

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN AND
FOR NASSAU COUNTY, FLORIDA

KEITH H. JOHNSON
and **RAMONIA D. JOHNSON,**

Case No.: **45-2021-CA-000130**

Division: **A**

Plaintiffs,

v.

A. MICHAEL HICKOX, Nassau County
Property Appraiser; **JOHN M. DREW**,
Nassau County Tax Collector; and **JIM**
ZINGALE, Executive Director, Florida
Department of Revenue,

Defendants.

AMENDED COMPLAINT FOR DECLARATORY RELIEF

THE PLAINTIFFS, KEITH H. JOHNSON and RAMONIA D. JOHNSON (hereafter referred to as "THE JOHNSONS") do hereby sue **A. MICHAEL HICKOX**, Nassau County Property Appraiser, State of Florida ("Tax Appraiser"), **JOHN M. DREW**, Nassau County Tax Collector ("Tax Collector"), and **JIM ZINGALE**, Executive Director, Florida Department of Revenue ("FDOR"), (collectively referred to as "Defendants"), and allege the following:

1. This is an action for a Declaratory Judgment and Supplemental Relief.
2. This Court has original jurisdiction to consider this action on behalf of THE JOHNSONS under *Florida Statute* §§ 194.171, 194.181(b), 194.181(3), and 194.181(5).

COUNT I
(2020)

3. THE JOHNSONS purchased property located at 96836 Bay View Drive, Fernandina Beach, Florida 32304.

4. THE JOHNSONS entered into a "Residential Contract for Sale and Purchase" dated September 24, 2019, which provided for a Closing on or before November 20, 2019.

5. Due to errors in the legal description, the Closing was delayed, whereby THE JOHNSONS and the developer did not close until Thursday, January 9, 2020.

6. Due to the delay in the Closing and the time necessary to secure a new survey to cure the defective legal description, the developer allowed THE JOHNSONS to move into the residence early or mid-November, 2019, and THE JOHNSONS have continuously resided in said property through and including the date of this Amended Complaint.

7. THE JOHNSONS filed a timely application for their homestead exemption and for the portability of their homestead credits from their former homestead property in Duval County, Florida, prior to the deadline of March 1, 2020.

8. The Tax Appraiser denied both THE JOHNSONS' request for homestead exemption and the portability of their Duval County tax credit. THE JOHNSONS appealed, and a hearing was held before a Special Master appointed by the Nassau County Value Adjustment Board ("VAB") on October 14, 2020.

9. The Special Master ruled against THE JOHNSONS, both on the homestead exemption and portability, and the Special Master's report was accepted and adopted by the VAB.

10. The VAB made a final decision on April 14, 2021, and mailed the Decision of the Value Adjustment Board Exemption, Classification, Assessment Difference Transfer, Change of

Ownership or Control, or Qualifying Improvement Petition on April 16, 2021. A copy of the VAB Final Decision is attached hereto as **Exhibit "A."**

11. Not more than sixty (60) days has elapsed from the date the Final Decision was rendered concerning the assessment by the VAB for tax year 2020.

12. THE JOHNSONS or their lender have paid the assessed *ad valorem* property tax for 2020 in full, but THE JOHNSONS do not admit that the amount they paid is the proper amount due and owing. A copy of the receipt for tax year 2020 is attached hereto as **Exhibit "B."**

13. All *ad valorem* property taxes assessed on the subject property are current and not delinquent.

14. The Special Master and VAB erred in failing to recognize and decide the case solely upon the Tax Appraiser's stated original bases for disallowance -- which were (1) that the property closing took place in 2020 (and THE JOHNSONS did not have record title); and (2) it was not clear THE JOHNSONS were residing in Nassau County, Florida, as of January 1, 2020.

15. The Tax Appraiser and the VAB erred in not giving due consideration and weight to the overwhelming evidence establishing that THE JOHNSONS had purchased their retirement home, had knowingly and voluntarily converted their homestead residence to Nassau County, Florida, thereby giving up their Duval County, Florida, homestead, and were residing on their Nassau County, Florida, property.

16. The Tax Appraiser and the VAB gave undue emphasis to the fact that the original intention of Keith H. Johnson, prior to the Coronavirus Pandemic, was to continue to work at THE JOHNSONS' law office in Jacksonville, Florida, during part of the week and spend long weekends in Nassau County, Florida; and the fact that, due to the Pandemic, Keith H. Johnson was only

working in the law office on the weekends (and very few weekdays) throughout tax year 2020.

