

State of Florida

**UNIFORM POLICIES
AND PROCEDURES MANUAL**

FOR

VALUE ADJUSTMENT BOARDS

**Florida Department of Revenue
Revised May 2010**

Introduction

Section 194.011(5)(b), Florida Statutes, states:

“(b) The department shall develop a uniform policies and procedures manual that shall be used by value adjustment boards, special magistrates, and taxpayers in proceedings before value adjustment boards. The manual shall be made available, at a minimum, on the department’s website and on the existing websites of the clerks of circuit courts.”

The Florida Department of Revenue (Department) has developed this uniform policies and procedures manual as prescribed by statute. This manual contains the recently adopted rules titled: REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE VALUE ADJUSTMENT BOARDS.

Along with accompanying documents described below, the Uniform Policies and Procedures Manual will be available on the existing website of the value adjustment board clerk (board clerk) in each of the 67 counties and on the website of the Department. The Department requests that board clerks retain and use the document titles as provided in this manual when placing these documents on their websites.

Adoption and Application of Rules and Forms

On February 24, 2010, the Governor and Cabinet, acting as the head of the Department, approved the adoption of the Department’s Rule Chapter 12D-9 and accompanying forms, a partial repeal of the rules in Rule Chapter 12D-10, and amendments to Rule 12D-16.002, F.A.C. The effective date of the rules and forms is March 30, 2010. Rule Chapter 12D-9 is the primary component of the Uniform Policies and Procedures Manual for value adjustment boards.

Value adjustment boards, board clerks, taxpayers, property appraisers, and tax collectors are required to follow these rules, as stated in section 195.027(1) and 194.011(5)(b), Florida Statutes. These rules supersede any local rules or prior Department rules on the subject.

The Department would like to thank all those who participated in the rule development process and who provided comments that assisted the Department in developing uniform rules to govern the value adjustment board process throughout the state.

Revised value adjustment board training that incorporates these rules will be available by June 30, 2010.

Overview of the Uniform Policies and Procedures Manual

The Uniform Policies and Procedures Manual contains the following:

1. The rights of taxpayers as provided in Florida Statutes and the recently adopted rules;
2. The recently adopted rules of procedure for value adjustment board proceedings;

3. Recently adopted forms for value adjustment boards;
4. Florida Statutes regarding value adjustment board procedures; and
5. A notice regarding case law (see following paragraph).

A statute effective in 2009 regarding the administrative review of just valuations addresses the use of case law in administrative reviews of assessments. *“The provisions of this subsection preempt any prior case law that is inconsistent with this subsection.”* See subsection (1) of section 194.301, Florida Statutes (2009), as amended by Chapter 2009-121, Laws of Florida (Council Substitute for Committee Substitute for House Bill 521). *“It is the express intent of the Legislature that a taxpayer shall never have the burden of proving that the property appraiser’s assessment is not supported by any reasonable hypothesis of a legal assessment. All cases establishing the every-reasonable-hypothesis standard were expressly rejected by the Legislature on the adoption of chapter 97-85, Laws of Florida. It is the further intent of the Legislature that any cases published since 1997 citing the every-reasonable-hypothesis standard are expressly rejected to the extent that they are interpretative of legislative intent.”* See subsection (1) of section 194.3015, Florida Statutes (2009). Value adjustment boards and appraiser special magistrates should use case law in conjunction with legal advice from the board legal counsel.

Overview of Accompanying Documents

Accompanying the Uniform Policies and Procedures Manual are two additional sets of documents. The first of the two accompanying sets of documents is titled “Other Legal Resources Including Statutory Criteria,” and the second is titled “Reference Materials Including Guidelines.” These documents are for use by value adjustment boards and special magistrates in conjunction with the Uniform Policies and Procedures Manual, as described below. Along with the Uniform Policies and Procedures Manual, these two accompanying sets of documents will be available on the existing website of the value adjustment board clerk in each of the 67 counties and on the website of the Department. The Department requests that board clerks retain and use the document titles as provided in this manual when placing these documents on their websites.

Overview of “Other Legal Resources Including Statutory Criteria”

The set of documents titled “Other Legal Resources Including Statutory Criteria,” contains the following items.

1. Florida Administrative Rules regarding the production of original assessments;
2. Florida Statutes regarding the production of original assessments;
3. Provisions of the Florida Constitution regarding the production of original assessments; and
4. A notice regarding case law (Note: Value adjustment boards and appraiser special magistrates should use case law in conjunction with legal advice from the board legal counsel.)

The contents of the set of documents titled “Other Legal Resources Including Statutory Criteria” are limited to provisions of law that relate to the production of original assessment rolls by property appraisers. While value adjustment boards and special magistrates are not authorized to produce original assessments, they are authorized to conduct administrative reviews of

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assessments that include establishing revised assessments when required by law. Therefore, within the scope of their authority, value adjustment boards and special magistrates must use these same provisions of law, where applicable, in the administrative review of assessments produced by property appraisers. Value adjustment boards and special magistrates must use these documents in conjunction with the Uniform Policies and Procedures Manual.

This accompanying set of documents contains the relevant provisions of Florida Statutes pertaining to property tax assessments, including statutory criteria for assessments. These are the authorities applicable in administrative reviews of the following: just valuations (Part 1 of Chapter 193, Florida Statutes); exemptions (Chapter 196, Florida Statutes); classifications and classified use valuations (Part 2 of Chapter 193, Florida Statutes); portability assessment difference transfers (section 193.155(8) , Florida Statutes); limited assessment increases (sections 193.155 through 193.1556, Florida Statutes); and deferrals and penalties (Chapter 197, Florida Statutes).

Overview of “Reference Materials Including Guidelines”

The set of materials titled “Reference Materials Including Guidelines,” contains the following items:

1. Taxpayer brochure
2. General description and internet links to the Department’s training for value adjustment boards and special magistrates;
3. Recommended worksheets for lawful decisions;
4. The Florida Real Property Appraisal Guidelines;
5. The Florida Tangible Personal Property Appraisal Guidelines;
6. The Florida Classified Use Valuation Guidelines for Agricultural Property; and
7. Internet links to Florida Attorney General Opinions, Government in the Sunshine Manual, PTO Bulletins and Advisements, and other reference materials.

