the receipt is attached hereto as Plaintiffs' **Exhibit "A."**

11. Prior to acquiring the Subject Property, Plaintiffs resided at 3605 S. Beach Drive, Tampa, Hillsborough County, Florida, and received a homestead exemption on that property for the 2013 tax year (the "Previous Homestead"). Plaintiffs sold the Previous Homestead on July 2, 2013, and abandoned that property as their homestead.

12. Plaintiffs did not claim a homestead exemption for tax year 2014.

13. Plaintiffs acquired legal title to the Subject Property on July 10, 2013, and held legal title to the Subject Property on January 1, 2015.

14. For tax year 2015, Plaintiffs were entitled to have the Subject Property classified as homestead property for ad valorem tax purposes and were also entitled to Portability, from the Previous Homestead to the Subject Property. However, Appraiser denied Plaintiffs' application for homestead exemption and portability transfer.

15. Plaintiffs' application for homestead exemption for tax year 2016 was approved; however, Portability was denied because Plaintiffs "did not have a homestead exemption in Florida within the last two (2) tax years."

16. Plaintiffs are contesting the Appraiser's denial of their assessment limitation difference transfer under the "Portability" provisions of section 193.155(8), Florida Statutes ("Portability"), from the Previous Homestead to the Subject Property for tax years 2015 and 2016.¹

17. But for Appraiser's denial of Plaintiffs' homestead exemption for tax year 2015, Plaintiffs were entitled to Portability from the Previous Homestead to the Subject Property for tax years 2015, 2016, 2017 and 2018.

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

¹ Plaintiffs have contested Appraiser's denial of their homestead exemption and Portability as to the Subject Property for tax years 2015 and 2016 in Consolidated Case No. 2016-CA-002090 and tax year 2017 in Case No. 2017-CA-010848.

19. 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.

20. The homestead exemption rights and privileges of Plaintiffs are dependent upon the assessment limitation difference transfer to the Subject Property.

21. The Defendants 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.

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

23. Plaintiffs request a speedy hearing in this action in accordance with section 86.111, Florida Statutes.

WHEREFORE, Plaintiffs demand that this Court take jurisdiction over this cause and the parties hereto; enter an order setting aside the 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 2017 at the correct classified use value; and further, that this Court enter an order directing Collector to cancel the original bills and issue new tax bills in said reassessed amounts; 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.



Robert E. V. Kelley, Jr.
Florida Bar No. 451230
HILL, WARD & HENDERSON, P.A.
101 E. Kennedy Boulevard, Suite 3700
Tampa, FL 33601
rob.kelley@hwhlaw.com
relitrevk@hwhlaw.com
(813) 221-3900
(813) 221-2900 FAX
Attorneys for Plaintiffs