

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT IN
AND FOR BREVARD COUNTY, FLORIDA

Case No. 05-2020-CA-012792-XXXX-XX

PAUL E. CROWLEY,
Plaintiff,

v.

DANA BLICKLEY, In Her
Capacity As Property
Appraiser of Brevard County,
Florida, LISA CULLEN, In Her
Capacity As Tax Collector of
Brevard County, Florida and
**THE FLORIDA DEPARTMENT OF
REVENUE**, an Agency of The
State of Florida, Defendants.

AMENDED VERIFIED COMPLAINT

State of Florida:
County of Brevard:

Comes Now The Plaintiff, PAUL E. CROWLEY and **sues DANA BLICKLEY**, In Her Capacity As Property Appraiser of Brevard County, Florida, **LISA CULLEN**, In Her Capacity As Tax Collector of Brevard County, Florida and **THE FLORIDA DEPARTMENT OF REVENUE**, an Agency of The State of Florida, Defendants, and says under Oath and Penalties of Perjury as follows:

GENERAL ALLEGATIONS

1. This is an action seeking Declaratory Relief pursuant to Chapter 86 of The Florida Statutes, seeking damages, seeking an Order compelling the Tax Collector of Brevard County, Florida, to grant a refund of the Plaintiff's payment of taxes not due, nor lawfully owed, and seeking General and Pleenary Relief, arising from the unlawful actions of the Office of The Brevard County Property Appraiser, taken against the Plaintiff, regarding his right to maintain full and complete partial exemption from ad valorem taxation assessed against his Florida Property and regarding his right to maintain full and complete limitations on increases in the assessed value of his Florida Property from the date the Plaintiff first obtained Homestead Exemption status and treatment of said property up to, thorough and including the present time and for-

ward in time.

2. On or about May 27, 2003, the Plaintiff obtained title to that certain property described as Lot 16 of and in South Tropical Cove, according the plat thereof as recorded in Plat Book 36 At Pages 51 and 52 of The Public Records of Brevard County, Florida. A true copy of the deed of conveyance of said property, to the Plaintiff, is attached hereto and is marked as Exhibit "A".

3. At the time of said conveyance to the Plaintiff, and at all times material thereafter, there existed, and still exists, on said property a residential structure a/k/a a residential dwelling house.

4. At the time of said conveyance, and at all times material thereafter, the Plaintiff was, and remains, lawfully married to Nancy Crowley, His Wife.

5. At the time of said conveyance, and at all times material thereafter, the Plaintiff maintained on said property, and in said dwelling house, his permanent residence, as the owner of said property, and maintained thereon and therein the permanent residence of his said wife, Nancy Crowley.

6. At the time of said conveyance, and at all times material thereafter, the said Wife of the Plaintiff, Nancy Crowley, was and is legally or naturally dependent upon the Plaintiff.

7. During the year 2004, the Plaintiff sought, and received, exemption from ad valorem taxation on said Property as is provided by Article VII Section 6(a) of The Constitution of The State of Florida and Section 196.031 of The Florida Statutes.

8. Commencing in the year 2004, and continuing for each year thereafter, through and including the year 2018, the Plaintiff received the benefits of said exemption concerning the ad valorem taxation of his said property.

9. Commencing in the year 2004, and continuing for each year thereafter, through and including the year 2018, the Plaintiff received the benefits of the limitations on annual ad valorem property tax assessment increases, concerning said property, as is provided by Article VII Section 4(d)(1) of The Florida Constitution, as codified by Section 193.155 of The Florida Statutes.

10. On or about March 7, 2019, the Plaintiff received a letter from the office of Defendant BLICKLEY revoking said exemptions and limitations, retroactively to the year 2009. A true copy of said letter is attached hereto and is marked as Exhibit "B".