These reference materials are for consideration, where appropriate, by value adjustment boards and special magistrates in conjunction with the Uniform Policies and Procedures Manual and with the Other Legal Resources Including Statutory Criteria.

The Department’s guidelines are intended by law as aid and assistance for the production of original assessment rolls by property appraisers. While value adjustment boards and special magistrates are not authorized to produce original assessments, they are authorized to conduct administrative reviews of assessments that include establishing revised assessments when required by law. Therefore, within the scope of their authority, value adjustment boards and special magistrates may consider these guidelines, where appropriate, in the administrative review of assessments produced by property appraisers. These guidelines must be used in conjunction with the Uniform Policies and Procedures Manual and with the Other Legal Resources Including Statutory Criteria.

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**STATE OF FLORIDA
DEPARTMENT OF REVENUE
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**CHAPTER 12D-9
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**REQUIREMENTS FOR VALUE
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Part I

Taxpayer Rights; Informal Conference Procedures; Definitions; Composition of the Value Adjustment Board; Appointment of the Clerk; Appointment of Legal Counsel to the Board; Appointment of Special Magistrates

12D-9.001 Taxpayer Rights in Value Adjustment Board Proceedings.

(1) Taxpayers are granted specific rights by Florida law concerning value adjustment board procedures.

(2) These rights include:

- (a) The right to be notified of the assessment of each taxable item of property in accordance with the notice provisions set out in Florida Statutes for notices of proposed property taxes;
- (b) The right to request an informal conference with the property appraiser regarding the correctness of the assessment or to petition for administrative or judicial review of property assessments. An informal conference with the property appraiser is not a prerequisite to filing a petition for administrative review or an action for judicial review;
- (c) The right to file a petition on a form provided by the county that is substantially the same as the form prescribed by the department or

to file a petition on the form provided by the department for this purpose;

(d) The right to state on the petition the approximate time anticipated by the taxpayer to present and argue his or her petition before the board;

(e) The right to be sent prior notice of the date for the hearing of the taxpayer's petition by the value adjustment board and the right to the hearing within a reasonable time of the scheduled hearing;

(f) The right to request and be granted a change in the hearing date as described in this chapter;

(g) The right to be notified of the date of certification of the county's tax rolls and to be sent a property record card if requested;

(h) The right to represent himself or herself or to be represented by an attorney or an agent;

(i) The right to have evidence presented and considered at a public hearing or at a time when the petitioner has been given reasonable notice;

(j) The right to have witnesses sworn and cross-examined;

(k) The right to be issued a timely written decision within 20 calendar days of the last day the board is in session pursuant to Section 194.032, F.S., by the value adjustment board containing findings of fact and conclusions of law and reasons for upholding or overturning the determination of the property appraiser or tax collector;

(l) The right to advertised notice of all board actions, including appropriate narrative and column descriptions, in brief and nontechnical language;

(m) The right to bring an action in circuit court to appeal a value adjustment board valuation decision or decision to disapprove a classification, exemption, portability assessment difference transfer, or to deny a tax deferral or to impose a tax penalty;

(n) The right to have federal tax information, ad valorem tax returns, social security numbers, all financial records produced by the taxpayer and other confidential taxpayer information, kept confidential; and

(o) The right to limiting the property appraiser's access to a taxpayer's records to only those instances in which it is determined that such

records are necessary to determine either the classification or the value of taxable nonhomestead property.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 192.0105, 193.074, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.301, 195.002, 195.027, 195.084, 195.096, 196.011, 196.151, 196.193, 196.194, 197.122, 213.05 FS. History—New 3-30-10.

12D-9.002 Informal Conference Procedures.

(1) Any taxpayer who objects to the assessment placed on his or her property, including the assessment of homestead property at less than just value, shall have the right to request an informal conference with the property appraiser.

(2) The property appraiser or a member of his or her staff shall confer with the taxpayer regarding the correctness of the assessment.

(3) At the conference, the taxpayer shall present facts that he or she considers supportive of changing the assessment and the property appraiser or his or her representative shall present facts that the property appraiser considers to be supportive of the assessment.

(4) The request for an informal conference is not a prerequisite to administrative or judicial review of property assessments. Requesting or participating in an informal conference does not extend the petition filing deadline. A taxpayer may file a petition while seeking an informal conference in order to preserve his or her right to an administrative hearing.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 213.05 FS. History—New 3-30-10.

12D-9.003 Definitions.

(1) “Agent” means any person, including a family member of the taxpayer, who is authorized to represent the taxpayer before the board.

(2) “Board” means the local value adjustment board.

(3) “Clerk” means the clerk of the local value adjustment board.

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

(5) “Hearing” means any hearing relating to a petition before a value adjustment board or special magistrate, regardless of whether the parties are physically present or telephonic or other electronic media is used to conduct the hearing, but shall not include a proceeding to act upon, consider or adopt special magistrates’ recommended decisions at which no testimony or comment is taken or heard from a party.

(6) “Petitioner” means the taxpayer or the taxpayer as represented by an agent or attorney.

(7) “Taxpayer” means the person or other legal entity in whose name property is assessed, including an agent of a timeshare period titleholder, and includes exempt owners of property, for purposes of this chapter.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 192.001, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.171, 195.022, 213.05, AGO 2002-058 FS. History-New 3-30-10.

12D-9.004 Composition of the Value Adjustment Board.

(1) Every county shall have a value adjustment board which consists of:

(a) Two members of the governing body of the county, elected by the governing body from among its members, one of whom shall be elected as the chairperson of the value adjustment board;

(b) One member of the school board of the county, elected by the school board from among its members; and

(c) Two citizen members:

1. One who owns homestead property in the county appointed by the county’s governing body;

2. One who owns a business that occupies commercial space located within the school district appointed by the school board of the county. This person must, during the entire course of service, own a commercial enterprise, occupation, profession, or trade conducted from a commercial space located within the school district and need not be the sole owner.