17. The Tax Appraiser and the VAB failed to give due weight to the fact that, regardless of the Coronavirus Pandemic, Ramonia D. Johnson planned to spend the majority of her time at the Nassau County, Florida, residence, which included providing childcare for their grandson.

18. The Tax Appraiser and the VAB failed to give due weight to the fact that Keith H. Johnson spent most of his working time throughout 2020, including the weeks leading to and following the Special Master hearing on October 14, 2020, working remotely from the Nassau County, Florida, property, and that Ramonia D. Johnson, who is a dependent of her husband, had only spent a handful of evenings at their former homestead property in Duval County, Florida.

19. The Tax Appraiser and the VAB erred in failing to give due weight to the fact that homestead property, for purposes of Article X, Section 4 or Article VII, Section 6, are Constitutional rights provided to Citizens of the State of Florida, to be liberally construed, and a Citizen's subjective intent of establishing Constitutionally-protected and taxing homestead status, corroborated by objective factors, should not be challenged without a substantial basis or belief.

20. THE JOHNSONS have a *bona fide* dispute with the Tax Appraiser.

21. THE JOHNSONS have a justiciable issue over their homestead rights for tax year 2020.

22. THE JOHNSONS have a doubt as to the propriety of the actions of the Nassau County Tax Appraiser and VAB for tax year 2020.

23. THE JOHNSONS have a *bona fide* need for a determination of their rights as set forth under the Florida Constitution.

COUNT II
(2021)

24. The Plaintiffs incorporate by reference Paragraphs 3 through 23 of Count I as set forth in Count II relating to *ad valorem* Property Taxes for tax year 2021.

25. The VAB made a final decision on March 7, 2022, and mailed the Decision of the Value Adjustment Board Exemption, Value Petition on or around March 7, 2022. A copy of the VAB's Final Decision is attached hereto as **Exhibit "C."**

26. Not more than sixty (60) days has elapsed from the date the Final Decision was rendered concerning this assessment by the VAB for tax year 2021.

27. THE JOHNSONS or their lender have paid the assessed Nassau County *ad valorem* property tax for tax year 2021 in full, but THE JOHNSONS do not admit that the amount they paid is the proper amount due and owing. A copy of the receipt for tax year 2021 is attached hereto as **Exhibit "D."**

28. All Nassau County *ad valorem* property taxes assessed on the subject property are current and not delinquent.

29. THE JOHNSONS have a *bona fide* dispute with the Tax Appraiser.

30. THE JOHNSONS have a justiciable issue over their homestead rights for tax year 2021.

31. THE JOHNSONS have a doubt as to the propriety of the actions of the Nassau County Tax Appraiser and VAB for tax year 2021.

32. THE JOHNSONS have a *bona fide* need for a determination of their rights as set forth under the Florida Constitution.

WHEREFORE, THE JOHNSONS demand judgment declaring:

- A. THE JOHNSONS are entitled to exemptions for their homestead property located in Nassau County, Florida, for tax year 2020 and thereafter, as long as they continue to reside at the property and elect homestead status;
- B. THE JOHNSONS were entitled to credit for the portability of their previous homestead in Duval County, Florida;
- C. The Tax Appraiser must recognize the lawfully declared homestead status, and that the Tax Collector refund any overpayment for tax year 2020 and tax year 2021;
- D. The Tax Appraiser must adjust the 2021 Nassau County *ad valorem* property taxes to account for the adjustments to tax year 2020, and if applicable, tax year 2022 and thereafter; and
- E. Provide such other relief as appropriate and necessary under the facts and circumstances.

**JOHNSON AND JOHNSON, P.A.
ATTORNEYS AT LAW**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished *via* electronic transmission, *E-Filing Portal*, to:

Loren E. Levy, Esquire
Attorney for Nassau County Property Appraiser
The Levy Law Firm
1828 Riggins Road
Tallahassee, Florida 32308-4885
E-mail: llevy@levylawtax.com
eservice@levylawtax.com

and *via* U.S. First Class Mail® to:

KEITH H. and RAMONIA DENISE JOHNSON
96836 Bay View Drive
Fernandina Beach, Florida 32034

this 8th day of April, 2022.

/s/ Adam L. Heiden
ADAM L. HEIDEN, Esquire