

In The Circuit Court of the First Judicial Circuit
In and For Santa Rosa County, Florida

Peter Paulding and
Ruth Paulding

Plaintiffs

v.

Case No. 2019-CA-144

Gregory Brown, Santa Rosa County Property Appraiser, and
Stan Colie Nichols, Santa Rosa County Tax Collector, and
Jim Zingale, Florida Department of Revenue Property Tax Oversight
Executive Director

Defendants

Complaint

COMES NOW the Plaintiffs, Peter Paulding and Ruth Paulding (hereinafter referred to as "Plaintiffs"), property owners of [REDACTED]; sue the Defendants; Gregory Brown, Santa Rosa County Property Appraiser, Stan Colie Nichols, Santa Rosa County Tax Collector, and Jim Zingale, Florida Department of Revenue Property Tax Oversight Executive Director (hereinafter referred to as "Defendants"), for denial of a request for a refund of ad valorem property taxes in the amount of \$4,781.98 for the year 2015 requested for overpayment of ad valorem property taxes paid, pursuant to Section 197.182, Florida Statutes.

Jurisdiction and Venue

1. This is an action for an appeal of an adverse administrative decision rendered by the Florida Department of Revenue Property Tax Oversight in the amount of \$4,781.98 for overpayment of Ad Valorem taxes paid by Plaintiffs for the year 2015.

2. Plaintiffs Peter and Ruth Paulding are property owners of real estate located at [REDACTED], which is the home of Peter and Ruth Paulding.
3. Defendant Gregory Brown is the Property Appraiser for Santa Rosa County, Florida, 6495 Caroline Street Suite K, Milton, Florida.
4. Defendant Stan Colie Nichols is the Tax Collector for Santa Rosa County, Florida, 6495 Caroline Street Suite E, Milton, Florida.
5. Defendant Jim Zingale is the Executive Director for the Florida Department of Revenue, Property Tax Oversight Program, 5050 West Tennessee Street, Tallahassee, Florida.
6. Pursuant to Florida Constitution, Article V, Section 5 (b), venue is proper in the Court because this action is a direct review of administrative action prescribed by general law.
7. Pursuant to Section 197.182, Florida Statutes, venue is proper in the Court because the real property that is the subject of action is located in Santa Rosa County, Florida.
8. Pursuant to Section 197.182 (1)(m), Florida Statutes, action to contest the denial by the Department of Revenue Property Tax Oversight Program for a refund of Ad Valorem taxes paid is to be brought in a circuit court of competent jurisdiction.
9. Pursuant to Section 197.182 (1)(a)(1), Florida Statutes, repayment of taxes will be made if an overpayment of Ad Valorem taxes is made. Plaintiffs paid the Ad Valorem taxes on the property at [REDACTED] in full in 2015. Plaintiff Peter Paulding has been certified as a combat-related disabled veteran over the age of 65 and is entitled to a refund of the portion of the taxes due as a result of such certification granted in 2018 and that certification is retroactive to 2010.
10. Pursuant to Section 197.182 (1)(a)(3), Florida Statutes, bona fide controversies that exist between the tax collector and the taxpayer as

to the liability of the taxpayer is to be finally adjudged by a court of competent jurisdiction.

General Allegations

The Paulding Property

11. In 2005, Plaintiffs purchased the property located at [REDACTED]. The home was purchased for the benefit and as the primary residence for Peter and Ruth Paulding. Peter and Ruth Paulding have lived in the home continually since 2005.
12. The property at [REDACTED] with a legal description of [REDACTED] is identified as Parcel Number [REDACTED] by the Santa Rosa County Property Appraiser and Santa Rosa County Tax Collector for Ad Valorem Tax purposes.
13. Plaintiffs have paid in full the Ad Valorem Taxes assessed on the property each year through their payments made monthly to the mortgage holder. Each year since the 2005 purchase, the taxes have been paid in full as assessed by the Santa Rosa County Property Appraiser office.

Plaintiff Peter Paulding Veteran and Disability Status

14. Plaintiff Peter Paulding is an honorably discharged veteran of the Vietnam War, having served in the United States Air Force from 1966 to 1970.
15. In 2010, Plaintiff Peter Paulding submitted a claim for a service-connected disability to the Veterans Administration for a disability

condition that occurred as a direct result of his service in the United States Air Force during the Vietnam War.

