

MANATEE COUNTY VALUE ADJUSTMENT BOARD

MEETING STATEMENT – MARCH 5, 2019

ROBERT A. HOONHOUT, ESQ.

As the Board knows, we are here today to consider all Petitions filed before this Board and the Special Magistrate's recommendation relative to same, as well as hear those who have written requesting reconsideration of the Magistrates decision in their case. Final decisions may be made today to complete your review of the 2018 Petitions filed before the Board.

In determining review of just valuation neither the Board nor the Special Magistrate can grant relief on the basis of the hardship of a particular taxpayer. Nor shall the Board or Magistrate consider the ultimate amount of tax to be paid in considering value. During the Magistrates hearings, they may not consider any information other than admissible evidence duly presented. Neither the Magistrate nor the Board may conduct independent factual research into the attributes of the petitioned property. At the reconsideration level here today for the cases involved, the Board may not consider any evidence that was not presented below before the Special Magistrate.

Having said all this to remind everyone of some of the key elements involved in the Boards determinations today, please recall that the criteria to determine whether to reconsider any of today's petitions must flow from your belief as to whether the Magistrate made a mistake in assessing the facts of the case and/or whether a mistake of law in assessing the case was made by the Magistrate. If you find no such mistakes but rather disagreements as to result, you should uphold the Special Magistrate's recommendation in the matter.

Today, the Board has before it 6 such petitions requesting reconsideration of the Special Magistrates decision. As you know, this reconsideration process is authorized by Rule 12D-9.032 relating to final decisions, which sets forth our operating procedures and also defines the scope of your review of the petitions before you today.

Alleged errors must be evaluated solely upon the evidence that was presented at the hearing before the Magistrate. Again, you may not consider new testimony or any additional documentary evidence, which might be offered up by

the Petitioner in the time allotted to them today. Today's presentations from Petitioners are to be considered a summary of their written request for reconsideration, and it is the petition and recommendation which must disclose error on the part of the Magistrate, and thereafter demonstrate that the Petitioners proposed alternate disposition is the appropriate disposition.

The issue of the late filing of the Petitions is controlled by Rule 12D-9.015(11). In it you will see that a Petitioner must demonstrate good cause justifying consideration. Good Cause is defined as "the verifiable showing of extraordinary circumstances", as follows:

1. Personal, family or business crisis or emergency at a critical time or for an extended period of time that would cause a reasonable person's attention to be diverted from filing; or
2. Physical or mental illness, infirmity or disability that would reasonably affect the Petitioner's ability to timely file; or
3. Miscommunication with, or misinformation received from, the board clerk, property appraiser or their staff regarding the necessity or the proper procedure for filing that would cause a reasonable person's attention to be diverted from timely filing; or
4. Any other cause beyond the control of the Petitioner that would prevent a reasonably prudent Petitioner from timely filing.

The issue of rescheduling hearings is now specifically set forth in the Rules as well. In F.S.194.032.2(a), the Rules indicate that each party may reschedule the hearing once for "good cause". Good cause shall mean circumstances beyond the control of the person seeking to reschedule the hearing which reasonably prevent the party from having adequate representation at the hearing.

Given the above parameters, I would also advise the Board to keep in mind that the possibility exists that any questions directed to Petitioners today by the Board may elicit responses amounting to new testimony, or the exploration of evidence not in the record below, as well as give a particular petitioner unfair advantage in having more than two minutes to develop its case. Of course, where there is confusion as to what is being said or misunderstandings, these areas may be explored if you feel the need to do so. However, I would respectfully suggest

that the best course is to limit questions to Petitioners, if possible, and that you listen to the summary with a view towards determining whether you desire to discuss this file today for further review. If anything substantial has been presented, I will advise as to any exclusions necessary to preserve the rules of the process.

After all the Petitioners are heard today, the Board may conduct its own discussion without Public input as to which Petition(s) heard bear further review and study by the Board, if any. These matters so designated by the Board for reconsideration will be reviewed by the members and shall be decided by the Board.

Some final comments as to the process itself, if I may. Today's exercise requires you as the Board to consider the request for review of the Magistrates recommendation and determine whether good cause has been shown to grant such a review. Again, good cause for review should be limited to your consideration of an allegation of factual and/or legal errors as set forth in the petition form requesting the review. Obviously, you may conduct a reconsideration of the petition if your study of the record relating to these allegations of error merits such study. Therefore, to summarize the reconsideration process, it should be considered by you to be in the nature of an appeal from the decision below, alleging an error has occurred. Thus, it is submitted that the Board should accept the recommendation of the Special Magistrate unless there is a determination by the Board that the findings of fact were not based on the existence of competent substantial evidence in the record below, such that a material factual error is demonstrated, or a finding that the proceedings on which the findings were based did not comply with the essential requirements of law (i.e. a mistake of law).