11. The Plaintiff never applied for an ad valorem tax exemption or credit for, or concerning, the property in Ohio made reference to in said March 7, 2019 letter.
12. The Plaintiff never applied for a tax credit for, or concerning, the property in Ohio made reference to in said March 7, 2019 letter.
13. After receiving said March 7, 2019 letter, the Plaintiff made an inquiry, concerning said letter's allegations, of, and to, the Real Estate Department of The Montgomery County, Ohio, Auditor's Office.
14. As a result thereof, the Plaintiff received a letter, from said Department, dated March 20, 2019, answering the Plaintiff's inquiry as to the existence of a real estate tax exemption or credit concerning the Plaintiff's property in Ohio made reference to in said March 7, 2019 letter. A true copy of said letter is attached hereto and is marked as Exhibit "C"
15. On or about March 20, 2019, the Plaintiff delivered a copy of said March 20, 2019 letter to the Office of Defendant BLICKLEY.
16. After receiving a copy of said letter, Defendant BLICKLEY's deputy, Edward Pollock, refused to rescind his March 7, 2019 letter and refused and failed to cease taking the actions threatened and referenced in said letter, for and on behalf of Defendant BLICKLEY, as her servant, agent or deputy.
17. The claim against the Plaintiff set forth in said March 7, 2019 letter resulted from a clerical error made in The Montgomery County, Ohio, Deed Transfer Department.
18. The Plaintiff did not cause said clerical error, did not participate in making said clerical error and did not know of said clerical error.
19. Douglas M. Trout, as Director of The Real Estate Department of The Montgomery County, Ohio, Auditor's Office, removed the erroneously granted tax credit, cited in Exhibit "B", retroactively to 1997.
20. Notwithstanding all of the above facts, Defendant BLICKLEY recorded in the Public Records of Brevard County, Florida, a Tax Lien against the Plaintiff's said property. A true copy of said tax lien is attached hereto and is marked as Exhibit "D".
21. Thereafter, the Plaintiff, under protest, paid the sum of \$21,958.33 to the office of the Defendant CULLEN, to exonerate his said property from said lien. A true copy of the Satisfaction of Tax Lien, resulting from said payment, is

attached hereto and is marked as Exhibit "E" and a true copy of the Receipt of Defendant CULLEN, giving evidence of same payment, is attached hereto and is marked as Exhibit "E-1".

COUNT I.

22. This is an action seeking Declaratory Relief pursuant to Chapter 86 of The Florida Statutes and as is additionally provided for, and by, Sections 193.155(8)(1) and 196.151 of The Florida Statutes.

23. The Plaintiff realleges in this Count all prior allegations of this Complaint.

24. On or about June 6, 2019 the Plaintiff filed a Petition with The Brevard County, Florida, Value Adjustment Board seeking relief from the actions of the Defendant BLICKLEY, as The Brevard County Florida Property Appraiser, taken pursuant to said March 7, 2019 letter received from the office of said Appraiser. A true copy of said Petition is attached hereto and is marked as Exhibit "F".

25. On or about November 22, 2019 and on or about January 9, 2020, the relief sought by said Petition received a recommendation of Denial of and to the Brevard County, Florida, Value Adjustment Board. True copies of said recommendations, as to such an Order of said Board, to deny relief to the Plaintiff, are attached hereto and are marked as Exhibits "G" and "G-1", respectively.

26. Section 196.031(5) of The Florida Statutes provides that a person receiving or claiming the benefit of an ad valorem tax exemption or tax credit in another state is not entitled to homestead exemption in Florida.

27. The final sentence of said subsection provides that subsection (5) does not apply to a person who has the legal or equitable title to real estate in Florida and maintains thereon the permanent residence of another legally or naturally dependent upon the owner.

28. Article VII Section 6(a) of The Florida Constitution 196.031(1)(a) of The Florida Statutes provide that every owner of Florida real property is entitled to apply for and receive ad valorem tax relief and exemption, as provided therein, when it is sufficiently demonstrated that the owner has maintained on the property the permanent residence of the owner or of another legally or naturally dependent on the owner of the property.

29. Defendant BLICKLEY has denied the Plaintiff, as the owner of said property, the benefits of homestead exemption, as provided by Article VII Section (6)(a) of The Florida Consti-

tution & as is provided by Section 196.031 of The Florida Statutes, concerning and pertaining to the Plaintiff's said property described in Exhibit "A". Such denial, by Defendant BLICKLEY, spans the time period from the year 2004 up to, through and including the present date and forward in time, all based upon the provisions of the first sentence of Section 196.031(5) of The Florida Statutes, as set forth in said March 7, 2019 letter.

30. Defendant BLICKLEY has revoked and denied the homestead status of the Plaintiff's said property, as provided for and by Article VII Section 6(a) of The Florida Constitution and as provided for and by Section 196.031 of the Florida Statutes. Such revocation and denial, by Defendant BLICKLY, spans the time period from the year 2004 up to, through and including the present date and forward in time. Such revocations and denials have resulted in the Plaintiff's payment of, and the Plaintiff paying, additional ad valorem taxes, fines, interest and penalties, assessed against his said property, that the Plaintiff legally did not owe and legally does not owe.

31. Defendant BLICKLEY has revoked and denied to the Plaintiff the benefits of the limitations on the taxable assessed values of the Plaintiff's said property as is provided for, and by, Article VII Section 4(d)(1) of The Florida Constitution, as codified in Section 193.155 of The Florida Statutes. Such denial and revocation, by Defendant BLICKLEY, spans the time period from the year 2004 up to, through and including the present date and forward in time, also based upon the provisions of the first sentence of Section 196.031(5) and the allegations made in said March 7, 2019 letter.

