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ESCAMBIA COUNTY PROPERTY APPRAISER
2016 AUG 22 PM 4:54

August 22, 2016

Via Hand Delivery

Escambia County Property Appraiser
221 Palafox Place, Suite 300
Pensacola, FL 32502-5728

Re: Chris Jones, Property Appraiser
Hill Family Homestead Exemption
Our File No. EPF-16-0054

Dear Mr. Jones,

Please be advised that I have the honor of representing State Representative Mike Hill and his wife, Greta Hill, regarding false and defamatory publications from the press last week, including Saturday's print-edition of the Pensacola News Journal (PNJ). The timing of the slanderous accusation of "fraud," coming in the final days of early voting and just two weeks before the primary, makes it clear that this was an intentional and malicious slander.

I understand that you met with our client prior to that article going to press, and that you told Mr. Hill that he and his wife were deemed to be "one person" for purposes of residency, and thus his residence at Portofino was disqualified from homestead exemption property that Mike and Greta Hill have owned as tenants by the entireties since 1995—namely, their house at 6080 Forest Green Road, Pensacola, Florida, 32505, in Marcus Pointe. I further understand that Mr. Hill told you, in no uncertain terms, that both his wife, and his dependent daughter, reside at the Marcus Pointe property, and you told him that did not matter. You have therefore given a façade of legitimacy to a false and defamatory allegation.

What is unsettling about this matter is that Mr. Hill gave you all of the information you needed to know that the property at issue is entitled to homestead exemption. The

idea that a wife is deemed to reside in the same place as her husband is based on a "common law fiction that by marriage a woman's identity is absorbed into that of her husband," an idea soundly rejected by our Florida Supreme Court more than 40 years ago in a case on all fours with the situation now before you. Judd v. Schooley, 158 So.2d 514 (Fla. 1963). [Enclosure A.]

The Florida Supreme Court in Judd held that the District Court of Appeals erred in finding that for a married woman to establish "good faith" residence separate from her husband requires her to "disclose facts which would demonstrate that it is necessary for her to live separate and apart from her husband."

The Florida Supreme Court wrote in Judd that the rejected District Court decision was erroneously based on "the common-law fiction that by marriage a woman's identity is absorbed into that of her husband." The Court reasoned as follows:

> Under this concept [the concept that by marriage a woman's identity is absorbed into that of her husband], which permeated the law for several hundred years, it was held that upon marriage a woman lost her independence as a legal entity; her property immediately came under the control of her husband; he was entitled to her earnings, if any; she was in all respects subject to his control and domination. Indeed, the rule was as Milton expressed in Paradise Lost, Box X, Line 195: "And to thy husband's will Thine shall submit; he over the shall rule." Id. at 516.

The Florida Supreme Court in Judd rejected Milton's expression of the rule, stating:

> However, we have traveled a long way since Milton, as every husband knows. We deem it unnecessary to continue to cloud the law with the mist of an out-moded fiction that has been dispelled by the light of present-day realities. Id.

The Florida Supreme Court expressly noted that "[a]n individual property owner enjoys the [homestead exemption] benefit even though he [or she] occupies the property alone." Id. … "Our holding simply is that a showing of necessity to establish the separate abode is not essential to a showing of good faith under Article X, Section 7, supra." Id. at 517.

The Florida Supreme Court's opinion in Judd did nothing more than apply the plain language of Fla. Stat. 196.031 implementing the Constitutional right of homestead exemption. That statute reads, in relevant part, "[i]f only one of the owners of an estate held by the entireties … resides on the property, that owner is allowed" the homestead exemption. In the situation now before you, that person is Greta Hill.

Your statements to the press, and to Mr. Hill, which the press construed to mean that Greta Hill could not claim homestead if Mike Hill had another residence, are completely erroneous, and need to be corrected immediately.

As you know, or should know, both Mr. and Mrs. Hill could reside at a residence other than the homestead property, and still claim homestead exemption if a dependent family member resides there. "As Article X, section4(a)(1) provides, the homestead exemption is "limited to the residence of the owner ***or the owner's family***." (emphasis added). Accordingly, "the Florida Constitution does not require that the owner claiming homestead exemption reside on the property; it is sufficient that the owner's family [which certainly includes Mike's wife and daughter] reside on the property." Beltran v. Kalb, 63 So.2d 783, 787 (Fla. 3rd DCA 2011) (citing Nationwide Fin. Corp. v. Thompson, 400 So.2d 559, 561 (Fla. 1st DCA 1981)) [Enclosure B].

These well-established rules are summarized in Florida Jurisprudence, which states in relevant part that "[a] married woman and her husband may establish separate permanent residences without showing "impelling reasons" or "just ground" for doing so." 51A Fla. Jur. 2d Taxation § 1251 [Enclosure C]. In fact, two homestead exemptions may be obtained if separate "family units" have been established. Here, there is no claim for two homestead exemptions, and thus no showing is required for establishing separate family units. The Hills are a unified family, and Ms. Hill has the homestead property as her principle residence to look out for their dependent daughter until she graduates next year.

Mr. Hill told you that his wife and dependent daughter reside at the homestead property, and you had no reason to doubt that being the case when you spoke to the press. Your focus has been entirely on where Mr. Hill resides, and you have ignored the residence claimed in good faith by his wife and daughter based on your erroneous belief that the husband and wife are "one" for purposes of residency, an ancient and disavowed common law viewpoint.

The broad grant of homestead to a property in which *any member* of a family unit resides is limited only by the prohibition against a family unit claiming homestead on more than one property. That is not the case with the Hill family.

To put any issues regarding this matter to rest, please find enclosed [Enclosure D] three affidavits from the Hill family that establish, without legitimate dispute, the residency of Greta and Jessica Hill. These affidavits include copies of their Florida Driver's license showing the homestead property as their residence. The facts within the affidavits show that homestead has been property claimed—without challenge—since 1995.

The political slander for which you have been made an apparently unwitting participant must be corrected, and corrected now. Mr. Hill has, without doubt, lost and will continue to lose votes because of the cloud created by the false and defamatory fraud allegation.

I would ask that you correct the record on this issue immediately to assure that damages are kept to a minimum while we investigate who made the allegation, and who participated in this slanderous accusation. Absent the record being immediately corrected, we intend to file a Declaratory Judgment Action in the Circuit Court, and ask for an emergency hearing to get this matter resolved. We intend to file that Declaratory Judgment Action on Wednesday morning if the record is not corrected by Tuesday evening.

Sincerely,

Edward P. Fleming

EPF/MAB