3. Citizen members must not be:

a. A member or employee of any taxing authority in this state;

b. A person who represents property owners, property appraisers, tax collectors, or taxing

authorities in any administrative or judicial review of property taxes.

4. Citizen members shall be appointed in a manner to avoid conflicts of interest or the appearance of conflicts of interest.

(2)(a) Each elected member of the value adjustment board shall serve on the board until he or she is replaced by a successor elected by his or her respective governing body or school board or is no longer a member of the governing body or school board of the county.

(b) When an elected member of the value adjustment board ceases being a member of the governing body or school board whom he or she represents, that governing body or school board must elect a replacement.

(c) When the citizen member of the value adjustment board appointed by the governing body of the county is no longer an owner of homestead property within the county, the governing body must appoint a replacement.

(d) When the citizen member appointed by the school board is no longer an owner of a business occupying commercial space located within the school district, the school board must appoint a replacement.

(3)(a) At the same time that it selects a primary member of the value adjustment board, the governing body or school board may select an alternate to serve in place of the primary member as needed. The method for selecting alternates is the same as that for selecting the primary members.

(b) At any time during the value adjustment board process the chair of the county governing body or the chair of the school board may appoint a temporary replacement for its elected member of the value adjustment board or for a citizen member it has appointed to serve on the value adjustment board.

(4)(a) To have a quorum of the value adjustment board, the members of the board who are present must include at least:

1. One member of the governing body of the county;
2. One member of the school board; and
3. One of the two citizen members.

(b) The quorum requirements of Section 194.015, F.S., may not be waived by anyone, including the petitioner.

(5) The value adjustment board cannot hold its organizational meeting until all members of the board are appointed, even if the number and type of members appointed are sufficient to constitute a quorum. If board legal counsel has not been previously appointed for that year, such appointment must be the first order of business. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 213.05 FS. AGO 2008-056. History--New 3-30-10.

12D-9.005 Duties of the Board.

(1)(a) The value adjustment board shall meet not earlier than 30 days and not later than 60 days after the mailing of the notice provided in Section 194.011(1), F.S.; however, no board hearing shall be held before approval of all or any part of the county's assessment rolls by the Department of Revenue. The board shall meet for the following purposes:

1. Hearing petitions relating to assessments filed pursuant to Section 194.011(3), F.S.;
2. Hearing complaints relating to homestead exemptions as provided for under Section 196.151, F.S.;
3. Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications under Section 196.011, F.S.; or
4. Hearing appeals concerning ad valorem tax deferrals and classifications.

(b) The board may not meet earlier than July 1 to hear appeals pertaining to the denial of exemptions, agricultural and high-water recharge classifications, classifications as historic property used for commercial or certain nonprofit purposes, and deferrals.

(c) The board shall remain in session until its duties are completed concerning all assessment rolls or parts of assessment rolls. The board may temporarily recess, but shall reconvene when necessary to hear petitions, complaints, or appeals and disputes filed upon the roll or portion of the roll when approved. The board shall make its decisions timely so that the board clerk may

observe the requirement that such decisions shall be issued within 20 calendar days of the last day the board is in session pursuant to Section 194.032, F.S.

(2)(a) Value adjustment boards may have additional internal operating procedures, not rules, that do not conflict with, change, expand, suspend, or negate the rules adopted in this rule chapter or other provisions of law, and only to the extent indispensable for the efficient operation of the value adjustment board process. The board may publish fee schedules adopted by the board.

(b) These internal operating procedures may include methods for creating the verbatim record, provisions for parking by participants, assignment of hearing rooms, compliance with the Americans with Disabilities Act, and other ministerial type procedures.

(c) The board shall not provide notices or establish a local procedure instructing petitioners to contact the property appraiser's or tax collector's office or any other agency with questions about board hearings or procedures. The board, board legal counsel, board clerk, special magistrate or other board representative shall not otherwise enlist the property appraiser's or tax collector's office to perform administrative duties for the board. Personnel performing any of the board's duties shall be independent of the property appraiser's and tax collector's office. This section shall not prevent the board clerk or personnel performing board duties from referring petitioners to the property appraiser or tax collector for issues within the responsibility of the property appraiser or tax collector. This section shall not prevent the property appraiser from providing data to assist the board clerk with the notice of tax impact.

(3) The board must ensure that all board meetings are duly noticed under Section 286.011, F.S., and are held in accordance with the law.

(4) Other duties of value adjustment boards are set forth in other areas of Florida law. Value adjustment boards shall perform all duties required by law and shall abide by all limitations on their authority as provided by law.

(5) Failure on three occasions with respect to any single tax year for the board to convene at the scheduled time of meetings of the board shall

constitute grounds for removal from office by the Governor for neglect of duties.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 192.0105, 194.011, 194.015, 194.032, 194.034, 194.035, 194.037, 213.05 FS. History--New 3-30-10.

12D-9.006 Clerk of the Value Adjustment Board.

(1) The clerk of the governing body of the county shall be the clerk of the value adjustment board.

(2) The board clerk may delegate the day to day responsibilities for the board to a member of his or her staff, but is ultimately responsible for the operation of the board.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 28.12, 192.001, 194.011, 194.015, 194.032, 213.05 FS. History--New 3-30-10.

12D-9.007 Role of the Clerk of the Value Adjustment Board.

(1) It is the board clerk's responsibility to verify through board legal counsel that the value adjustment board meets all of the requirements for the organizational meeting before the board or special magistrates hold hearings. If the board clerk determines that any of the requirements were not met, he or she shall contact the board legal counsel or the chair of the board regarding such deficiencies and cancel any scheduled hearings until such time as the requirements are met.

(2) The board clerk shall make petition forms available to the public upon request.

(3) The board clerk shall receive and acknowledge completed petitions and promptly furnish a copy of all completed and timely filed petitions to the property appraiser or tax collector. Alternatively, the property appraiser or the tax collector may obtain the relevant information from the board clerk electronically.

(4) The board clerk shall prepare a schedule of appearances before the board based on petitions timely filed with him or her. If the petitioner has indicated on the petition an estimate of the amount of time he or she will need to present and argue the petition, the board clerk must take this

estimate into consideration when scheduling the hearing.