32. Defendant BLICKLEY's said revocations and denials have resulted in the Plaintiff being denied the base value assessment on his said property, commencing with the year 2004 and forward in time. Said valuation base amount commenced in the year 2004 and has continued forward in time pursuant to the Plaintiff's Constitutional and Statutory rights to the limitations on the assessed taxable values of the Plaintiff's said property as is provided for, and by, Article VII Section 4(d)(1) of The Florida Constitution, as codified in Section 193.155 of The Florida Statutes. Such revocations and denials by Defendant BLICKLEY, spans the time period from the year 2004 up to, through and including the present date and forward in time. Such denials and revocations have resulted in the Plaintiff being denied, by said Defendant BLICKLEY, the limitations on the annual increases in the taxable assessed values of the Plaintiff's said property. Such revocations and denials have resulted in the Plaintiff's payment of, and the Plaintiff paying, additional ad valorem taxes, fines, interest and penalties, assessed against his said property, that the Plaintiff legally did not owe, legally does not owe

and legally will not owe in the future.

33. The Plaintiff is in need of a Declaration of and by This Court, pursuant to Chapter 86 of The Florida Statutes, and as is additionally provided for and is additionally pursuant to Sections 195.155(8)(1) and 196.151 of said Statutes, of and concerning the existence of the Plaintiff's rights to have the benefits of said Homestead Exemption from taxation and the Plaintiff's right to have the benefits of said limitation on the increases of the annual ad valorem taxable value assessments, all concerning and pertaining to the said property of the Plaintiff, described in said Exhibit "A", from the year 2004 up to, through and including the year 2019 and forward in time.

34. The Plaintiff is in need of a Declaration of and by This Court, pursuant to Chapter 86 of The Florida Statutes and as is additionally provided for pursuant to Sections 195.155(8)(1) and 196.151 of said Statutes, of and concerning the existence of the facts upon which the existence of said rights does depend, said rights being the Plaintiff's right to have the benefits of said Homestead Exemption from taxation and the Plaintiff's right to have the benefits of said limitations on the annual increases of ad valorem taxable value assessments, all concerning and pertaining to the said property of the Plaintiff, described in said Exhibit "A", for the years 2004 up to, through and including the present date and forward in time.

35. The Plaintiff has retained the undersigned Attorney to represent him in and about this Cause and is obligated to pay said Attorney a reasonable fee for his services.

WHEREFORE the Plaintiff prays that this Court will grant unto the Plaintiff, the following relief:

A. That the Court will enter a Final Judgment declaring that the Plaintiff is lawfully entitled to the benefits, rights, privileges and relief provided for in Article VII Sections 6(a) & 4(d)(1) of The Florida Constitution and is lawfully entitled to the benefits, rights, privileges and relief provided for in Sections 196.031 and 193.155 of The Florida Statutes, from the year 2004 up to, through and including the present time and forward in time;

B. That the Court will order and command the Defendant BLICKLEY to revoke and annul, instanter, the actions taken by said Defendant, against the Plaintiff and against his said property, pursuant to said March 7, 2019 letter and all actions taken subsequent thereto, by said Defendant BLICKLEY, concerning and done as a result of said letter and as a result of said Defendant's revocation and denial of the Plaintiff's rights and privileges enumerated hereinabove;

C. That the Court will order and command the Defendant BLICKLEY to correct and amend her records, concerning the Plaintiff and his said property, as to and pertaining to the assessments limitations and the exemptions statuses of said property and will order her to restore unto the Plaintiff and his said property the assessment limitations and the exemptions from ad valorem taxation, that the Plaintiff had, from the time the Plaintiff and his said property were first granted said Constitutional and Statutory privileges, rights and relief, by the Office of said Defendant, up to, through and including the present time and forward in time, so as to restore unto the Plaintiff the status quo, as to said rights, privileges, relief and benefits that the Plaintiff had, and that existed, prior to the actions taken by Defendant BLICKLEY, as a result of and pursuant to said March 7, 2019 letter;

D. That the Court will order and command the Defendant BLICKLEY to correct and amend her records, concerning the Plaintiff and his said property, to reflect and show the limitations in assessed value and the value limitation amounts that existed, concerning the ad valorem taxation of said property, which values and amounts were extant prior to the actions taken by said Defendant, pursuant to said March 7, 2019 letter, as is required, and provided for, concerning said property, pursuant to Section 193.155 of The Florida Statutes and Article VII Section 4(d)(1) of The Florida Constitution;

E. That the Court will declare that the said Tax Lien, represented by Exhibit "D", was unlawfully issued and that there was no basis, neither in Law nor in Fact, for same to have been issued and recorded by the Defendant BLICKLEY and ordering the Clerk of The Circuit Court of Brevard County, Florida, to strike same from The Public Records of Brevard County, Florida;

F. That the Court will award unto the Plaintiff all costs of this Action and will award unto the Plaintiff the reasonable Attorneys Fees and Costs, incurred by the Plaintiff in and about this Cause, to be paid by and from Defendant BLICKLEY as is provided by Florida Law and The Florida Rules of Court;

and,

G. That this Court will grant and afford unto the Plaintiff General and Complete relief in this Cause, against and concerning all Defendants hereto and herein, reserving Jurisdiction, in any Judgments granted in this Cause, to enforce or amend any and all parts and portions, of the Court's Final Judgment, issued in this Cause, against any and all Defendants hereto, their agents, servants, contractors, deputies and successors in office, so as to afford, and grant, unto the Plaintiff full and complete relief, in and about and con-

cerning this Cause.

