

RULES OF PROCEDURE
BROWARD COUNTY VALUE ADJUSTMENT BOARD

I CREATION AND COMPOSITION OF THE VALUE ADJUSTMENT BOARD

- A. The Value Adjustment Board (the "Board") is created by Section 194.015, Florida Statutes, consisting of three members from the Broward County Commission and two members from the Broward County School Board.
- B. A member of the Broward County Commission shall be chair of the Board.
- C. A quorum shall consist of at least three members of the Board; however, the quorum shall consist of at least one member from both the School Board and the County Commission.
- D. Members of the Board may be temporarily replaced by other members of the respective Boards on appointment by their respective chairs.
- E. In the event that a member shall fail to attend three (3) consecutive Board meetings or four (4) Board meetings within a one year period, the Board shall send a letter to the member's respective chair requesting the appointment of a new Board member.

II FUNCTION AND AUTHORITY OF THE VALUE ADJUSTMENT BOARD

- A. The Board shall have the authority to meet for the following purposes:
 - 1. Hearing petitions relating to assessments filed pursuant to F.S. 194.011(3).
 - 2. Hearing complaints relating to homestead exemptions as provided for under F.S. 196.151.
 - 3. Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications under F.S. 196.011.
 - 4. Hearing appeals concerning ad valorem tax deferrals, classifications. Hearing good cause hearings pursuant to the provisions of the Florida Administrative Code 12D-10.003(8).
 - 5. Ex Parte Contacts. For those actions of the Board which are quasi-judicial in nature, to insure that the Board review process shall occur in an atmosphere free of bias or pressure, ex parte contacts by anyone to members of the Board are prohibited.

In the event that a Board member shall receive any written, oral, graphic, or communication of any kind or nature which may directly or indirectly influence the disposition of a quasi judicial proceeding of the Board, such ex parte communication shall be forwarded to the clerk of the Board to be included in the record of the Board proceedings.

6. Time. In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor legal holiday. When the period of time prescribed or allowed herein is less than five days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. If the fifteenth day before a hearing is a Saturday, Sunday, or legal holiday, the information herein shall be provided no later than the previous business day.

- B. The Board shall have the authority to appoint special magistrates for the purpose of taking testimony and making recommendations to the Board.

III PETITIONS

- A. A petition to the Board shall:
 1. Be in substantially the form prescribed by the Florida Department of Revenue, and include the fee as authorized by Chapter 194, Florida Statutes.
 2. Describe the property by parcel number, folio number, real estate number or personal property account number.
 3. Be sworn to by the petitioner.
 4. State the approximate time anticipated by the petitioner to present and argue the petition.
 5. The completed petition shall be filed with the clerk of the Board. Incomplete petitions shall not be accepted. In the event that an incomplete petition has been received by the clerk of the Board, such incomplete petition shall be returned to the petitioner with a

notation that the petition may not be accepted in its incomplete form.

6. A petition shall be deemed filed on the day it is actually received in the office of the clerk of the Board prior to the close of business. In the event that a petition is submitted electronically, it shall be deemed filed on the day it is electronically received by 11:59 p.m.
 7. Be filed in compliance with the filing requirements set forth in F.S. 193.052, as related specifically to commercial personal property. Requests for Good Cause hearings on exemption, classification, and value issues, shall be filed by December 31 of the current tax year. Good Cause requests filed after December 31 shall be returned as untimely.
 8. Include the filing fees as established by the Board pursuant to the authority set forth in Section 194.013, Florida Statutes, and if applicable, the fee mandated by Section 196.011(8), Florida Statutes.
- B. The individual, agent, or legal entity that signs the petition becomes an agent of the taxpayer for the purpose of serving process to obtain personal jurisdiction over the taxpayer for the entire Board proceedings including any appeals of a Board decision by the Property Appraiser pursuant to Section 194.036, Florida Statutes.
- C. In the event that the Board shall receive multiple petitions relating to the same property the following procedures shall take place:
1. The Board shall send a letter to each entity that submitted a petition asking that they resolve the conflict within the next 15 days.
 2. In the event that the entities fail to satisfactorily resolve the conflict of multiple petitions, the Board shall recognize one of the following entities as the property representative, in the order of priority set forth below:
 - a. Taxpayer/owner's petition, no matter when filed; or
 - b. first agent to file in the absence of filing by the taxpayer/owner.

