

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CARLOS ALTARE and
ELIZABETH ALTARE,

CASE NO. 2022-024073-CA-01

Plaintiffs,

vs.

COMPLAINT

PEDRO J. GARCIA, as Property Appraiser
of Miami-Dade County, Florida; PETER
CAM, as Tax Collector of Miami-Dade
County, Florida; and JIM ZINGALE, as
Executive Director of the State of Florida
Department of Revenue.

Defendants.

Plaintiffs, Carlos Altare and Elizabeth Altare (collectively "Taxpayers"), sue Defendants, Pedro J. Garcia, as Property Appraiser of Miami-Dade County, Florida ("Property Appraiser"), Peter Cam, as Tax Collector of Miami-Dade County, Florida ("Tax Collector") and Jim Zingale, as Executive Director of the Department of Revenue of the State of Florida (the "Department") and say:

GENERAL ALLEGATIONS

1. This is an action for declaratory and supplemental relief. This Court has jurisdiction pursuant to Florida Statutes §§ 26.012, 86.011, 194.036 and 194.171.
2. Venue is proper in Miami-Dade County as the subject property, as described below, and the Property Appraiser are located in Miami-Dade County, Florida.
3. Taxpayers, husband and wife, are individuals who live in and own real property located in Miami-Dade County, Florida.
4. Property Appraiser is the duly elected Property Appraiser of Miami-Dade County, Florida. He is charged with the responsibility of discharging the duties of said office and is named as a party in accordance with Florida Statutes §194.181(2).

5. Tax Collector is the duly appointed and acting tax collector for Miami-Dade County, Florida, is obligated to discharge the duties of said office. Tax Collector is named as a party in accordance with Florida Statutes §194.181(3).

6. Department is named as a defendant to this action as mandated by Florida Statutes §194.181(5), because the tax assessment is also being contested on the grounds that it is contrary to the laws and Constitution of the State of Florida.

7. For tax year 2022, Taxpayers were the owners of, and party responsible under the law for payment of 2022 *ad valorem* taxes for the real property located in Miami-Dade County, Florida assessed by Property Appraiser under Folio No. 30-5910-006-0010 (the "Property").

8. Taxpayers have paid the taxes on the Property as required under *Fla. Stat. § 194.171(3) and (4)*. Evidence of said payment is attached hereto and incorporated by reference as Exhibit "A".

9. Taxpayers will be irreparably damaged if Defendants are permitted to keep the collection of the full tax based on the Property Appraiser's assessment.

10. Taxpayers have complied with all conditions precedent to the maintenance of this lawsuit, and has timely brought this action.

COUNT I – HOMESTEAD EXEMPTION

A. The Homestead *Ad Valorem* Tax Exemption on a Permanent Residence.

11. Taxpayers restate the allegations set forth in Paragraphs 1 through 10 above as if fully set forth herein.

12. Article VII, Section 6 of the Florida Constitution is titled "Homestead exemptions."

13. Article VII, Section 6 of the Florida Constitution states, in pertinent part that "Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt

from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law.”

14. Pursuant to *Fla. Stat. § 196.015*, an individual(s) whose intent is to establish a permanent residence in the state of Florida is entitled to a “homestead exemption” of *ad valorem* taxation on his or her permanent residence.

B. The Altares’ Homestead Property

15. Plaintiffs, Carlos and Elizabeth Altare, acquired the Property from their daughter, Fiorella Altare, pursuant to a Quit Claim Deed recorded on March 2, 2004, a copy of which is attached hereto and incorporated herein as Exhibit “B.”

16. From March 2, 2004, to present, the Property has been Taxpayers' permanent residence and homestead.

17. Within a month or so of Taxpayers’ acquisition of the Homestead Property in March of 2004, Elizabeth Altare, who is a retired Miami-Dade County Public School teacher, with the assistance of her daughter, Fiorella Altare, traveled to the Miami-Dade County Property Appraiser’s office to transfer the Homestead Exemption for the Property from Fiorella Altar to Taxpayers (“the Meeting”). The Meeting took place at the South Dade Government Center located at 10710 SW 211th Street at the Office of Property Appraiser.