(5) No less than 25 calendar days prior to the day of the petitioner's scheduled appearance before the board, the board clerk must notify the petitioner of the date and time scheduled for the appearance. The board clerk shall simultaneously notify the property appraiser or tax collector. If, on the taxpayer's petition, he or she requests a copy of the property record card, the board clerk shall obtain a copy of the property record card from the property appraiser and provide it to the petitioner no later than with the notice of the scheduled time of his or her appearance.

(6) If an incomplete petition, which includes a petition not accompanied by the required filing fee, is received within the time required, the board clerk shall notify the petitioner and give the petitioner an opportunity to complete the petition within 10 calendar days from the date notification is mailed. Such petition shall be timely if completed and filed, including payment of the fee if previously unpaid within the time frame provided in the board clerk's notice of incomplete petition.

(7) In counties with a population of more than 75,000, the board clerk shall provide notification annually to qualified individuals or their professional associations of opportunities to serve as special magistrates.

(8) The board clerk shall ensure public notice of and access to all hearings. Such notice shall contain a general description of the locations, dates, and times hearings are being scheduled. This notice requirement may be satisfied by making such notice available on the board clerk's website. Hearings must be conducted in facilities that are clearly identified for such purpose and are freely accessible to the public while hearings are being conducted. The board clerk shall assure proper signage to identify such facilities.

(9) The board clerk shall schedule hearings to allow sufficient time for evidence to be presented and considered and to allow for hearings to begin at their scheduled time. The board clerk shall advise the chair of the board if the board's tentative schedule for holding hearings is insufficient to allow for proper scheduling.

(10) The board clerk shall timely notify the petitioner by first class mail of the decisions of the board so that such decisions shall be issued within 20 calendar days of the last day the board is in session pursuant to Section 194.032, F.S., and shall otherwise notify the property appraiser or tax collector of such decision. In counties using special magistrates, the board clerk shall also make available to both parties as soon as practicable a copy of the recommended decision of the special magistrate by mail or electronic means. No party shall have access to decisions prior to any other party.

(11) After the value adjustment board has decided all petitions, complaints, appeals and disputes, the board clerk shall make public notice of the findings and results of the board in the manner prescribed in Section 194.037, F.S., and by the department.

(12) The board clerk is the official record keeper for the board and shall maintain a record of the proceedings which shall consist of:

- (a) All filed documents;
- (b) A verbatim record of any hearing;
- (c) All tangible exhibits and documentary evidence presented;
- (d) Any meeting minutes; and
- (e) Any other documents or materials presented on the record by the parties or by the board or special magistrate.

The record shall be maintained for four years after the final decision has been rendered by the board, if no appeal is filed in circuit court or for five years if an appeal is filed, or, if requested by one of the parties, until the final disposition of any subsequent judicial proceeding relating to the property.

(13) The board clerk shall make available to the public copies of all additional internal operating procedures and forms of the board or special magistrates described in Rule 12D-9.005, F.A.C., and shall post any such procedures and forms on the board clerk's website, if any. Making materials available on a website is sufficient; however, provisions shall be made for persons that have hardship. Such materials shall be consistent with Department rules and forms.

(14) The board clerk shall provide notification of appeals or value adjustment board petitions

taken with respect to property located within a municipality to the chief executive officer of each municipality as provided in Section 193.116, F.S. The board clerk shall also publish any notice required by Section 196.194, F.S.

(15) The board clerk shall have such other duties as set forth elsewhere in these rules and Rule Chapter 12D-10, F.A.C., and in the Florida Statutes and as assigned by the board not inconsistent with law.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05 FS. History--New 3-30-10.

12D-9.008 Appointment of Legal Counsel to the Value Adjustment Board.

(1) Each value adjustment board must appoint private legal counsel to assist the board.

(2) This legal counsel must be an attorney in private practice. The use of an attorney employed by government is prohibited. Counsel must have practiced law for over five years and meet the requirements of Section 194.015, F.S.

(3) An attorney may represent more than one value adjustment board.

(4) An attorney may represent a value adjustment board, even if another member of the attorney's law firm represents one of the enumerated parties so long as the representation is not before the value adjustment board.

(5) Legal counsel should avoid conflicts of interest or the appearance of a conflict of interest in their representation.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 213.05 FS. AGO 2008-055. History--New 3-30-10.

12D-9.009 Role of Legal Counsel to the Board.

(1) The board legal counsel shall have the responsibilities listed below consistent with the provisions of law.

(a) The primary role of the board legal counsel shall be to advise the board on all aspects of the value adjustment board review process to ensure

that all actions taken by the board and its appointees meet the requirements of law.

(b) Board legal counsel shall advise the board in a manner that will promote and maintain a high level of public trust and confidence in the administrative review process.

(c) The board legal counsel is not an advocate for either party in a value adjustment board proceeding, but instead ensures that the proceedings are fair and consistent with the law.

(d) Board legal counsel shall advise the board of the actions necessary for compliance with the law.

(e) Board legal counsel shall advise the board regarding:

1. Composition and quorum requirements;
2. Statutory training and qualification requirements for special magistrates and members of the board;
3. Legal requirements for recommended decisions and final decisions;
4. Public meeting and open government laws; and
5. Any other duties, responsibilities, actions or requirements of the board consistent with the laws of this state.

(f) Board legal counsel shall review and respond to written complaints alleging noncompliance with the law by the board, special magistrates, board clerk, and the parties. The legal counsel shall send a copy of the complaint along with the response to the department. This section does not refer to routine requests for reconsideration, requests for rescheduling, and pleadings and argument in petitions.

(2) The board legal counsel shall, upon appointment, send his or her contact information, which shall include his or her name, mailing address, telephone number, fax number, and e-mail address, to the department by mail, fax, or e-mail to:

Department of Revenue
Property Tax Oversight Program
Attn: Director
P O Box 3000
Tallahassee, FL 32315-3000.
Fax Number: 850-922-7957
Email Address: VAB@dor.state.fl.us

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 213.05 FS. History--New 3-30-10.

12D-9.010 Appointment of Special Magistrates to the Value Adjustment Board.