IV. SPECIAL MAGISTRATES

- A. The Board has determined to appoint special magistrates for the purpose of taking testimony and making recommendations to the Board on

petitions filed pursuant to Chapter 194, Florida Statutes. The Board may designate an attorney and an appraiser as Chief Special Magistrate to perform additional duties or requests by the Board.

- B. Special magistrates shall be selected from a list of those qualified individuals who are willing to serve as special magistrates for the Board.

It is the Board's policy to recruit individuals who are interested in serving as special magistrates in full compliance with the provisions of Chapter 16½, "Human Rights" Code of Broward County, Florida. The clerk of the Board shall take the necessary steps to inform all qualified individuals of the availability of such opportunities through the use of the medium including, but not limited to, newspapers, professional newsletters, and professional associations.

- C. Qualifications for Special Magistrates:

1. Primary office or residence shall be in Broward County at all times that the special magistrates are performing their duties for the Board.
2. Special magistrates shall not be elected or appointed officials or employees of a taxing authority or of the state.
3. Appraiser special magistrate shall be a state certified real estate appraiser with not less than five years experience in real property valuation. An appraiser special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than five years experience in tangible personal property valuation.
4. Attorney special magistrates shall be members of good standing in the Florida Bar with not less than five years experience in the area of ad valorem taxation.

- D. A special magistrate shall be prohibited from representing a taxpayer before the Board, before any special magistrate, or before the Broward County Property Appraiser, or its employees in any tax year during which the special magistrate serves the Board as a special magistrate.

- E. Special magistrates shall be compensated at the rate established by the Board. Special magistrates shall receive a minimum guarantee of two hours compensation when scheduled by the Board. Special magistrates shall receive 24-hours notice of cancellation of their scheduled hearings or

receive payment for scheduled hearings. In addition to the compensation set forth herein, the chief special magistrate, if approved by the Board, shall receive a stipend in an amount established by the Board for performing the duties of chief special magistrate which shall be paid per month during the height of the VAB tax cycle which runs from November through April.

V. SPECIAL MAGISTRATE HEARINGS:

- A. Hearings shall be scheduled by the Board staff before either an appraiser special magistrate or an attorney special magistrate depending on the nature of the issue(s) raised by the petition.
- B. Notice of Hearing shall be sent by the clerk of the Board. The notice shall be in writing and delivered by regular mail, so that the notice shall be received by the taxpayer not less than 25 calendar days prior to the day of the scheduled hearing.

The Notice of Hearing shall include a copy of the property card containing relevant information used in computing the current assessment if such card was requested by the taxpayer and is kept in the normal course of business by the property appraiser. The petition form shall include a box which may be checked by the taxpayer in order to request the property card.

- C. Petitioners may be represented by an attorney or agent, but a petitioner shall not be required to retain the services of an attorney or agent and may represent his or her own interests. If someone other than the taxpayer or an attorney appears on behalf of the petitioner, such person shall provide, prior to the onset of the hearing, authorization in writing from the taxpayer evidencing such person's authority to appear on the taxpayer's behalf. The special magistrate shall have the authority to hear a petition, contingent on proper authorization being submitted prior to the final decision.
- D. The property appraiser, or its authorized representative, may be, but need not be, represented by an attorney in defending the property appraiser's assessment or opposing an exemption.
- E. The special magistrate shall call the cases on the agenda; however, the special magistrate shall not be bound by the order in which the cases appear on the agenda.
- F. A petitioner shall not be required to wait for more than four hours from the scheduled hearing time. If a petition is not heard in the four hour period of

time, the petitioner may report to the special magistrate that he or she intends to leave; and if the petitioner is not heard immediately, the petitioner's administrative remedies will be deemed to have been exhausted, and the petitioner may seek such further relief as petitioner deems appropriate. Alternatively, following a wait of four hours or more, petitioner may request the Board staff to reschedule the petitioner's hearing for another day. If a petitioner leaves a scheduled meeting for undue delay, the special magistrate is not precluded from considering the petition.

