

**VALUE ADJUSTMENT BOARD
RESOLUTION R-16-099**

**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 Uniform Rule 12D-9 and 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. Where there is a conflict between these Rules and the Statutes, the Statutes shall prevail.

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.

Electronic Signatures on Petitions and Associated Documents: The Value Adjustment Board clerk is hereby authorized to accept electronic signatures on Petitions filed before the Board. Unless otherwise provided by law, such electronic signatures may be used to sign a writing and shall have the same force and effect as a written signature.

The Board Clerk is also authorized to send and receive electronically certain documents pursuant to F.S. 194.048, including all Final decision of the Value Adjustment Board required to be sent under F.S. 194.034(2). All such submissions and transmitted documents shall satisfy the terms of F.S. 192.048(2). Consent will be required before such e-mails will be relied upon by the Clerk.

Timeliness, Completeness, and Forms: Petitions not timely filed, not complete, or filed on inappropriate forms may be acted on by the special magistrate(s) to be designated by the Board 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 reasonably 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 that would cause a reasonable person's attention to be diverted from timely filing; or,
- (d) Any other cause beyond the control of the petitioner that would prevent a reasonable prudent petitioner from timely filing.

Representation of the Taxpayer: The Taxpayer shall have the right to be represented at its expense by an attorney or by an agent. The agent need not be a licensed individual and may be any person, including a family member. However, in order to represent the Taxpayer, an unlicensed person must be named in the Petition as Agent, and the Taxpayer must either sign the Petition, or the Petition must be accompanied by a written authorization signed by the Taxpayer specifically naming the Agent and granting authorization to proceed on the Taxpayer's behalf. Petitions failing to meet these requirements shall be deemed incomplete.

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 upon request of the Property Appraiser 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. Copies of this documentary evidence shall be submitted to Appraisers office fifteen (15) calendar days before the hearing. The Property Appraiser shall respond to the petitioner's request for the appraisers documentation to be relied upon at the hearing as required by § 194.011(4)(b), Florida Statutes, at least seven days before hearing.

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 into account 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, requiring a ten day (10) 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 magistrate's final recommendation, including the recommended just value, and a statement of legal and factual issues considered by the Magistrate.

Recommended Orders: The special magistrates' recommended orders should be available for review at the office of the Clerk to the VAB within a reasonable time not to exceed 14 days from the hearing date, unless the matter is extraordinarily complex, wherein the clerk shall allow additional time. The Clerk may extend the time if extraordinary circumstances 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 court evidence will be allowed. All appeals of final decisions of the VAB must be directed to Circuit Court pursuant to F.S. 194.036 and 194.171, Florida Statutes within sixty (60) days of receiving the Final VAB decision.

Review by the Value Adjustment Board; The VAB will convene to consider the recommendations of the Special Magistrate and to act upon all petitions. Any communications received from petitioners addressed to the VAB pursuant to Rule 12D-9.032(6)(a) relating to the special magistrates' recommended orders shall be in writing and received by the board clerk within fifteen (15) calendar days from the date the recommended orders were mailed to the Petitioners. Written objections received after the 15-day timeframe will not be considered. Further consideration of the special magistrates' recommendations by the VAB based upon such communications shall be granted only by motion adopted by a majority of the VAB and shall be based solely on the record presented at the time of the hearing below.

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

Resolution R-16-099

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.

Hearings by Electronic Media: The Value Adjustment Board hereby authorizes Hearings to be conducted by contemporaneous video or audio equipment, as electronic media, provided for in Rule 12D-9.026. Such meetings shall be conducted pursuant to said rule. Should a petitioner desire to appear by electronic media, the Petitioner must notify the Clerk of the Value Adjustment Board no fewer than five (5) calendar days before the scheduled appearance in the matter in order to allow time to reasonably accommodate such request, or to reschedule to another time to satisfy requirements of the rule.

Chairman: In the event of a conflict involving the VAB attorney and a matter before the Board, or if any Special Magistrate should fail to perform pursuant to its contract with the VAB, the Chairman of the VAB is authorized to contract with such additional qualified special magistrate or substitute attorney substantially as provided for in the form of contract approved by the VAB for the attorney and 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 payment for additional time to a Special Magistrate and for the Board attorney. No payment shall be made for corrective orders required of the Magistrate.

Partial Payment of Taxes Required: Pursuant to Section 194.014, Florida Statutes, effective for Petitions filed after July 1, 2011: The following rules shall apply:

- A Petitioner who challenges the assessed value of property must pay all of the non-ad valorem taxes, and at least seventy-five (75%) percent of the ad valorem taxes due, less the applicable discount, before the taxes become delinquent April 1, 2017.
- A Petitioner who challenges the denial of a classification or exemption or the assessment based on an argument that the property was not substantially complete as of January 1, must pay all the non-ad valorem assessments and the amount of the tax which the taxpayer admits in good faith to be owing, less the applicable discount, before the taxes become delinquent on April 1, 2017.
- If the VAB determines that the amount of the tax that the taxpayer has admitted to be owing is grossly disproportionate to the amount of the tax found to be due, and that the taxpayer's admission was

not made in good faith, the Tax Collector must collect a penalty at the rate of 10 percent of the deficiency per year from the date the taxes become delinquent.

- The VAB must deny a petition by written decision by April 20, 2017, if the petitioner fails to make the required payments as described above.
- If the VAB determines that the petitioner owes ad valorem taxes in excess of the amount paid, the unpaid amount shall accrue interest at the rate of 12 percent per year from the date the taxes become delinquent until the unpaid amount is paid.
- If the VAB determines that a refund is due, the overpaid amount shall accrue interest at the rate of 12 percent per year, from the date the taxes become delinquent until a refund is paid. Interest shall not accrue on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice.

The above rules shall not apply to petitions for ad valorem tax deferrals pursuant to Chapter 197.

Effective Date: These rules shall take effect upon adoption and shall continue in effect until superceded by changes in the applicable administrative Rules and Statutes or amended by the VAB. Resolution R-15-145 is hereby rescinded.

ADOPTED, with a quorum present and voting this 25th day of August, 2016.

ATTEST:

Angelina M. Colonnese
Clerk Ad Interim of the Circuit Court



VALUE ADJUSTMENT BOARD
OF MANATEE COUNTY, FLORIDA

By: Debi Essner
Deputy Clerk

[Signature]
Vice-Chairman