(1) In counties with populations of more than 75,000, the value adjustment board shall appoint special magistrates to take testimony and make recommendations on petitions filed with the value adjustment board. Special magistrates shall be selected from a list maintained by the board clerk of qualified individuals who are willing to serve.

(2) In counties with populations of 75,000 or less, the value adjustment board shall have the option of using special magistrates. The department shall make available to such counties a list of qualified special magistrates.

(3) A person does not have to be a resident of the county in which he or she serves as a special magistrate.

(4) The special magistrate must meet the following qualifications:

(a) A special magistrate must not be an elected or appointed official or employee of the county.

(b) A special magistrate must not be an elected or appointed official or employee of a taxing jurisdiction or of the State.

(c) During a tax year in which a special magistrate serves, he or she must not represent any party before the board in any administrative review of property taxes.

(d) All special magistrates must meet the qualifications specified in Section 194.035, F.S.

1. A special magistrate appointed to hear issues of exemptions, classifications, and portability assessment difference transfers shall be a member of The Florida Bar with no less than five years experience in the area of ad valorem taxation and having received training provided by the department, or with no less than three years of such experience and having completed training provided by the department.

2. A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than five years experience in real property valuation and having received training provided

by the department, or with no less than three years of such experience and having completed training provided by the department. A real property valuation special magistrate must be certified under Chapter 475, Part II, F.S.

a. A Florida certified residential appraiser appointed by the value adjustment board shall only hear petitions on the just valuation of residential real property of one to four residential units and shall not hear petitions on other types of real property.

b. A Florida certified general appraiser appointed by the value adjustment board may hear petitions on the just valuation of any type of real property.

3. A 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 and having received training provided by the department, or with no less than three years of such experience and having completed training provided by the department.

4. All special magistrates shall attend or receive an annual training program provided by the department. Special magistrates substituting two years of experience must show that they have completed the training by taking a written examination provided by the department. A special magistrate must receive or complete any required training prior to holding hearings.

(5)(a) The value adjustment board or board legal counsel must verify a special magistrate's qualifications before appointing the special magistrate.

(b) The selection of a special magistrate must be based solely on the experience and qualification of such magistrate, and must not be influenced by any party, or prospective party, to a board proceeding or by any such party with an interest in the outcome of such proceeding. Special magistrates must adhere to Rule 12D-9.022, F.A.C., relating to disqualification or recusal.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 194.035, 195.022,

213.05 Chapter 475, Part II FS. History-New 3-30-10.

12D-9.011 Role of Special Magistrates to the Value Adjustment Board.

(1) The role of the special magistrate is to conduct hearings, take testimony and make recommendations to the board regarding petitions filed before the board. In carrying out these duties the special magistrate shall:

(a) Accurately and completely preserve all testimony, documents received, and evidence admitted for consideration;

(b) At the request of either party, administer the oath upon the property appraiser or tax collector, each petitioner and all witnesses testifying at a hearing;

(c) Conduct all hearings in accordance with the rules prescribed by the department and the laws of the state; and

(d) Make recommendations to the board which shall include proposed findings of fact, proposed conclusions of law, and the reasons for upholding or overturning the determination of the property appraiser or tax collector, also see Rule 12D-9.030, F.A.C.

(2) The special magistrate shall perform other duties as set out in the rules of the department and other areas of Florida law, and shall abide by all limitations on the special magistrate's authority as provided by law.

(3) When the special magistrate determines that the property appraiser did not establish a presumption of correctness, or determines that the property appraiser established a presumption of correctness that is overcome, as provided in Rule 12D-9.027, F.A.C., and the record contains competent substantial evidence for establishing value, an appraiser special magistrate is required to establish a revised value for the petitioned property. In establishing the revised value when authorized by law, the board or special magistrate is not restricted to any specific value offered by the parties.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 194.035, 195.022, 213.05, Chapter 475, Part II FS. History-New 3-30-10.

12D-9.012 Training of Special Magistrates, Value Adjustment Board Members, and Legal Counsel.

(1) The department shall provide and conduct training for special magistrates at least once each state fiscal year available in at least five locations throughout the state. Such training shall emphasize:

(a) The law that applies to the administrative review of assessments;

(b) Taxpayer rights in the administrative review process;

(c) The composition and operation of the value adjustment board;

(d) The roles of the board, board clerk, board legal counsel, special magistrates, and the property appraiser or tax collector and their staff;

(e) Procedures for conducting hearings;

(f) Administrative reviews of just valuations, classified use valuations, property classifications, exemptions, and portability assessment differences;

(g) The review, admissibility, and consideration of evidence;

(h) Requirements for written decisions; and

(i) The department's standard measures of value, including the guidelines for real and tangible personal property.

(2) The training shall be open to the public.

(3) Before any hearings are conducted, in those counties that do not use special magistrates, all members of the board or the board's legal counsel must receive the training, including any updated modules, before conducting hearings, but need not complete the training examinations, and shall provide a statement acknowledging receipt of the training to the board clerk.

(4)(a) Each special magistrate that has five years of experience and, in those counties that do not use special magistrates, each board member or the board legal counsel must receive the training, including any updated modules, before conducting hearings, but need not complete the training examinations, and shall provide a statement acknowledging receipt of the training to the board clerk.

(b) Each special magistrate that has three years of experience must complete the training including

any updated modules and examinations, and receive from the department a certificate of completion, before conducting hearings and shall provide a copy of the certificate of completion of the training and examinations, including any updated modules, to the board clerk.

(5) The department's training is the official training for special magistrates regarding administrative reviews. The board clerk and board legal counsel may provide orientation to the special magistrates relating to local operating or ministerial procedures only. Such orientation meetings shall be open to the public for observation. This does not prevent board legal counsel from giving legal advice; however, to the fullest extent practicable, such legal advice should be in writing and public record. For requirements for decisions specifically based on legal advice see subsection 12D-9.030(6), and paragraph 12D-9.032(1)(b), F.A.C.