16. After an 8-year period (from 2010 to 2018) of seeking a favorable decision from the Veterans Administration, a Board of Veterans Appeal Judge granted the claim for service-connected disability to Plaintiff Peter Paulding in 2018.
17. During the 8-year pendency of Plaintiff Peter Paulding's Veterans Administration disability claim (from 2010 to 2018), the Ad Valorem Property Taxes were paid in full as assessed by the Santa Rosa County Tax Collector.
18. On December 17, 2018, Ed McCants, Santa Rosa County Veterans Services Specialist certified that Plaintiff Peter Paulding's military service-connected disability was combat-related and that the disability was effective from September 16, 2010. The certification rated Plaintiff Peter Paulding's military service-connected combat-related disability at 80%.
19. Plaintiff Peter Paulding was born in [REDACTED] and is currently [REDACTED] years of age, therefore he qualifies for the Tax Discount as provided by Section 196.082 Florida Statutes as a Veteran Age 65 and Older with a Combat-Related Disability.

Ad Valorem Tax Refund Request

20. On December 17, 2018, Plaintiff Peter Paulding made application for Homestead Tax Discount for Veterans Age 65 and Older with a Combat-Related Disability as provided for in Section 196.082, Florida Statutes. Valarie Nation of the Santa Rosa County Property Appraiser office at the South Service Center at Gulf Breeze Parkway, Gulf Breeze, Florida completed the necessary DR-501DV form and transmitted the form to the main office of the Santa Rosa County Property Appraiser. Valerie Nation also advised Plaintiff Peter Paulding that a request for a

refund for the overpayment of the Ad Valorem Taxes that had been paid for prior years would have to be made through the main office of the Property Appraiser of Santa Rosa County in Milton.

21. On December 17, 2018, Plaintiff Peter Paulding sent an email, attached hereto as Exhibit "A", to Santa Rosa Property Appraiser Gregory Brown in which the details of the disability rating and application for Ad Valorem Property Tax relief was specified and a request made for refund of all appropriate overpayment of taxes.
22. Santa Rosa Property Appraiser Gregory Brown or his staff made no response to this email. Plaintiff Peter Paulding then composed a letter by copying the information in the email and it was sent via first class mail on January 10, 2019, attached hereto as Exhibit "B".
23. A woman identifying herself as responding to the letter sent to the Property Appraiser called Plaintiff Peter Paulding on the telephone within a few days and said that the matter had been referred to the attorney for Santa Rosa Property Appraiser Gregory Brown and a determination had been made to repay property taxes for the years 2018, 2017 and 2016 and they would be sent right away. However, the woman stated it would take them longer to process the 2015 taxes claimed and Plaintiff would receive that refund in a separate payment at a later date.
24. On February 14, 2019, Plaintiffs received a letter from Santa Rosa Tax Collector Stan Colie Nichols dated February 12, 2019, attached hereto as Exhibit "C", that stated their office had submitted the request for refund of the overpaid taxes to the Florida Department of Revenue and the request for repayment of the 2015 Ad Valorem Taxes in the amount of \$4,781.98 was denied by the Florida Department of Revenue Property Tax Oversight Program.
25. In addition to the letter from Defendant Stan Colie Nichols was a completed Application for Refund of Ad Valorem Taxes, Form DR-462, attached hereto as Exhibit "D", which had been completed and

submitted to the Department of Revenue by Amy Brinkerhoff, Director of Tax Administration of the Santa Rosa County Tax Collector office. The Form DR-462 was signed by Amy Brinkerhoff and was dated January 22, 2019.

26. Form DR-462 is to be completed by the 'Applicant' according to the instructions on the form and the 'Applicant' is identified as 'Peter Paulding' on the form. The Form is also to be completed by the Tax Collector. The Tax Collector portion of the Form DR-462 is marked that the Application is 'Approved' and it is also signed by Amy Brinkerhoff.

27. Plaintiffs had no knowledge of the submission of Form DR-462 Application for Refund of Ad Valorem Taxes by the Santa Rosa Tax Collector until it was forwarded to them by the Defendant Tax Collector on February 12, 2019 and received by the Plaintiffs on February 14, 2019.