18. At the meeting, Elizabeth Altare provided the Property Appraiser’s office with documents including a copy of the FPL bill, Mortgage documents, and warranty deed for the Property which they had been advised by the Property Appraiser’s office to bring with them in order for Taxpayers to obtain homestead exemption on the Property.

19. From tax years 2005 through 2021, Taxpayers have continuously had a homestead exemption on the Property as reflected on their annual tax bills and on the Property Appraisers' website and have timely paid the annual *ad valorem* property taxes due and owing on the Property pursuant to the homestead exemption in place since 2005.

20. In fact, the 2021 Automatic Residential Renewal Receipt is the most recently received renewal receipt "2021 Renewal Receipt." The 2021 Renewal Receipt is addressed to Taxpayers, Carlos and Elizabeth Altare and provides in part "Please review the following 2020 exemption(s) for the above property. If you are still eligible for these exemption(s) in 2021, you DO NOT NEED to take any further action." A copy of the 2021 Automatic Residential Renewal Receipt is attached hereto as Exhibit "C."

21. Taxpayers, as has been the case since they acquired the Property in 2004, remained eligible for the homestead exemption on the Property and took no further action and their homestead exemption remained in place for tax year 2021. A copy of Taxpayer's 2021 *ad valorem* tax bill for the Property is attached hereto as Exhibit "D."

22. In November of 2022, Taxpayers reviewed their property tax bill and discovered for the first time, that the Property Appraiser, without cause, revoked their homestead exemption on the Property which caused their 2022 tax bill to more than double from 2021.

23. Taxpayers have continuously maintained the Property as their homestead and permanent residence for each year since they purchased the Property in 2004 and have applied for, renewed and received the homestead exemption on the Property continually since tax year 2005.

24. As set forth herein, there is a substantial controversy between Taxpayers and Defendants:

(i) Are Taxpayers entitled to homestead exemption for *ad valorem* tax purposes on the Property for 2022 under Florida law?

(ii) Was Property Appraiser authorized to abruptly and retroactively revoke the homestead exemption that Taxpayers have had and renewed on the Property since 2005?

25. There is a bona fide, actual, present, practical need for a declaration that deals with present, ascertain or ascertainable facts and a controversy as to those facts.

26. The rights the of the Taxpayers and Defendants are dependent upon the facts or law to be applicable to the facts.

27. The parties to this lawsuit have, or reasonably may have, an actual, present, adverse or antagonistic interest in the subject matter, either in fact or law.

28. That the antagonistic interests are all before the Court by proper process and the relief sought is not merely giving of legal advice by the courts or the answer to questions propounded from curiosity.

WHEREFORE, Taxpayers demand entry of a judgment declaring as follows:

- (i) The Property is and has been Taxpayers' permanent residence and homestead since 2005 to the present, including 2022, for *ad valorem* taxation purposes;
- (ii) Taxpayers are entitled to the homestead exemption for *ad valorem* tax purposes on the Property from tax year 2005 to present, including tax year 2022;
- (iii) Property Appraiser was not authorized to revoke Taxpayers' homestead exemption on the Property for tax year 2022;
- (iv) Establishing the correct assessed value of the Property based upon the reinstatement of Taxpayers' homestead exemption for tax year 2022;
- (v) Recalculating the taxes that should have been paid based on an assessment of the Property applying Taxpayers' homestead exemption for tax year 2022, and ordering a refund to the Taxpayers of the excess amounts paid; and

(vi) Taxpayers shall be entitled to such other and further relief as the Court deems just and property.

DESIGNATION OF SERVICE E-MAIL ADDRESS

Pursuant to *Fla. R. Civ. P. 1.080* and *Fla. R. Jud. Admin. 2.516*, undersigned counsel's designation of his primary and secondary e-mail addresses for service of all papers and pleadings filed in this action is as follows:

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