(6) Meetings or orientations for special magistrates, for any instructional purposes relating to procedures for hearings, handling or consideration of petitions, evidence, worksheets, forms, decisions or related computer files, must be open to the public for observation. Such meetings or orientations must be reasonably noticed to the public in the same manner as an organizational meeting of the board, or posted as reasonable notice on the board clerk's website. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 194.035, 195.022, 195.084, 213.05, Chapter 475, Part II FS. History- New 3-30-10.

12D-9.013 Organizational Meeting of the Value Adjustment Board.

(1) The board shall annually hold one or more organizational meetings, at least one of which shall meet the requirements of this section. The board shall hold this organizational meeting prior to the holding of value adjustment board hearings. The board shall provide reasonable notice of each organizational meeting and such notice shall include the date, time, location, purpose of the meeting, and information required by Section 286.0105, F.S. At one organizational meeting the board shall:

(a) Introduce the members of the board and provide contact information;

(b) Introduce the board clerk or any designee of the board clerk and provide the board clerk's contact information;

(c) Appoint or ratify the private board legal counsel. At the meeting at which board counsel is appointed, this item shall be the first order of business;

(d) Appoint or ratify special magistrates, if the board will be using them for that year;

(e) Make available to the public, special magistrates and board members, Rule Chapter 12D-9, F.A.C., containing the uniform rules of procedure for hearings before value adjustment boards and special magistrates (if applicable), and the associated forms that have been adopted by the department;

(f) Make available to the public, special magistrates and board members, Rule Chapter 12D-10, F.A.C., containing the rules applicable to the requirements for hearings and decisions;

(g) Make available to the public, special magistrates and board members the requirements of Florida's Government in the Sunshine / open government laws including information on where to obtain the current Government-In-The-Sunshine manual;

(h) Discuss, take testimony on and adopt or ratify with any required revision or amendment any local administrative procedures and forms of the board. Such procedures must be ministerial in nature and not be inconsistent with governing statutes, case law, attorney general opinions or rules of the department. All local administrative procedures and forms of the board or special magistrates shall be made available to the public and shall be accessible on the board clerk's website, if any;

(i) Discuss general information on Florida's property tax system, respective roles within this system, taxpayer opportunities to participate in the system, and property taxpayer rights;

(j) Make available to the public, special magistrates and board members, Rules 12D-51.001, 51.002, 51.003, F.A.C., and Chapters 192 through 195, F.S., as reference information containing the guidelines and statutes applicable to assessments and assessment administration;

(k) Adopt or ratify by resolution any filing fee for petitions for that year, in an amount not to exceed \$15; and

(l) For purposes of this rule, making available to the public means, in addition to having copies at the meeting, the board may refer to a website containing copies of such documents.

(2) The board shall announce the tentative schedule for the value adjustment board taking into consideration the number of petitions filed, the possibility of the need to reschedule and the requirement that the board stay in session until all petitions have been heard.

(3) The board may hold additional meetings for the purpose of addressing administrative matters.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 213.05, 286.011, 286.0105 FS. History-New 3-30-10.

12D-9.014 Prehearing Checklist.

(1) The board clerk shall not allow the holding of scheduled hearings until the board legal counsel has verified that all requirements in Chapter 194, F.S., and department rules, were met as follows:

(a) The composition of the board is as provided by law;

(b) Board legal counsel has been appointed as provided by law;

(c) Board legal counsel meets the requirements of Section 194.015, F.S.;

(d) No board members represent other government entities or taxpayers in any administrative or judicial review of property taxes, and citizen members are not members or employees of a taxing authority, during their membership on the board;

(e) In a county that does not use special magistrates, either all board members have received the department's training or board legal counsel has received the department's training;

(f) The organizational meeting, as well as any other board meetings, will be or were noticed in accordance with Section 286.011, F.S., and will be or were held in accordance with law;

(g) The department's uniform value adjustment board procedures, consisting of this

rule chapter, were made available at the organizational meeting and copies were provided to special magistrates and board members;

(h) The department's uniform policies and procedures manual is available on the existing website of the board clerk, if the board clerk has a website;

(i) The qualifications of special magistrates were verified, including that special magistrates received the department's training, and that special magistrates with less than five years of required experience successfully completed the department's training including any updated modules and an examination, and were certified;

(j) The selection of special magistrates was based solely on proper experience and qualifications and neither the property appraiser nor any petitioners influenced the selection of special magistrates. This provision does not prohibit the board from considering any written complaint filed with respect to a special magistrate by any party or citizen;

(k) All procedures and forms of the board or special magistrate are in compliance with Chapter 194, F.S., and this rule chapter;

(l) The board is otherwise in compliance with Chapter 194, F.S., and this rule chapter; and

(m) Notice has been given to the chief executive officer of each municipality as provided in Section 193.116, F.S.

(2) The board clerk shall notify the board legal counsel and the board chair of any action needed to comply with subsection (1).

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 213.05 FS. History-New 3-30-10.

Part II

Petitions; Representation of the Taxpayer; Scheduling and Notice of a Hearing; Exchange of Evidence; Withdrawn or Settled Petitions; Hearing Procedures; Disqualification or Recusal; Ex Parte Communication Prohibition; Record of the Proceeding; Petitions on Transfer of "Portability" Assessment Difference; Remanding Assessments; Recommended Decisions; Consideration and Adoption of

**Recommended Decisions; Final Decisions;
Further Judicial Proceedings.**

12D-9.015 Petition; Form and Filing Fee.

(1)(a) For the purpose of requesting a hearing before the value adjustment board, the department prescribes Form DR-486. The Form DR-486 series is adopted and incorporated by reference in Rule 12D-16.002, F.A.C.

(b) In accordance with Section 194.011(3), F.S., the department is required to prescribe petition forms. The department will not approve any local version of this form that contains substantive content that varies from the department's prescribed form. Any requests under Section 195.022, F.S., or approval from the department to use forms for petitions that are not identical to the department's form shall be by written board action or by written and signed request from the board chair or board legal counsel.