28. Included with the letter from Defendant Tax Collector, was a letter, attached hereto as Exhibit "E", dated February 1, 2019 from Defendant Zingale denying the request for refund submitted by Defendant Tax Collector on behalf of Plaintiffs. The reason given by the Defendant Jim Zingale for denying the request for refund is stated as *"Based on the information we received, the taxpayer did not complete and submit an Application for Refund of Ad Valorem Taxes, Form DR-462, by the deadline."*

Statement of Claim

29. Plaintiffs are entitled to relief of payment of a portion of the Ad Valorem Taxes due on the real estate owned and occupied by them at [REDACTED] pursuant to Section 196.082, Florida Statutes. The amount of relief that has been denied to the Plaintiffs is \$4,781.98 of the Ad Valorem

Taxes that were paid on the [REDACTED] property for the year 2015.

30. The request for refund of the overpayment of Ad Valorem Taxes was submitted to the Santa Rosa Property Appraiser via email on December 17, 2018. The same request was made verbally to Valerie Nation of the Santa Rosa Property Appraiser at the South Service Center on the same day.
31. The Defendant Property Appraiser is statutorily required to notify the taxpayer if the request is to be made to the tax collector under the provisions of Section 197.182 (6)(h), Florida Statutes, which states, "*If the taxpayer contacts the property appraiser first, the property appraiser **shall** (emphasis added) refer the taxpayer to the tax collector.*" The Defendant Property Appraiser did not refer the Plaintiff taxpayer to the Defendant Tax Collector as required. Had the Defendant Property Appraiser complied with this requirement of the statute, the Plaintiff taxpayer would have had the opportunity to make timely and proper request of the Defendant Tax Collector for the refund. The Defendant Property Appraiser failed to comply with the statutory requirements of properly responding to and handling the request in that they never did refer Plaintiffs (the taxpayer) to the Tax Collector as required by compulsory statutory language.
32. The Defendant Tax Collector took it upon themselves to submit the Form DR-462 Application for Refund of Ad Valorem Taxes to the Defendant Department of Revenue sua sponte; and without the knowledge, consent or approval of the Plaintiffs. In completing the Form, the date of January 22, 2019 was utilized and not the actual date of the request by the taxpayer of December 17, 2018. This is a small distinction of great import. By using the January 22, 2019 date, the application on Form DR-462 Application for Refund of Ad Valorem Taxes fell outside of the January 1, 2019 deadline for the Department of Revenue Property Tax Oversight Program for the approval of a

2015 refund of overpayment for 2015 Ad Valorem Taxes. By failing to file the Form DR-462 Application for Refund of Ad Valorem Taxes in a timely manner and properly completing the form reflecting the accurate and actual date of December 17, 2018 of the request made by Plaintiffs, the taxpayer; Defendant Tax Collector should be equitably estopped from denying the refund of \$4,781.98 and should be required to refund the overpayment to the Plaintiffs.

33. The Court has the authority to require the refund to the Plaintiffs and the Defendant Tax Collector must comply with the Court ruling.

Section 197.182 (6)(b), Florida Statutes reads, "**Refunds that have been ordered by the court** (*emphasis added*) and refunds that do not result from changes made in the assessed value on a tax roll certified to the tax collector **shall be made directly by the tax collector without further order from the department** (*emphasis added*) and shall be made from undistributed funds without approval of the various taxing authorizes."

34. The Defendant Department of Revenue Property Tax Oversight Executive Director improperly denied the request for tax refund based upon the information contained in the Form DR-462 submitted in support of the request which had not been reviewed, approved or completed by Plaintiffs and contained errors which had been inserted by Defendant Property Tax Collector. This action deprived the Plaintiffs of their rights entitled to them by Section 197.182, Florida Statutes.

WHEREFORE, the Plaintiffs respectfully request this Court to award the tax refund in the amount of \$4,781.98 pursuant to Section 197.182, Florida Statutes or other applicable law and any other further relief, as this Court deems proper. Plaintiffs demand trial by jury as to all issues so triable.

Executed the 25th day of February, 2019

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Peter Paulding, Pro Se Plaintiff

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Ruth Paulding, Pro Se Plaintiff