

IN THE CIRCUIT COURT OF THE 17th
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

WILLIAM LOBECK,

CASE NO.: 06-05863 (11)

Plaintiff,

vs.

LORI PARRISH,
as Broward County Property Appraiser,
JUDITH M. FINK,
as Broward County Tax Collector, and
JAMES ZINGALE,
as the Executive Director
of the Florida Department of Revenue

Defendant.

ANSWER & AFFIRMATIVE DEFENSES TO COMPLAINT

Defendant, LORI PARRISH, as Broward County Property Appraiser (“Appraiser”), by and through undersigned counsel, hereby serves her Answer and Affirmative Defenses to Plaintiff’s, WILLIAM LOBECK (“Plaintiff” and/or “Lobeck”) Complaint, and states the following:

1. Defendant denies the allegations in paragraph one (1) of the Complaint and demands strict proof thereof, except that it is admitted that this is an action purportedly to contest the denial and revocation of a homestead exemption

by the Appraiser for the taxable years of 1999 through 2004 and reassessment of the property taxes relating to the subject property at issue herein.

2. Defendant admits the allegations in paragraph two (2) of the Complaint.

3. Defendant admits the allegations in paragraph three (3) of the Complaint.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph four (4) of the Complaint, and accordingly denies the same and demands strict proof thereof.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph five (5) of the Complaint, and accordingly denies the same and demands strict proof thereof.

6. Defendant denies the allegations in paragraph six (6) of the Complaint and demands strict proof thereof.

7. Defendant denies the allegations in paragraph seven (7) of the Complaint and demands strict proof thereof, except that Defendant admits the allegations set forth in the first and second sentences of paragraph seven (7) and

further admits that a copy of the Appraiser's February 24, 2006 letter to Lobeck is attached as Exhibit "A" to the Complaint. Defendant denies all remaining allegations set forth in paragraph seven (7) and accordingly demands strict proof thereof.

8. Defendant admits that Lobeck paid the amount demanded by the Appraiser in its February 24, 2006 letter (i.e. - \$133,826.93) but is without knowledge or information sufficient to form a belief as to the truth of all remaining allegations in paragraph eight (8) of the Complaint (including but not limited to the allegation that such payment was made by Lobeck "*under protest*") and accordingly demands strict proof thereof.

9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph nine (9) of the Complaint, and accordingly denies the same and demands strict proof thereof.

10. Defendant denies the allegations set forth in paragraph ten (10) of the Complaint and accordingly demands strict proof thereof.

11. Defendant denies the allegations set forth in paragraph eleven (11) of the Complaint and accordingly demands strict proof thereof.

12. Defendant denies the allegations set forth in paragraph twelve (12) of the Complaint and accordingly demands strict proof thereof.

13. Defendant denies the allegations set forth in paragraph thirteen (13) of the Complaint and accordingly demands strict proof thereof except that it is admitted that Lobeck has been denied the homestead exemption on the Property for the years of 1999 – 2004 because the Property was not his “permanent residence” as that term is used, interpreted and defined in Fla. Stat. s. 196.012(18). Defendant further states that the terms set forth in the February 24, 2006 letter attached as Exhibit “A” to the Complaint speak for themselves.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph fourteen (14) of the Complaint, and accordingly denies the same and demands strict proof thereof.

15. Defendant denies the allegations set forth in paragraph fifteen (15) of the Complaint and accordingly demands strict proof thereof.

16. Defendant denies the allegations set forth in paragraph sixteen (16) of the Complaint and accordingly demands strict proof thereof.

17. Defendant denies the allegations set forth in paragraph seventeen (17) of the Complaint and accordingly demands strict proof thereof.

18. Defendant denies the allegations set forth in paragraph eighteen (18) of the Complaint and accordingly demands strict proof thereof.

19. Defendant denies each and every other allegation set forth in the Complaint which has not been specifically admitted hereinabove, and accordingly demands strict proof of all such other allegations.

AFFIRMATIVE DEFENSES

As and for her Affirmative Defenses to the claims set forth in the Complaint, Defendant states the following:

First Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck is not entitled to obtain any of the relief requested in the Complaint since he improperly obtained and maintained a homestead exemption on the Property during the years at issue herein (1999 – 2004) by knowingly and intentionally making inaccurate representations and/or failing to disclose material facts to the Appraiser in connection with such claimed exemptions. Specifically, Lobeck made sworn claims of permanent residency in

Broward County, Florida while simultaneously obtaining and maintaining a similar permanent residency based tax exemption in the State of Oklahoma founded upon a sworn and contradictory claim of permanent residency in Oklahoma and failing to disclose same to the Appraiser. The Appraiser reasonably relied in good faith upon Lobeck's sworn claims of permanent residency in Broward County, Florida in granting Lobeck the homestead exemption on the Property for the years of 1999 – 2004.