(2) Content of Petition. Petition forms as adopted or approved by the department shall contain the following elements so that when filed with the board clerk they shall:

(a) Describe the property by parcel number;

(b) Be sworn by the petitioner;

(c) State the approximate time anticipated by the petitioner for presenting and arguing his or her petition before the board or special magistrate to be considered by the board clerk as provided in subsection 12D-9.019(1), F.A.C., and may provide dates of nonavailability for scheduling purposes if applicable;

(d) Contain a space for the petitioner to indicate on the petition form that he or she does not wish to be present and argue the petition before the board or special magistrate but would like to have their evidence considered without an appearance;

(e) Provide a check box for the petitioner to request a copy of the property record card;

(f)1. Contain a signature field to be signed by the taxpayer, or if the taxpayer is a legal entity, the employee of the legal entity with authority to file such petitions; –

2. Contain a signature field to be signed by an authorized agent. If the authorized agent is subject to licensure as described in Rule 12D-9.018,

F.A.C., a space to provide identification of the licensing body and license number. If the authorized agent is not subject to licensure, for example a family member, a space to indicate the petition is accompanied by a written authorization of the taxpayer if not otherwise signed by the taxpayer;

(g) A space for the petitioner to indicate if the property is four or less residential units; or other property type; provided the board clerk shall accept the petition even if this space is not filled in; and

(h) A statement that a tangible personal property assessment may not be contested until a return required by Section 193.052, F.S., is filed.

(3) The petition form shall provide notice to the petitioner that the person signing the petition becomes the agent of the taxpayer for the purpose of serving process to obtain personal jurisdiction over the taxpayer for the entire value adjustment board proceeding, including any appeals to circuit court of a board decision by the property appraiser or tax collector.

(4) The petition form shall provide notice to the petitioner of his or her right to an informal conference with the property appraiser and that such conference is not a prerequisite to filing a petition nor does it alter the time frame for filing a timely petition.

(5) The department, the board clerk, and the property appraiser or tax collector shall make available to petitioners the blank petition form adopted or approved by the department. The department prescribes the Form DR-486 series, for this purpose, incorporated in Rule 12D-16.002, F.A.C., by reference.

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

(7) Filing Fees. By resolution of the value adjustment board, a petition shall be accompanied by a filing fee to be paid to the board clerk in an amount determined by the board not to exceed \$15 for each separate parcel of property, real or personal covered by the petition and subject to appeal.

(a) Other than fees required for late filed applications under Sections 193.155(8)(i) and 196.011(8), F.S., only a single filing fee shall be charged to any particular parcel of property, despite the existence of multiple issues or hearings pertaining to such parcels.

(b) No filing fee shall be required with respect to an appeal from the disapproval of a timely filed application for homestead exemption or from the denial of a homestead tax deferral.

(c) For joint petitions filed pursuant to Section 194.011(3)(e) or (f), F.S., a single filing fee shall be charged. Such fee shall be calculated as the cost of the time required for the special magistrate in hearing the joint petition and shall not exceed \$5 per parcel, for each additional parcel included in the petition, in addition to any filing fee for the petition. Said fee is to be proportionately paid by affected parcel owners.

(d) The value adjustment board or its designee shall waive the filing fee with respect to a petition filed by a taxpayer who demonstrates at the time of the filing by submitting with the petition documentation issued by the Department of Children and Family Services that the petitioner is currently an eligible recipient of temporary assistance under Chapter 414, F.S.

(e) All filing fees shall be paid to the board clerk at the time of filing. Any petition not accompanied by the required filing fee will be deemed incomplete.

(8) An owner of contiguous, undeveloped parcels may file a single joint petition if the property appraiser determines such parcels are substantially similar in nature. A condominium association, cooperative association, or any homeowners' association as defined in Section 723.075, F.S., with approval of its board of administration or directors, may file with the value adjustment board a single joint petition on behalf of any association members who own parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The property appraiser shall provide the petitioner with such determination upon request by the petitioner. The petitioner must obtain the determination from the property appraiser prior to filing the petition and must file

the determination provided and completed by the property appraiser with the petition. An incorporated attached list of parcels by parcel number or account number, with an indication on the petition form showing a joint petition, shall be sufficient to signify a joint petition.

(9)(a) The board clerk shall accept for filing any completed petition that is timely submitted on a form approved by the department, with payment if required. If an incomplete petition is received, the board clerk shall notify the petitioner and give the petitioner an opportunity to complete the petition within 10 calendar days. Such completed petition shall be timely if completed and filed within the time frame provided in the board clerk's notice.

(b) A "completed" petition is one that provides information for all the required elements that are displayed on the department's form, and is accompanied by the appropriate filing fee if required.

(c) The board clerk shall rely on the licensure information provided by a licensed agent, or written authorization provided by an unlicensed agent, in accepting the petition.

(10) Timely Filing of Petitions. Petitions related to valuation issues may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice of proposed property taxes. Other petitions may be filed as follows:

(a) With respect to issues involving the denial of an exemption on or before the 30th day following the mailing of the written notification of the denial of the exemption on or before July 1 of the year for which the application was filed;

(b) With respect to issues involving the denial of an agricultural classification application, on or before the 30th day following the mailing of the notification in writing of the denial of the agricultural classification on or before July 1 of the year for which the application was filed;

(c) With respect to issues involving the denial of a high-water recharge classification application on or before the 30th day following the mailing of the notification in writing of the denial of the high-water recharge classification on or before July 1 of the year for which the application was filed;

(d) With respect to issues involving the denial of a historic property used for commercial or certain nonprofit purposes classification application, on or before the 30th day following the mailing of the notification in writing of the denial of the classification on or before July 1 of the year for which the application was filed;

(e) With respect to issues involving the denial of a homestead tax deferral, on or before the 30th day following the mailing of the notification in writing of the denial of the deferral application or on or before the 20th day following receipt of the notification, whichever date is later;

(f) With respect to exemption or classification claims relating to an exemption or classification that is not reflected on the notice of property taxes, including late filed exemption claims, on or before the 25th day following the mailing of the notice of proposed property taxes, or on or before the 30th day following the mailing of the written notification of the denial of the exemption or classification, whichever date is later; and

(g) With respect to penalties imposed for filing incorrect information relating to tax deferrals for homestead, for recreational and commercial working waterfronts or for affordable rental housing properties, within 30 days after the penalties are imposed.

(11) Late Filed Petitions.

