

**VALUE ADJUSTMENT BOARD
RESOLUTION R-08-270**

**A RESOLUTION PROVIDING VALUE ADJUSTMENT
BOARD LOCAL INTERNAL PROCEDURES.**

WHEREAS, pursuant to Chapter 194, Florida Statutes, there has been established a Value Adjustment Board in Manatee County, Florida; and

WHEREAS, pursuant to § 194.035, Florida Statutes, the Manatee County Value Adjustment Board (hereinafter "VAB") is authorized to appoint special magistrates for the purpose of taking testimony and making recommendations to the VAB; and

WHEREAS, § 194.013, Florida Statutes, provides for filing fees for petitions if so required by resolution of the VAB; and

WHEREAS, in addition to the statutory provisions, including but not limited to Chapter 194, Florida Statutes (the "Statutes"), and administrative rules of the Florida Department of Revenue as provided in Rule 12D-10 of the Florida Administrative Code (the "Rules"), certain additional procedures are necessary for the orderly conduct of the affairs of the VAB.

NOW, THEREFORE, BE IT RESOLVED BY THE VALUE ADJUSTMENT BOARD OF MANATEE COUNTY, as follows:

Filing Fees: Filing fees in the maximum amount authorized by law are hereby adopted and shall accompany all petitions filed for consideration by the VAB in accordance with the Statutes and Rules.

Timeliness, Completeness, and Forms: Petitions not timely filed, not complete, or filed on inappropriate forms may be acted on by the special magistrate without a hearing. The special magistrate may approve the late filing or incomplete petition upon good cause being shown and set the matter for a hearing or prepare a recommended order rejecting the petition without a hearing. Good cause hereunder shall mean as follows:

(a) 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,

(b) physical or mental illness, infirmity, or disability that would reasonable affect the taxpayer's ability to timely file; or,

(c) miscommunications with, or misinformation received from, the clerk, property appraiser, or their staff regarding the necessity or the proper procedure for filing; or,

(d) failure to receive a copy of a notice from the Property Appraiser or clerk through no fault of the taxpayer (e.g. mailed to the wrong address due to clerical error); or,

(e) any other cause that would prevent a reasonable prudent taxpayer from timely filing.

Testimony and Evidentiary Material: Section 194.034(1)(d), Florida Statutes, provides that no petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were requested of the petitioner in writing by the Property Appraiser of which the petitioner had knowledge and denied to the Property Appraiser. Pursuant to § 194.011(4)(a), Florida Statutes, petitioners must provide the Property Appraiser a list of evidence to be presented at the hearing, copies of all documentation to be considered, and a summary of evidence to be presented by witnesses. A. Copy of this documentary evidence shall also be submitted to Board Records fifteen (15) calendar days before the hearing. The Property Appraiser shall respond to the petitioner as required by § 194.011(4)(b), Florida Statutes, at least seven days before hearing and submit a copy of all information to Board Records.

Special Magistrate Appointments: Special magistrates shall be appointed by the Value Adjustment Board to serve one or more terms during the year until all petitions have been heard and recommended orders drafted to take testimony and make recommendations on all petitions, unless the special magistrate would be prohibited from hearing or deciding the matter due to a conflict of interest under § 194.035, Florida Statutes, or Part III of Chapter 112, Florida Statutes, or any applicable code of professional conduct.

Remand by Special Magistrate: The special magistrate may remand matters to the Property Appraiser if the record lacks competent and substantial evidence meeting the just valuation criteria of § 193.011, Florida Statutes, with appropriate directions, including a time for a response and a date for any final consideration before the special magistrate. Any recommended order submitted to the VAB shall contain the special magistrates final recommendation, including the recommended just value.

Recommended Orders: The special magistrates' recommended orders should be available for review at the office of the Clerk to the VAB within ten (10) calendar days from the hearing date. The Clerk may extend the time if extraordinary circumstance requires an extension. Further consideration of the special magistrates recommendation will be granted only by motion adopted by a majority of the VAB and will be based upon the record. No additional testimony and documentary evidence will be allowed.

Review by the Value Adjustment Board; Requests for reconsideration: The VAB will convene to consider the recommendations of the Special Magistrate and to act upon all petitions. Further consideration of the Special Magistrates recommendations will be granted

only by motion adopted by a majority of the VAB and will be based on the record presented at the time of the hearing below.

The Special Magistrate's recommended orders will usually be available for review in the Office of Board Records, 1010 Manatee Avenue West, ten (10) days after the hearing. If Taxpayer or the Property Appraiser believe the Special Magistrate's recommended order is incorrect and wish to ask the VAB to reconsider this petition, the taxpayer or the P.A. must object to same in writing within ten days from the date of the special magistrate's filing of such recommendation, and submit in writing an alternative final order with the relevant findings of fact based on testimony and evidence presented at the hearing. Those who have asked for review of the Special Magistrate's recommended order as authorized herein, will be allowed two (2) minutes to address the Value Adjustment Board to summarize its position, and a like amount of time will be allowed for the other party. **IF SUCH RECONSIDERATION IS REQUESTED PLEASE BE ADVISED THAT SUBMISSION OF ADDITIONAL TESTIMONY AND DOCUMENTARY EVIDENCE WILL NOT BE ALLOWED.**

Other Applicable Rules: In addition to the above, and the requirements of the Statutes and the Rules, the VAB proceedings shall comply with the attached Information for Taxpayers, subject to such changes approved by the VAB attorney required to provide appropriate information to petitioners.