- G. If after notice of hearing a party does not appear, the hearing may be conducted and the special magistrate may, based on the evidence submitted, make recommendations to the Board in the absence of the party.
- H. A verbatim record of the proceedings shall be made by digital recording and shall be retained by the clerk of the Board for a period of not less than four years. In addition, the clerk shall retain and index to the verbatim record all documentary evidence. Nothing herein shall be deemed to prohibit any party from providing a court reporter for the proceedings.
- I. All testimony shall be under oath; provided, however, if a person refuses to be sworn for any reason whatsoever, the special magistrate shall not assign unsworn testimony the same weight or credibility as sworn testimony in its deliberations.
- J. Subsequent to the mailing or sending of the Notice of Hearing, and at least 15 calendar days before the scheduled hearing, petitioner shall provide to the property appraiser, through the Board staff, a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing. The summary shall be sufficiently detailed as to reasonably inform a party of the general subject matter of the witness' testimony, and the name and address of the witness.
- K. No later than 7 days before the hearing, if the property appraiser receives the petitioner's documentation, and if requested in writing by the petitioner, the property appraiser shall provide to the petitioner, and provide a copy to the Board staff, a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of the documentation to be presented at the hearing. The evidence list must contain the property record card if provided by the clerk.
- L. If the taxpayer does not provide the information to the property appraiser at least 15 days prior to the hearing pursuant to subsection J above, the

property appraiser need not provide the information to the taxpayer pursuant to subsection K above.

If the property appraiser does not provide the information within the time required by subsection K above, and at least 7 calendar days before the hearing, the hearing shall be rescheduled .

- M. The exchange in subsections K and L above shall be delivered by regular or certified U.S. mail, personal delivery, overnight mail, FAX or e-mail. It shall be sufficient if at least three FAX or email attempts are made to such address. If more than one FAX number is provided, three (3) attempts must be made for each number to satisfy this requirement. The taxpayer and property appraiser may agree to a different timing and method of exchange. "Provided" means made available in the manner designated by the property appraiser or by the petitioner in his/her submission of information, as via email, facsimile, U.S. mail, or at the property appraiser's office for pick up. If the petitioner does not designate his/her desired manner for receiving the property appraiser's information, the information shall be provided by the property appraiser by depositing it in the U.S. mail.
- N. The parties may call and examine witnesses, introduce evidentiary materials, cross-examine witnesses and rebut evidence. The special magistrate shall not take any general action regarding compliance with the exchange of evidence requirements, but any action on each petition shall be considered on a case by case basis. Any action shall be based on a consideration of whether there has been a substantial noncompliance with the exchange requirements and shall be taken at a scheduled hearing and be based on evidence presented at such hearing. "General action" means a prearranged course of conduct not based on evidence received in a specific case at a scheduled hearing on a petition. A property appraiser shall not appear at the hearing and use undisclosed evidence that was not supplied to the petitioner as required. The normal remedy for such noncompliance shall be a rescheduling of the hearing to allow the petitioner an opportunity to review the information of the property appraiser.
- O. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. All relevant evidence shall be admitted if petitioner complied with the disclosure requirement set forth above, and it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make such evidence inadmissible over objections in a trial in a court of Florida. The special magistrate may exclude irrelevant, immaterial, or

unduly repetitious evidence.

- P. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not, in itself, be considered sufficient to support a finding or decision unless the evidence would be admissible, over objections, in civil actions.
- Q. The special magistrate shall have the authority to ask questions at any time of either party, the witnesses, or staff.
- R. At the conclusion of the presentation of the evidence and the taking of testimony, the special magistrate shall make a recommendation to the Board. The recommendation shall include ultimate and basic findings of fact. The recommendation shall include the nature of the change made and indicate the just, taxable, and exempt value before and after the change. The special magistrate's recommendations shall be announced orally at the conclusion of the presentation; provided, however, the special magistrate may defer ruling for good cause and, in such event, the parties shall be notified by the Board staff of the special magistrate's recommendation. The recommendations of the special magistrate shall be reduced to writing and served on the taxpayer and property appraiser. Service shall be made by delivering a copy or mailing it to the taxpayer and property appraiser. Service by mail shall be complete upon mailing.
- S. Transfer/Continuance. The petitioner shall have the right to reschedule a hearing a single time by submitting to the Board staff a written request to reschedule, no less than five calendar days before the day of the originally scheduled hearing. Any additional transfer/rescheduling request shall be made prior to the date of the scheduled hearing and shall be granted only upon proof of: (a) death in the petitioner's immediate family; (b) medical conditions which prevent the petitioner's appearance; (c) jury duty; (d) time-certain court appearance; (e) prepaid travel plans; (f) emergency travel; (g) incarceration; (h) military service; or (i) failure of the property appraiser to furnish evidence as required in Section 194.011, Florida Statutes. If a transfer/continuance has not been granted by the Board staff pursuant to the authority specifically delegated by the Board, the hearing shall be conducted and a recommendation entered in the absence of the party.
- T. The special magistrate may request legal opinions from the Office of the County Attorney. The special magistrate shall receive all testimony and evidence and prepare a written request for a legal opinion which shall state the legal issue and include the relevant facts. The special magistrate may request that information from the petitioner and property appraiser be included with the request.

