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August 23, 2016

VIA EMAIL

Edward P. Fleming, Esquire
McDonald Fleming Moorhead
Post Office Box 12388
Pensacola, Florida 32591
Email: *epfleming@pensacolalaw.com*

Re: Hill Family Homestead Exemption

Dear Mr. Fleming:

Please be advised that my office represents Chris Jones, in his official capacity as the Escambia County Property Appraiser. Mr. Jones has requested that I respond to your letter dated August 22, 2016.

I can certainly understand your client's interest in obtaining an expedient resolution of the allegations in the anonymous complaint to the property appraiser's office regarding his homestead exemption. To facilitate the review of the complaint, however, it is necessary to provide information and documents responsive to Mr. Jones' letters dated August 16, 2016. I have attached another copy of those letters for your convenience. Mr. Jones' office cannot conclude its review of the matter until the requested information is received.

From review of your letter, it appears that you are asserting that the homestead exemption for the property owned by Representative Hill and his wife, as tenants by the entirety, and located at 6080 Forest Green Road in the Marcus Point subdivision, is supported by the permanent residency status of either his wife or their adult daughter as a legal and natural dependent, but not the permanent residency status of Representative Hill. Importantly, Representative Hill's application for homestead exemption in 1996 did not include his wife as a joint applicant. As such, the only residency information, i.e., social security number, drivers' license, vehicle registration, and voters' registration was submitted by Representative Hill. No information was submitted on behalf of his wife.

If it is your intent to assert that the property is entitled to homestead exemption based solely on the permanent residency status of Ms. Hill, then it will be necessary to obtain the same types of residency information as set forth in section 196.015, Florida Statutes (2016), which provides that:

Permanent residency; factual determination by property appraiser.—

Intention to establish a permanent residence in this state is a factual determination to be made, in the first instance, by the property appraiser. Although any one factor is not conclusive of the establishment or nonestablishment of permanent residence, the following are relevant factors that may be considered by the property appraiser in making his or her determination as to the intent of a person claiming a homestead exemption to establish a permanent residence in this state:

- (1) A formal declaration of domicile by the applicant recorded in the public records of the county in which the exemption is being sought.
- (2) Evidence of the location where the applicant's dependent children are registered for school.
- (3) The place of employment of the applicant.
- (4) The previous permanent residency by the applicant in a state other than Florida or in another country and the date non-Florida residency was terminated.
- (5) Proof of voter registration in this state with the voter information card address of the applicant, or other official correspondence from the supervisor of elections providing proof of voter registration, matching the address of the physical location where the exemption is being sought.
- (6) A valid Florida driver license issued under s. 322.18 or a valid Florida identification card issued under s. 322.051 and evidence of relinquishment of driver licenses from any other states.
- (7) Issuance of a Florida license tag on any motor vehicle owned by the applicant.
- (8) The address as listed on federal income tax returns filed by the applicant.
- (9) The location where the applicant's bank statements and checking accounts are registered.
- (10) Proof of payment for utilities at the property for which permanent residency is being claimed.

These items are requested in Mr. Jones' letters dated August 16, 2016. I also would suggest that a homestead exemption application should be submitted by Ms. Hill.

If it is your intent to assert that the property is entitled to homestead exemption based solely on the permanent resident status of their adult daughter as a legal or natural dependent, on the other hand, it will be necessary to submit the types of information regarding dependency as discussed in *Willens v. Garcia*, 53 So.3d 1113 (Fla. 3d DCA 2011). Such information must establish that "she was either from the disability of age, or nonage, physical or mental incapacity, coupled with the lack of property means, dependent in fact . . . for support. **There must be, when adults claim such dependence, an actual inability to support themselves,** and an actual dependence upon some one else for support, coupled with a reasonable expectation of support, or with some reasonable claim to support, from the deceased. . . ." *Willens*, 53 So.3d at 1118, quoting Op. Att'y Gen. Fla. 39-438, 445-46 (1939)(emphasis in original).

As to the dependency issue, the affidavits submitted merely indicate that their daughter is attending college at West Florida, intends to graduate in May 2017, and is dependent upon her parents for support. The district court in *Willens* observed that mere status as a college student would not appear to constitute legal or natural dependency as contemplated by the homestead exemption statutes. *Id.* at 1117. Additional information is required, and a homestead exemption application should be filed by Representative Hill and his wife on behalf of their adult daughter.

I would be remiss if I did not point out that my client strongly disagrees with several of the factual representations and unfounded accusations set forth in your letter. At this time, however, I do not believe it would be constructive to respond to those assertions.

I would like to reiterate the importance of providing the requested information as soon as possible to facilitate a review of the homestead exemption. If you have any questions, please do not hesitate to contact me.

Very truly yours,

/s/ Loren E. Levy

Loren E. Levy

LEL/gls

Attachments

cc: Honorable Chris Jones, CFA