Ex Parte Communications: No participant, including the taxpayer, the property appraiser, the clerk, the special magistrate, a member of a value adjustment board, or other person directly or indirectly interested in the proceeding, nor anyone authorized to act on behalf of any participant shall communicate with or cause communications to be sent directly, or indirectly to a member of the board or the special magistrate regarding the issues in the case without the other participant, being present or without providing a copy of any written communication to the other participant. This shall not apply to any attorney-client communications by the Board and its staff with the Board Attorney.

Chairman: In the event of a conflict as referenced in paragraph 4 above, or if any Special Magistrate should fail to perform pursuant to the contract with the VAB, the Chairman of the VAB is authorized to contract with such additional qualified special magistrate substantially as provided in the form of contract approved by the VAB for other special magistrates, at the rate or rates agreed to by the VAB and such special magistrate. With documentation of extraordinary factual or legal issues supporting the need for additional hours, and upon recommendation from the VAB Attorney, the Chairman may approve additional time for a Special Magistrate.

Effective Date: These rules shall take effect upon adoption and shall continue in effect until superseded by changes in the applicable administrative Rules and Statutes or amended by the VAB. Resolution R-07-184 is hereby rescinded.

ADOPTED, with a quorum present and voting this 5th day of November, 2008.

ATTEST: R. B. SHORE
Clerk of The Circuit Court

MANATEE COUNTY VALUE ADJUSTMENT BOARD
OF MANATEE COUNTY,
FLORIDA

By

Susan Homine
Deputy Clerk

By

Carol Whitmore
Carol Whitmore, Chairman

**INFORMATION FOR TAXPAYERS IN CONNECTION WITH PETITIONS
AND INTERNAL PROCEDURES OF THE VALUE ADJUSTMENT BOARD**

The Value Adjustment Board (VAB) is governed by Part I of Chapter 194, Florida Statutes, Rule 12D-10 of the Florida Administrative Code (FAC), and VAB Resolution No. R08-270. Copies are available for review with Board Records. A copy of Rule 12D-10.0044, FAC, providing uniform procedures for hearings, together with Department of Revenue form PT-101 are attached for your review as well.

The petitioner may wish to consult with or be represented by an attorney, but is not required to do so. However, the following information is provided to assist you:

1. The eligibility for hearing on the merits of Petitions that are not timely filed, not complete, or filed on inappropriate forms will be determined by the Special Magistrate without a hearing, and the petitioner will be advised in writing of such decision.
2. There is a legal presumption that the Property Appraiser's determination is correct. You, the taxpayer, have the burden to prove that the Property Appraiser's assessment is in excess of the just value of your property.
3. You may have already received a written request to furnish evidence to the Property Appraiser. NO testimony or evidence may be presented at the hearing if copies of all documents are not presented to the Property Appraiser and a copy sent to Board Records, 1010 Manatee Avenue West, at least fifteen (15) days before your hearing date. The Property Appraiser must then provide copies of its evidence to you, if requested, no later than seven (7) days before the hearing.
4. No Petitioner may present evidence for consideration, nor will the Special Magistrate or Board accept testimony or other evidentiary materials that were requested of the Petitioner in writing by the Property Appraiser of which Petitioner had knowledge and denied to you if requested the Property Appraiser.
5. Extenuating circumstances constituting good cause for untimely, or incomplete filings which will be considered by the Special Magistrate, as authorized by law, shall require a showing of documented circumstances that made timely performance practically impossible, such as serious illness or a major life catastrophe, in accordance with R-08-270 setting forth the Internal Procedures of The Value Adjustment Board.
6. All petitioners and witnesses (including the Property Appraiser and his witnesses) may be required to testify under oath upon the request of either party and may be cross-examined.
7. Only relevant evidence and testimony may be presented. For example, if you are contesting the value assigned by the Property Appraiser, information pertinent to the value of your property as of January 1, 2008, such as an appraisal, should be presented.
8. No evidence shall be considered by the Board except when presented during the time scheduled for the Petitioner's hearing or at a time when the Petitioner has been given reasonable notice. A verbatim record of the proceedings shall be made and proof of documentary evidence shall be preserved by the Clerk for use by the VAB, the Department of Revenue or if further judicial proceedings are filed.
9. Neither the VAB nor the Special Magistrate can adjust the value of a property or grant an exemption on the basis of hardship or by considering the ultimate amount of taxes required.
10. The Property Appraiser shall present his basis for the assessment or the denial of an exemption or classification after the petitioner presents his testimony and evidence.
11. You may not discuss matters related to your petition with the Special Magistrate except at the hearing. In addition, you may not discuss substantive matters related to your petition with members of the VAB or its staff.
12. Your hearing time may be continued or rescheduled after proper notice. You may reschedule your hearing one time upon at least 5 days notice to the Clerk, and you may not be required to wait more than 4 hours to be heard on the date of your hearing.

In the event you may be unable to attend the hearing, your petition will be reviewed in your absence, relying on the content of your petition and evidence presented by the Property Appraiser.

All petitioners will be notified in writing of the final decision by the VAB. Review by the Value Adjustment Board of the Special Magistrates recommendation at the request of the taxpayer or the Property Appraiser shall be made as provided for in R-08-270.