- U. Petitions Filed after the Statutory Deadline. Pursuant to the authority set forth in Florida Administrative Code 12D-10.003, review of written applications from taxpayers requesting the right to file a petition although the taxpayer has failed to comply with the statutory deadline shall be subject to the procedures set forth below. These requests are commonly referred to as Good Cause Requests.

In the event that a petitioner would like to request the right to file a petition after the statutory deadline, the petitioner shall file a written application which demonstrates therein good cause justifying consideration and shall simultaneously file a petition in substantially the form prescribed by the Florida Department of Revenue and include the fee as authorized by Chapter 194 or Chapter 196.

1. Good Cause requests relating exclusively to a right to receive an exemption (excluding exemption requests relating to educational, literary, scientific, religious, charitable or governmental) shall be forwarded to the property appraiser by the clerk of the Board. The Property Appraiser shall determine, based on the petition, whether entitlement to an exemption is warranted and provide the Board with a written recommendation on the exemption. The Board shall review the application for good cause to determine whether the taxpayer has demonstrated good cause justifying consideration and that the delay in filing the petition will not be prejudicial to the performance of the County's taxing process. The Board's review shall be limited to the written request. In the event good cause is determined, the Board may simultaneously approve the recommendation of the Property Appraiser.

Requests for Good Cause involving value, classification or exemptions relating to educational, literary, scientific, religious, charitable or governmental, shall be submitted to the Board to determine whether the taxpayer has demonstrated good cause justifying consideration and that the delay in filing the petition will not be prejudicial to the performance of the County's taxing process and the Board. The Board's review shall be limited to the written request. In the event that the Board determines that the taxpayer has demonstrated good cause justifying consideration and that the delay in filing the petition will not be prejudicial to the performance of the County's taxing process, a hearing shall be scheduled for a special magistrate hearing in compliance with the Value Adjustment Board Rules of Procedure.

The Board's decisions on Good Cause shall be final.

VI. VALUE ADJUSTMENT BOARD MEETINGS

- A. The Chair, or in the Chair's absence, the Vice Chair, shall approve all items placed on the agenda. The office of the property appraiser shall not have the authority to place any items on the agenda without the specific approval of the Chair, or in the Chair's absence, the Vice Chair.
- B. All recommendations of the special magistrates shall be submitted to the Board for consideration and action by the Board. The Board may act on such recommendations without the necessity of further hearing. The Board may conduct a review of a recommendation upon request by a taxpayer, the property appraiser, or upon its own motion.
- C. A request for review by a taxpayer or the property appraiser shall be on the form available from the Board staff and shall set forth with particularity factual or legal errors made by the special magistrate in the special magistrate's recommendation to the Board. The Board shall not accept a request for review in which the issue raised by the taxpayer is the retroactive application of the homestead exemption and/or the retroactive application of the assessment cap.
- D. A request for review by a taxpayer or the property appraiser premised on the fact that the taxpayer or property appraiser missed the scheduled hearing must contain documentation to establish the basis for the failure to attend.
- E. The request for review shall be filed with the Board clerk within 15 calendar days of the date of service (i.e., the date of mailing) of the recommendation of the special magistrate. Failure to timely file a request for review by the Board shall be deemed a waiver of the right to review.
- F. The taxpayer or the property appraiser may file a response to the request for review. The response shall be filed with the Board clerk within 5 business days of the date of service (i.e., the date of mailing) of the request for review. The response shall be limited to the issues raised by the taxpayer or the property appraiser and shall not include additional evidence.
- G. The Board staff shall schedule requests for review before the Board. Notice of the scheduled request for review shall be sent by the clerk of the Board to the petitioner. The notice shall be in writing and delivered by mail so that the notice shall be received by the taxpayer no less than 10 calendar days prior to the day of the Board meeting at which the Request

for Review shall be considered.