COUNT II.

36. This is an action seeking a refund of taxes, in an amount exceeding \$15,000.00, which taxes were paid by the Plaintiff, to Defendant CULLEN, the payment of which taxes was made by the Plaintiff, when no such taxes were due.

37. The Plaintiff realleges in this Count all prior allegations of this Complaint.

38. On or about June 3, 2019, the Plaintiff paid to Defendant CULLEN, the sum of \$21,958.33, under protest and as a direct and proximate result of the filing, and recording, by Defendant BLICKLEY of the Tax Lien represented by Exhibit "D", in order to exonerate the Plaintiff's property from said lien.

39. Said payment was made when no tax was due.

40. Plaintiff has filed with the Office of Defendant CULLEN an application, request and demand for a refund of said \$21,958.33, a true copy of said instrument is attached hereto and is marked as Exhibit "H".

41. Plaintiff has filed with the Office of Defendant FLORIDA DEPARTMENT OF REVENUE an application, request and demand for a refund of and concerning the Plaintiff's payment of said \$21,958.33, a true copy of said instrument is attached hereto and is marked as Exhibit "I".

42. To date, Defendant CULLEN has failed and refused to refund and pay, unto the Plaintiff, said monies.

43. To date, Defendant FLORIDA DEPARTMENT OF REVENUE has failed and refused to pass upon, review and order the Defendant CULLEN to refund and to pay over to the Plaintiff said \$21,958.33.

44. The Plaintiff has retained the undersigned Attorney to represent him in and about this cause and is obligated to pay said Attorney a reasonable fee for his services.

WHEREFORE the Plaintiff prays that this Court will grant unto the Plaintiff, the following relief:

A. A Final Judgment, against Defendant CULLEN, ordering her to pay to the Plaintiff, instanter, said sum of \$21,958.33 together with interest thereon, as is provided by Florida Law generally, including but not limited to Sections 197.182 and 213.255 of The Florida Statutes;

B. That the Court will order Defendant FLORIDA DEPARTMENT OF

REVENUE to review said refund application and to order said Defendant CULLEN to refund to the Plaintiff said \$21,958.33 together with interest thereon as is provided by Florida Law generally, including but not limited to Sections 197.182 and 213.255 of The Florida Statutes;

C. That the Court will award unto the Plaintiff all costs of this Action and will award unto the Plaintiff the reasonable Attorneys Fees and Costs, incurred by the Plaintiff in and about this Cause, to be paid by and from Defendants CULLEN and FLORIDA DEPARTMENT OF REVENUE, as their liabilities therefor may appear, as is provided by Florida Law and The Florida Rules of Court;

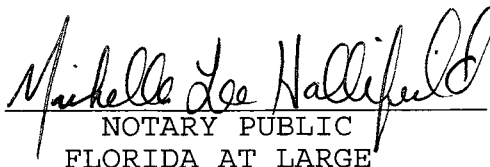
and,

D. That this Court will grant and afford unto the Plaintiff General and Complete relief in this Cause, against and concerning all Defendants hereto and herein, reserving Jurisdiction, in any Judgments granted in this Cause, to enforce or amend any and all parts and portions, of the Court's Final Judgment, issued in this Cause, against any and all Defendants hereto, their agents, servants, contractors, deputies and successors in office, so as to afford, and grant, unto the Plaintiff, full and complete relief, in and about and concerning this Cause.


PAUL E. CROWLEY

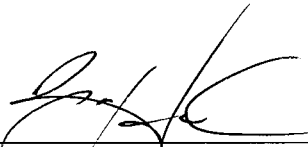
THE ABOVE and foregoing complaint was sworn to and subscribed before me by Paul E. Crowley, under oath and penalties of perjury, as being the truth. The said Crowley identified himself to me by use of a current Florida Driver's License.

SO SWORN TO and subscribed this 12th day of ~~January~~ Feb., 2020, MH
in the State and County set forth hereinabove.


NOTARY PUBLIC
FLORIDA AT LARGE



ENDORSEMENT AND EXECUTION BY PLAINTIFF'S ATTORNEY OF RECORD



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