Second Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that all of Lobeck's claims are barred pursuant to Fla. Stat. s.196.031(6) in that Lobeck was simultaneously receiving and/or claiming the benefit of an ad valorem tax exemption or other similar tax credit during the years in question (1999 – 2004) for both the Property in Broward County, Florida and for other property he and his wife owned in the State of Oklahoma.

Third Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck is estopped from seeking and/or obtaining any of the relief set forth in the Complaint pursuant to Fla. Stat. s. 196.031(6) since he was simultaneously receiving and/or claiming the benefit of an ad valorem tax

exemption or other similar tax credit during the years in question (1999 – 2004) for both the Property in Broward County, Florida and for other property he and his wife owned in the State of Oklahoma.

Fourth Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck has waived any rights he otherwise may have had to seek and/or obtain any of the relief set forth in the Complaint pursuant to Fla. Stat. s. 196.031(6) since he was simultaneously receiving and/or claiming the benefit of an ad valorem tax exemption or other similar tax credit during the years in question (1999 – 2004) for both the Property in Broward County, Florida and for other property he and his wife owned in the State of Oklahoma.

Fifth Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck is not entitled to obtain any of the relief requested in the Complaint based on the doctrine of unclean hands. Specifically, Lobeck was simultaneously receiving and/or claiming the benefit of an ad valorem tax exemption or other similar tax credit during the years in question (1999 – 2004)

for both the Property in Broward County, Florida and for other property he and his wife owned in the State of Oklahoma.

Sixth Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck is not entitled to obtain any of the relief requested in the Complaint given that the Property was not his “permanent residence” for the years in question (1999 – 2004) as that term is used and defined in Fla. Stat. s.196.012(18) nor based on the factors set forth in Fla. Stat. s. 196.105.

Seventh Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck is not entitled to obtain any of the relief requested in the Complaint pursuant to Fla. Stat. s. 196.011.

Eighth Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck is not entitled to obtain any of the relief requested in the Complaint since Lobeck was not entitled to a homestead exemption on the Property for the years in question (1999 – 2004) as he and his

wife were not maintaining separate permanent residences nor were they acting as separate “family units” during the years in question (1999 – 2004).

Ninth Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck is not entitled to obtain any of the relief requested in the Complaint since homestead status did not attach to the Property during the years in question (1999 –2004) since neither Lobeck nor any of his dependents resided on the Property in a “head of household” type relationship.

Tenth Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant states that Lobeck has failed to comply with the requirements of Fla. Stat. s.194.171(3).

Eleventh Affirmative Defense

Without otherwise admitting the validity of the allegations set forth in the Complaint, Defendant reserves the right to amend her affirmative defenses as discovery progresses in this lawsuit.

William Lobeck, Plaintiff, vs. Lori Parrish, et al.
Broward Circuit Court Case No.: 06-05863 (11)
Answer & Affirmative Defenses By Parrish to Complaint

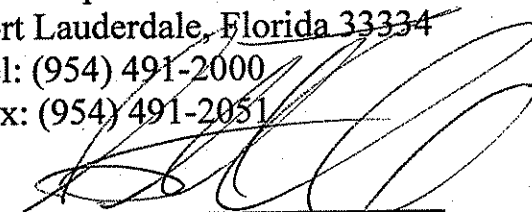
WHEREFORE, Defendant, LORI PARRISH, as Broward County Property Appraiser, respectfully requests that this Court enter an Order dismissing the Complaint filed herein by Plaintiff, WILLIAM LOBECK, awarding Defendant interest and penalties pursuant to Fla. Stat. s. 196.011(9)(a), costs and disbursements pursuant to Fla. Stat. s.194.192, and award such other and further relief as this Court deems just, equitable and proper.

William Lobeck, Plaintiff, vs. Lori Parrish, et al.
Broward Circuit Court Case No.: 06-05863 (11)
Answer & Affirmative Defenses By Parrish to Complaint

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true and correct copy of the foregoing was sent by fax and U.S. Regular Mail on this 30th day of May, 2006 to: J. Riley Davis, Esquire & Todd D. Engelhardt, Esquire, Akerman Senterfitt, Attorneys For Plaintiff, 106 East College Avenue, Suite 1200 (32301), Tallahassee, Florida 32302-1877, Fax # (850) 222-0103.

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