- H. Review Proceedings before the Board shall be bifurcated (i.e., two-part process), unless the Board, by motion, authorizes review following the determination of good cause for review and such action is agreed to by the parties.
- I. The Board shall consider the request for review of the recommendation of the special magistrate and determine whether good cause has been established to grant a review. The Board's determination of good cause for review shall be limited to the allegation of factual and/or legal errors set forth on the form requesting review; provided, however, that the Board may ask questions of the parties relating to the allegations of error.
- J. If the Board determines that there is not good cause to grant review, the recommendation of the special magistrate shall be affirmed.
- K. Upon a determination of good cause for review, the Board may establish a time for review, refer the matter to a special magistrate for further action, or provide any other relief as permitted by law. In the event that a matter ~~has been once~~ is referred to a special magistrate (either the original special magistrate or a new special magistrate) by the Board for further action, the Board shall not accept a subsequent request for review by the same party; however, nothing herein shall prohibit an appeal to circuit court as authorized by Florida Law. ~~and a party shall again appeal the special magistrate recommendation to the Board, the Board shall not refer the matter back to a special magistrate for a second time during the same tax year.~~
- L. The Board shall not accept and/or consider additional evidence at any portion of the review proceedings.
- M. The Board staff shall schedule review hearings before the Board. Notice of Hearing shall be sent by the clerk of the Board. The notice shall be in writing and delivered by certified mail no less than 10 calendar days prior to the day of the scheduled hearing.
- N. Petitioners may be represented by an attorney or agent at a review hearing; however, petitioners shall not be required to retain the services of an attorney or agent and may represent their own interests. If someone other than the taxpayer or an attorney appears on behalf of the petitioner, such person shall provide, prior to the onset of the review hearing, authorization in writing from the taxpayer evidencing such person's authority to appear on the taxpayer's behalf. The Board shall have the

authority to hear a petition contingent on proper authorization being submitted prior to the final decision.

- O. The property appraiser, or its authorized representative, may be, but need not be, represented by an attorney in defending the property appraiser's assessment or opposing an exemption.
- P. The Chair shall call the cases on the agenda; however, the Board shall not be bound by the order in which the cases appear on the agenda.
- Q. If after notice of hearing a party does not appear, the review hearing may be conducted and the Board may accept the recommendation of the special master, provide relief as authorized by law, or refer the matter back to a special magistrate for further action.
- R. A verbatim record of the proceedings shall be made by digital and/or tape recording and shall be retained by the clerk of the Board for a period of not less than four years. In addition, the clerk shall retain and index to the verbatim record all documentary evidence. Nothing herein shall be deemed to prohibit any party from providing a court reporter for the proceedings.
- S. All testimony shall be under oath; provided, however, if a person refuses to be sworn for any reason whatsoever, the Board shall not assign unsworn testimony the same weight or credibility as sworn testimony in its deliberations.
- T. The review hearing shall be in the nature of an appeal. The Board shall accept the recommendation of the special magistrate unless there is a determination of the Board that the findings of fact were not based upon competent substantial evidence, the proceedings on which the findings were based did not comply with the essential requirements of law, or that procedural due process was not accorded.
- U. The Board shall have the authority to ask questions at any time of either party or others in attendance at the meeting.
- V. At the conclusion of the review hearing, the Board shall, by motion, issue a decision on the merits. The decision shall be reduced to writing by staff of the Board and shall be issued within 20 calendar days of the last day the Board is in session.
- W. Further relief shall be provided pursuant to the provisions of F.S. 194.036.

VII. PROCEDURES FOR REMAND BY EITHER SPECIAL MAGISTRATE OR VALUE ADJUSTMENT BOARD

- A. In the event that the property appraiser's assessment is determined to be erroneous pursuant to the provisions of Section 194.301, Florida Statutes, and the record lacks competent, substantial evidence meeting the just value criteria of Section 193.011, Florida Statutes, the matter shall be remanded to the property appraiser by either the special magistrate or Board.
- B. The remand shall include appropriate and specific direction from the Board or special magistrate.
- C. The property appraiser shall conduct a review of the assessment and, within 15 calendar days of the remand by the special magistrate or Board, shall notify the petitioner by certified mail and notify the Board, in writing, of the results of the review assessment.
- D. Petitioner shall have 15 calendar days from receipt of the notice to request a continuation of the hearing. In the event the petitioner desires a continuation of the hearing following notice of the review of the assessment by the property appraiser, a hearing shall be scheduled before a special magistrate and shall be conducted pursuant to the rules set forth above for a special magistrate hearing.

SVT:slw
VABRULEeliminate2ndappeal
04/02/08
08-019.01