

RULES OF PROCEDURE FOR HEARINGS
BEFORE THE SEMINOLE COUNTY VALUE ADJUSTMENT BOARD

Introduction.

A. Creation and Composition of the Value Adjustment Board.

The Value Adjustment Board ("the Board") is created by section 194.015, Florida Statutes, and consists of two (2) members from the Seminole County Commission, one (1) of whom is elected chairperson, one (1) member of the Seminole County School Board, and two (2) citizen members, one (1) of whom must own homestead property in Seminole County and who is appointed by the Seminole County Commission and one (1) of whom must own a business occupying commercial space within the Seminole County School District and who is appointed by the Seminole County School Board.

Any three (3) members constitute a quorum, except that each quorum must include at least one (1) member of the Seminole County Commission, at least one (1) member of the Seminole County School Board, and at least one (1) citizen member.

The members of the Board may be temporarily replaced by other members of the respective Boards on appointment by their respective chairperson.

The clerk of the Seminole County Commission shall be the clerk of the Board. The Board shall appoint private counsel who has practiced law for over five (5) years, who shall attend every meeting of the Board, and no meeting shall take place unless counsel to the Board is present.

B. Function and Authority of the Value Adjustment Board.

A. The Board shall have the authority to meet for the following purposes:

(1) Hearing petitions related to assessments filed pursuant to section 194.011 (3), Florida Statutes, (objections to assessments place on real property or tangible personal property).

(2) Hearing complaints related to homestead exemptions as provided for under section 196.151, Florida Statutes.

(3) Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications under section 196.011, Florida Statutes.

(4) Hearing appeals concerning ad valorem tax deferrals and classifications.

B. The Board shall appoint special magistrates for the purpose of taking testimony and making recommendations to the Board, which recommendations the Board may act upon without further hearing.

1. Scope of These Uniform Rules of Procedure.

(1) These rules of procedure apply in all proceedings before the Board and the Board's special magistrates.

(2) Nothing in these rules shall be construed to prohibit a taxpayer from pursuing his or her rights to bring an action in circuit court as provided in section 194.036, Florida Statutes.

2. Definitions.

When used herein, unless the context otherwise requires, the term:

(1) "Agent" means any person who is authorized to represent the taxpayer in a hearing before the Board, including a family member.

(2) "Board" means the Seminole County Value Adjustment Board.

(3) "Clerk" means the clerk of the Seminole County Value Adjustment Board.

(4) "Department," unless otherwise designated, means the Department of Revenue.

(5) "Good cause" means the showing of particular extenuating circumstances, 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) miscommunication with, or misinformation received from, the clerk, property appraiser staff, or an agent regarding the necessity or the proper procedure for filing; or,

(d) failure to receive a copy of a notice from the 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 reasonably prudent taxpayer from timely filing.

(6) "Hearing" includes any hearing relating to a petition before the Board or special magistrate, regardless of whether the parties are physically present or whether telephonic or other electronic media is used to conduct the hearing.

(7) "Party" means the property appraiser, the property appraiser's employee, or the appraiser's designee, and the taxpayer or the taxpayer's agent.

(8) "Petitioner" means the taxpayer or the taxpayer as represented by an agent.

(9) "Rendered" means the written decision has been signed, dated, and received by the clerk.

(10) "Service" means providing a document to the taxpayer or the taxpayer's attorney or agent or providing a document to the property appraiser.

(11) "Special magistrate" means, where applicable, a person designated by the Board to hear petitions filed with the Board.

(12) "Taxpayer" means the person or other legal entity in whose name property is assessed including an agent of a timeshare period holder, or a person contesting the assessment of any tax, the payment of which he or she is responsible for under a statute or a person who is responsible for the entire tax payment pursuant to a contract and has the written consent of the property owner.

(13) "Verbatim record" means:

(a) the complete, unedited body of material that corresponds word for word to the original source or text.

(b) any type of written, photographic, or electronic record, including audio, video, or other electronic media.

3. Duties of the Board.

(1) The Board shall hold an organizational meeting, after public notice of the date, time, location, and purpose of the meeting, at least once a year. Topics which must be discussed at this meeting include:

(a) The uniform rules of procedure for hearings before the Board and special magistrates (if applicable), and the associated forms that have been adopted by the Department, copies of which must be available to the public at this meeting.

(b) The general requirements of Florida's Government in the Sunshine / open government laws. A current copy of the Government-In-The-Sunshine manual must be provided to any Board member who does not have one.

(c) General information on Florida's property tax structure, and how it is administered.

