

IN THE CIRCUIT COURT OF THE FIFTEEN JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY, FLORIDA

JASON MOAN

Case No. 50-2022-CA-010713-XXXX-MB

Plaintiff,

DOROTHY JACKS, as Property Appraiser of
Palm Beach County, Florida,
ANNE M. GANNON, as Tax Collector of
Palm Beach County, Florida, and
JIM ZINGALE, as Executive Director
of the Florida Department of Revenue,
Defendants.

AMENDED COMPLAINT FOR DECLARATORY RELIEF

NOW INTO COURT, through undersigned counsel comes, JASON MOAN the Plaintiff herein, and herby files suit against, Dorothy Jacks, as Property Appraiser of Palm Beach County, Florida, Anne M. Gannon, as Tax Collector of Palm Beach County, Florida and Jim Zingale, as Executive Director of the Florida Department of Revenue, and allege:

1. This is an action for a declaratory judgment and to challenge the removal of a homestead exemption on property in Palm Beach County, Florida and the imposition of a tax lien. This Court has jurisdiction pursuant to Chapter 194, Florida Statutes, article V, sections 5 and 20 of the Florida Constitution, and section 86.011, Florida Statutes.

2. Plaintiff, JASON MOAN is the owner of certain real property located at 402 S Atlantic Drive, Lake Worth, FL 33462, Palm Beach County Florida and identified as Parcel No. 40-43-45-03-01-000-1360 ["Subject Property"], which is classified and assessed as owner-occupied residential property.

3. Defendant, Dorothy Jacks, as Property Appraiser of Palm Beach County, Florida (hereinafter "Appraiser") is sued herein in her official capacity and is a necessary party to the action pursuant to section 194.181 (2), Florida Statutes.

4. Defendant, Anne M. Gannon, as Tax Collector of Palm Beach County, Florida (hereinafter "Collector") is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181 (3), Florida Statutes.

5. Defendant, Jim Zingale, as Executive Director of the Florida Department of Revenue (hereinafter "Department"), is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181 (5), Florida Statutes.

6. From 2014 to and including October 25, 2022, the Plaintiff owned the Subject Property and made it his permanent residence.

Count 1:
Removal of Tax Lien

7. The Plaintiff realleges and incorporates by reference paragraphs 1-6 of this Complaint as though fully set forth herein.

8. The Plaintiff applied for and received a homestead exemption on the Subject Property in the 2014 tax year. He continued to receive the homestead exemption on the property through the 2021 tax year.

9. On December 14, 2021, Appraiser sent the Plaintiff a Notice of Intent to File Lien ["Lien Notice"] notifying them that the homestead exemption on the Subject Property would be removed for the 2021 tax year and for the year

2022. A copy of the Lien Notice is attached as **Exhibit "A"** and incorporated herein. The Lien Notice stated that the reason for the removal of the homestead exemption was *"property, which had a homestead exemption, was being rented as of January 1, 2021."*

10. The Property Appraiser recorded a tax lien against the Subject Property on April 21, 2022. A copy of the Notice of Lien is attached as **Exhibit "B"** and incorporated herein.

11. Section 196.161, Florida Statutes allows the Property Appraiser to file a tax lien against property of a taxpayer who was granted a homestead exemption to which they were not entitled for any year or years within the prior 10 years.

12. However, the Plaintiff was entitled to the homestead exemption on the Subject Property in the 2021 tax year and in the 2022 tax year, pursuant to article VII, section 6 of the Florida Constitution and section 196.031, Florida Statutes. Thus, the Property Appraiser's removal of the homestead exemption and imposition of a tax lien was unlawful.

WHEREFORE, the Plaintiff demands that this Court enter an order reinstating the 2021 and 2022 homestead exemptions on the subject property; cancelling the tax lien; awarding Plaintiff his costs incurred in bringing this action pursuant to section 194.192, Florida Statutes; and awarding such other general relief as may be just and equitable.

