

IN THE CIRCUIT COURT FOR MIAMI DADE COUNTY,
FLORIDA PROBATE DIVISION

IN RE: ESTATE OF
IDA M. DIAZ

Deceased.

CRISTINA SANTAMARIA, Personal
Representative of the Estate of Ida M. Diaz,

Plaintiff,

vs.

TOMAS REGALADO, as
Property Appraiser for Miami-Dade County;
Tax Collector of Miami-Dade County; and
Florida Department of Revenue,

Defendants,

ADVERSARY PROCEEDINGS

PROBATE DIVISION 2024-4817-CP

ADVERSARY CASE NO 2024-5459-CP

SECOND AMENDED COMPLAINT

CRISTINA SANTAMARIA, Personal Representative of the Estate of IDA M. DIAZ, by and through her undersigned counsel, hereby files this Second Amended Complaint against TOMAS REGALADO, as Property Appraiser for Miami-Dade County; Tax Collector of Miami-Dade County; and Florida Department of Revenue, Defendants, and alleges:

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages of more than FIFTY THOUSAND (\$50,000.00) DOLLARS.
2. This is an action to recompute and refund certain retroactive taxes assessed as a result of the Defendant Property Appraiser's improper and unlawful removal of a homestead exemption on real property located in Miami-Dade County.
3. Plaintiff, CRISTINA SANTAMARIA (hereinafter referred to as "Santamaria"), is a resident of the State of Florida, is over the age of eighteen (18), is sui juris in all respects, and is

the duly appointed Personal Representative of the Estate of Ida M. Diaz, who passed away on August 14, 2024. Santamaria was appointed Personal Representative of this estate on October 29, 2024. Copies of Letters of Administration and Order Appointing Personal Representative attesting to her status as Personal Representative are attached hereto and marked Composite Exhibit "A."

4. Defendant, TOMAS REGALADO, is the recently elected Property Appraiser of Miami-Dade County, Florida.

5. Defendant, Tax Collector of Miami-Dade County, is responsible for the collection of property taxes in Miami-Dade County.

6. Florida Department of Revenue, a state agency of Florida charged with the collection of taxes, may have an interest in this matter.

7. Venue is proper in Miami-Dade County, Florida as the Defendant maintains his office in Miami-Dade County and the subject property is located in Miami-Dade County, Florida.

8. Plaintiff performed all conditions precedent required of her or they have been waived by the Defendant.

COUNT I-ACTION TO RECOMPUTE AND REFUND TAXES

9. Plaintiff repeats and realleges paragraphs 1 through 8 with the same force and effect as if fully set forth herein.

10. The property in question is located at 7605 West 6th Ave., Hialeah, FL 33014 and whose legal description is as follows:

Lot 16, Block 7, DOUGLAS ESTATES FIRST ADDITION, according to the Plat thereof, as recorded in Plat Book 73, Page 21, of the Public records of Miami-Dade County, Florida, with street address of 7605 West 6th Ave., Hialeah, FL 33014.

11. On or about August 2, 2021 Defendant Property Appraiser made a determination that because a portion of the Hialeah property was rented out, the homestead exemption taken on property located in Miami-Dade County, Florida was improperly taken and had to be removed in its entirety.

12. Said defendant then went back and recomputed the taxes owed for the years 2013-2023, sent out a bill for the newly established tax liability, and imposed a lien on the unpaid taxes. A copy of a summary prepared by the county, setting out the tax owed by year for the subject property, is attached hereto and marked Exhibit "B."

13. Pursuant to the Florida Supreme Court case of *Furst v. Rebholz*, 361 So.3d 293 (Fla. 2023), a taxpayer who rents out a portion of his residence does not lose the homestead exemption. Instead, only the percentage the leased portion bears to the total square footage of the property is disallowed.

14. Based upon the aforementioned Supreme Court case, the Plaintiff is absolutely entitled to receive a homestead exemption on the subject property. However, that homestead exemption is reduced in an amount equal to the percentage the square footage of the leased property bears to the total square footage of the subject property.

15. In this case the square footage of the subject property was approximately 2,400 square feet and the square footage of the leased room was approximately 600 square feet.

16. Moreover, no factual basis exists for the making of any adjustment after the year 2018, as no leasing of any room within the subject property took place after 2018.

17. Because the assessed values cannot be raised more than 3% per year under the Save My Home provisions, the computation is in further error. It was error for the Property Appraiser

to go back all the way to the year 2003 and reassess the property, with the punitive result obtained of eleven years of homestead exemptions being completely eliminated.

18. On or about November 8, 2024 taxes in the amount of \$77,664.14 were paid by the mortgagee in this case, PHH Mortgage. This payment satisfied the lien that had been previously imposed against the property. Notice of Payment and Satisfaction of Homestead Exemption Violation Lien is attached hereto and marked Exhibit "C."

19. Based upon the foregoing, the portion of the previously imposed taxes in violation of *Furst v. Rebholz* need to be returned to this estate.

WHEREFORE, the Plaintiff respectfully requests the entry of an order restoring the homestead exemption on the property for all the years in question, disallowing only the portion of the homestead exemption the leased premises bears to the total square footage of the property, eliminating all penalties and accrued interest and vacating the lien imposed on the property by the Defendant Property Appraiser, recomputing and refunding the taxes owed for all years which were previously adjusted by the Defendant, Property Appraiser, awarding attorney's fees and costs to the Plaintiff herein, and awarding any further amounts the Court may find fair or just.

Dated this 6 day of February, 2025.


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