(2) The Board shall include statements about the existence and availability of these uniform rules of procedure in any notice of hearing and on the Board's website, if there is one.

(3) The Board shall:

(a) Conduct proceedings in an orderly, dignified, and fair manner without bias toward or against any witness or party.

(b) Adhere to the schedule of hearings established by the clerk as closely as possible, without impairing either party's right to be heard.

(4) Upon the request of either party, the chairperson of the Board, the clerk of the Board, the special magistrate, or any person authorized by state law shall swear in all witnesses in that proceeding on the record, even if the witnesses have been sworn in during a previous proceeding.

(5) The Board shall ensure that the selection of special magistrates is based solely upon the experience and qualifications of the special magistrate and is not influenced by the property appraiser.

(6) The Board must ensure that the Board itself, and its special magistrates, hold meetings and hearings only following proper notice as provided in section 286.011, Florida Statutes.

(7) In cases where petitions were filed but not considered by the Board or special magistrate because such petitions were withdrawn or settled prior to the Board's consideration, the Board or special magistrate need not enter a written decision containing findings of fact and conclusions of law from a fact finding hearing. In such cases, and in cases where the Board adopts a settlement or withdrawal, the Board must render a notice of decision form for each such

petition. The Board shall note in its decision the reasons for its action, such as: petition acknowledged as correct by the property appraiser, settlement, or withdrawal of the petition.

4. Duties of the Clerk.

(1)(a) The property appraiser shall make available to the clerk and to any other party copies of the blank petition form adopted by the Department.

(b) A taxpayer or agent must be able to obtain a blank petition form from any of the following sources: the property appraiser, the clerk, and the Department.

(c) The clerk shall accept all completed petitions, as defined by statute and Rule 6, and shall forward a copy of the petition to the property appraiser. If, in the petition, the taxpayer requested a copy of the property record card, the property appraiser shall forward a copy of the property record card to the clerk. The clerk shall provide to the taxpayer a copy of the property record card along with the notice of hearing, if requested in the petition.

(2) The clerk shall provide copies of the special magistrate's recommended decision to the taxpayer and the property appraiser as soon as practicable after receiving the recommended decision, and, if the clerk:

(a) Knows the date, time, and place at which the recommended decision will be considered by the Board, then the clerk shall include such information when he or she sends the recommended decision to the taxpayer or the taxpayer's agent and the property appraiser.

(b) Does not yet know the date, time, and place at which the recommended decision will be considered by the Board, then such information must be sent by the clerk at a later date by supplemental and reasonable notice.

(3) The clerk shall maintain a record of the proceeding.

(a) The record shall consist of the verbatim record of the proceeding and proof of any documentary evidence presented.

(b) The record shall be maintained for four (4) years after the final decision has been rendered by the Board if no appeal is filed in circuit court, or for five (5) years if an appeal is filed.

(c) If requested by the taxpayer, the taxpayer's agent, or the property appraiser, the clerk shall retain these records until the final

disposition of any subsequent judicial proceeding related to the same property.

(4) The clerk shall have such other duties as set forth elsewhere in these rules and in the Florida Statutes.

5. Authority and Duties of Special Magistrates.

(1)(a) Special magistrates appointed by the Board act in place of the Board except for rendering a final decision. Proceedings before the special magistrate shall meet all basic requirements of a proceeding before the Board in accordance with section 194.034, Florida Statutes.

(b) The Board may consider good cause requests to accept petitions filed late by taxpayers, or may designate the clerk, the Board attorney, or a special magistrate to consider such requests.

(2) Special magistrates shall conduct proceedings in an orderly, dignified, and fair manner without bias toward or against any witness or party.

(3) Special magistrates shall adhere as closely as possible to the schedule of hearings established by the clerk, without impairing either party's right to be heard.

(4) Upon the request of either party, a special magistrate shall swear in all witnesses in that proceeding on the record, even if the witnesses have been sworn in during a previous proceeding.

(5) Special magistrates shall receive, mark, and retain all exhibits admitted during the hearing and send them to the clerk along with the recommended decision.

(6)(a) The special magistrate shall issue a timely, recommended decision in writing which contains findings of fact and conclusions of law for upholding, partially upholding, or overturning the determination of the property appraiser.

(b) For the purpose of documenting the recommended decisions of the special magistrate, the Board may use any form approved by the Department or which the Department designates as the only form approved for the purposes required in this rule.

(7) To avoid the appearance of a conflict of interest, special magistrates shall refrain from conversations with any party, before, during, and after a hearing, including breaks during such hearing.

(8) All special magistrates shall have the qualifications specified in section 194.035, Florida Statutes.