Count 2:
Reinstatement of 2021 Homestead Exemption

13. The Plaintiff re-alleges and incorporates by reference paragraphs 1-6 of this Complaint as though fully set forth herein.

14. On December 14, 2021, Appraiser sent the Plaintiff a Notice of Denial of Ad Valorem Property Tax Exemption ["2021 Notice of Denial"] notifying them that the homestead exemption on the Subject Property would be denied for the 2021 tax years. A copy of the Notice is attached as Exhibit "B" and incorporated herein. The Notice stated that the reason for the denial of the homestead exemption was "*property, which had a homestead exemption, was being rented as of January 1, 2021.*"

15. Plaintiff has paid the 2021 taxes on the Subject Property in full pursuant to section 194.171 Florida Statutes. A copy of the receipt for payment of the 2021 taxes is attached as **Exhibit "C."**

16. Plaintiff has performed all conditions precedent which are required to be performed by Plaintiff in establishing his right to bring this action. Specifically, this action has been filed within the time period prescribed by section 196.151, Florida Statutes.

17. The notice of denial of the 2021 homestead exemption for the Subject Property did not meet the specificity requirements of section 196.193(5), Florida Statutes. Thus, the notice was invalid and ineffective to remove the 2021 homestead exemption.

18. Moreover, the Plaintiff was entitled to the homestead exemption on the Subject Property in 2021, pursuant to article VII, section 6 of the Florida Constitution and section 196.031, Florida Statutes, and thus the Appraiser's denial of the homestead exemption was unlawful.

WHEREFORE, the Plaintiff demands that this Court enter an order reinstating the 2021 homestead exemption on the Subject Property, ordering the Collector to cancel the original tax bill, issue new tax bills that reflect the 2021 homestead exemption, and to refund any overpayments; awarding Plaintiff his costs incurred in bringing this action pursuant to section 194.192, Florida Statutes; and awarding such other general relief as may be just and equitable.

Count 3:
Reinstatement of 2022 Homestead Exemption

19. The Plaintiff re-alleges and incorporates by reference paragraphs 1-6 of this Complaint as though fully set forth herein.

20. On December 14, 2021, Appraiser sent the Plaintiff a Notice of Denial of Ad Valorem Property Tax Exemption ["2022 Notice of Denial"] notifying them that the homestead exemption on the Subject Property would be denied for the 2022 tax year. A copy of the Notice is attached as **Exhibit "B"** and incorporated herein. The Notice stated that the reason for the denial of the homestead exemption was "*property, which had a homestead exemption, was being rented as of January 1, 2021.*"

21. Plaintiff has paid the 2021 taxes on the Subject Property in full pursuant to section 194.171 Florida Statutes. A copy of the receipt for payment of the 2021 taxes is attached as **Exhibit "C."** Plaintiff will pay the 2022 taxes on the Subject Property when they become due.

22. Plaintiff has performed all conditions precedent which are required to be performed by Plaintiff in establishing his right to bring this action. Specifically, this action has been filed within the time period prescribed by section 196.151, Florida Statutes.

23. The notice of denial of the 2022 homestead exemption for the Subject Property did not meet the specificity requirements of section 196.193(5), Florida Statutes. Thus, the notice was invalid and ineffective to remove the 2021 homestead exemption.

24. Moreover, the Plaintiff was entitled to the homestead exemption on the Subject Property in 2022, pursuant to article VII, section 6 of the Florida Constitution and section 196.031, Florida Statutes, and thus the Appraiser's denial of the homestead exemption was unlawful.

WHEREFORE, the Plaintiff demand that this Court enter an order reinstating the 2022 homestead exemption on the Subject Property, ordering the Collector to cancel the original tax bill, issue new tax bills that reflect the 2021 homestead exemption, and to refund any overpayments; awarding Plaintiffs their costs incurred in bringing this action pursuant to section

194.192, Florida Statutes; and awarding such other general relief as may be just and equitable.

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BY: /s/Robert C. Gindel, Jr., Esquire
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