6. Petition.

(1)(a) The clerk shall accept for filing any petition that is complete and is timely submitted on a form approved by the Department, with payment of a filing fee as determined by section 194.013, Florida Statutes. The filing fee shall be paid to the clerk of the Board at the time of filing and if such fee is not paid at that time, the petition shall be deemed invalid and shall be rejected. The petition shall describe the property by parcel number and shall state the approximate time anticipated by the taxpayer to present and argue his or her petition before 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.

(b) A "complete" petition is one that provides information for all the required elements that are displayed above the sworn statement by the taxpayer.

(c) If the taxpayer or agent's name, address, telephone, or similar contact information on the petition changes before the hearing, the taxpayer or agent shall notify the clerk in writing.

(d)1. For the purpose of requesting a hearing before the Board, the Department prescribes Form DR-486 and Form DR-486A which forms are located on the Department's web site at the following link: <http://dor.myflorida.com/dor/property/vabwb/vabrules.html>.

(2)(a) The Board may not extend the time for filing a petition.

(b) The clerk shall accept but not file a petition submitted to the Board after the statutory deadline has expired, and submit the petition to the Board for good cause consideration if the petition is accompanied by a written explanation for the delay in filing.

(c) The Board or the Board's designee (which includes the clerk, the Board's attorney, or an attorney special magistrate), shall determine whether the taxpayer has demonstrated in writing good cause justifying consideration of the petition. If the Board or the Board's designee (which includes the clerk, the Board's attorney, or an attorney special magistrate), determines that the taxpayer has demonstrated good cause, the Board or the Board's designee (which includes the clerk, the Board's attorney, or an attorney special magistrate), shall accept the petition for filing and so notify the taxpayer and the property appraiser or tax collector.

(3) An assessment may not be contested until a return required by section 193.052, Florida Statutes, has been filed.

7. Representation of the Taxpayer.

(1) A taxpayer has the right, at the taxpayer's own expense, to be represented by an attorney or by an agent.

(2) An attorney means a member of The Florida Bar or a law student certified pursuant to Chapter 11 of the Rules Regulating The Florida Bar.

(3) An agent is anyone who is authorized to represent a taxpayer.

(4) Service on the taxpayer's attorney or agent is the equivalent of service on the taxpayer.

8. Standards of Conduct.

(1) The following standards of conduct are mandatory for all participants, including the special magistrate and Board members:

(a) All participants must obey the law, and advise those under their direction or supervision to also obey the law; and,

(b) No participant shall engage in conduct involving a conflict of interest or appearance of a conflict of interest, dishonesty, fraud, the offer or acceptance of gifts, favors, or preferential treatment, deceit, threatening behavior, or misrepresentation, and such conduct is prohibited; and,

(c) No participant shall engage in conduct that is prejudicial to the administration of justice; and,

(d) No participant shall communicate, or cause another to communicate, as to the merits of the petition with the Board or, where applicable, the special magistrate, except during the hearing.

(2) Attorneys representing any party are governed by the rules regulating The Florida Bar.

(3) A violation of these standards of conduct at a hearing before the special magistrate or the Board may result in the special magistrate or the Board referring the matter to the Florida Commission on Ethics or other authority as provided by law.

9. Filing and Service.

(1) In construing these rules or any order of the Board or special magistrate, "filing" shall mean received by the clerk during open hours or by the Board or special magistrate during a meeting or hearing.

(2)(a) Any hand-delivered or mailed document received by the office of the clerk after open hours shall be filed the next regular business day.

(b) If the clerk accepts documents filed electronically, documents received on or after 12 midnight of the day they are due shall be filed the next regular business day.

(3) Whenever a party files a document other than the petition with the Board, that party shall provide copies of the document to all parties in the proceeding. A signed statement or other indication that a copy has been provided to all parties must accompany the document filed with the Board.

(4) Any party who elects to file any document by electronic transmission shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result.

10. Exchange of Evidence.

(1) The provisions of subsections (2), (3), (4), (5), (6), (9), and (10) of Rule 12D-10.0044, Florida Administrative Code, apply to the exchange of evidence between the petitioner and the property appraiser.

(2) Subsequent to the mailing or sending of the hearing notice, and at least fifteen (15) days before the scheduled hearing, the petitioner shall provide the property appraiser with 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.

(3) No later than seven (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 the petitioner with 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 evidence list must contain the property record card if provided by the clerk.

(4)(a) If the taxpayer does not provide the information to the property appraiser at least fifteen (15) days prior to the hearing pursuant to subsection (2), the property appraiser need not provide the information to the taxpayer pursuant to subsection (3).