(a) The board may not extend the time for filing a petition. The board is not authorized to set and publish a deadline for late filed petitions. However, the failure to meet the statutory deadline for filing a petition to the board does not prevent consideration of such a petition by the board or special magistrate when the board or board designee determines that the petitioner has demonstrated good cause justifying consideration and that the delay will not, in fact, be harmful to the performance of board functions in the taxing process. "Good cause" means 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.

(b) The board clerk shall accept but not schedule for hearing a petition submitted to the board after the statutory deadline has expired, and shall submit the petition to the board or board designee for good cause consideration if the petition is accompanied by a written explanation for the delay in filing. Unless scheduled together or by the same notice, the decision regarding good cause for late filing of the petition must be made before a hearing is scheduled, and the parties shall be notified of such decision.

(c) The board clerk shall forward a copy of completed but untimely filed petitions to the property appraiser or tax collector at the time they are received or upon the determination of good cause.

(d) The board is authorized to, but need not, require good cause hearings before good cause determinations are made. The board or a board designee, which includes the board legal counsel or a special magistrate, shall determine whether the petitioner has demonstrated, in writing, good cause justifying consideration of the petition. If the board or a board designee determines that the petitioner has demonstrated good cause, the board clerk shall accept the petition for filing and so notify the petitioner and the property appraiser or the tax collector.

(e) If the board or a board designee determines that the petitioner has not demonstrated good cause, or if the petition is not accompanied by a written explanation for the delay in filing, the board clerk shall notify the petitioner and the property appraiser or tax collector.

(f) A person who files a petition may timely file an action in circuit court to preserve the right to proceed in circuit court. (Sections

193.155(8)(k), 194.036, 194.171(2), and 196.151, F.S.).

(12) Acknowledgement of Timely Filed Petitions. The board clerk shall accept all completed petitions, as defined by statute and subsection (2) of this rule. Upon receipt of a completed and filed petition, the board clerk shall provide to the petitioner an acknowledgment of receipt of such petition and shall provide to the property appraiser or tax collector a copy of the petition. If, in the petition, the petitioner requested a copy of the property record card, the property appraiser shall forward a copy of the property record card to the board clerk. The board clerk shall then provide to the petitioner a copy of the property record card, along with the notice of hearing.

(13) The board clerk shall send the notice of hearing such that it will be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The board clerk will have prima facie complied with the requirements of this section if the notice was deposited in the U.S. mail thirty (30) days prior to the day of such scheduled appearance.

(14) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the Department's Internet site:
<http://dor.myflorida.com/dor/property/forms/>.
Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.155, 194.011, 194.013, 194.032, 194.034, 194.036, 194.171, 195.022, 195.084, 196.151, 197.253, 197.301, 197.3041, 197.3047, 197.3073, 197.3079, 200.069, 213.05 FS. History-New 3-30-10.

12D-9.016 Filing and Service.

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

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

(b) If the board clerk accepts documents filed by FAX or other electronic transmission, documents received on or after 11:59:59 P.M. of the day they are due shall be filed the next regular business day.

(c) Any document that is required to be filed, served, provided or made available may be filed, served, provided or made available electronically, if the board and the board clerk make such resources available, and no party is prejudiced.

(d) Local procedure may supersede provisions regarding the number of copies that must be provided.

(3) When a party files a document with the board, other than the petition, that party shall serve copies of the document to all parties in the proceeding. When a document is filed that does not clearly indicate it has been provided to the other party, the board clerk, board legal counsel, board members and special magistrates shall inform the party of the requirement to provide to every party or shall exercise care to ensure that a copy is provided to every party, and that no ex parte communication occurs.

(4) Any party who elects to file any document by FAX or other 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 board clerk as a result.
Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 213.05 FS. History-New 3-30-10.

12D-9.017 Ex Parte Communication Prohibition.

(1)(a) No participant, including the petitioner, the property appraiser, the board 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 party shall communicate with a member of the board or the special magistrate regarding the issues in the case without the other party being present or without providing a copy of any written communication to the other party.

(b) This rule shall not prohibit internal communications among the board clerk, board, special magistrates, and board legal counsel, regarding internal operations of the board and other administrative matters. The special magistrate is specifically authorized to communicate with the board's legal counsel or board clerk on legal matters or other issues regarding a petition.

(2) Any attempt by the property appraiser, tax collector, taxpayer or taxpayer's agent to provide information or discuss issues regarding a petition without the presence of the opposing party before or after the hearing, with a member of the board or the special magistrate shall be immediately placed on the record by the board member or special magistrate.

(3) The ex parte communication shall not be considered by the board or the special magistrate unless all parties have been notified about the ex parte communication, and no party objects, and all parties have an opportunity during the hearing to cross-examine, object, or otherwise address the communication.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 213.05 FS. History-New 3-30-10.

12D-9.018 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) The individual, agent, or legal entity that signs the petition becomes the agent of the taxpayer for the purpose of serving process to obtain jurisdiction over the taxpayer for the entire value adjustment board proceedings, including any appeals of a board decision by the property appraiser or tax collector.

(3) The agent need not be a licensed individual or person with specific qualifications and may be any person, including a family member, authorized by the taxpayer to represent them before the value adjustment board.

(4) A petition filed by an unlicensed agent must also be signed by the taxpayer or accompanied by a written authorization from the taxpayer.

(5) As used in this rule chapter, the term "licensed" refers to holding a license or certification under Chapter 475, Part I or Part II, F.S., being a Florida certified public accountant under Chapter 473, F.S., or membership in the Florida Bar.

(6) When duplicate petitions are filed on the same property, the board clerk shall contact the owner and all petitioners to resolve the issue.

(7) The board clerk may require the use of an agent number to facilitate scheduling of hearings as long as such use is not inconsistent with this rule.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.032, 194.034, 195.022, 195.084, 213.05, Chapter 473, Chapter 475, Part I and II FS. History-New 3-30-10.

12D-9.019 Scheduling and Notice of a Hearing.

(1)(a) The board clerk shall prepare a schedule of appearances before the board or special magistrates based on timely filed petitions, and shall notify each petitioner of the scheduled time of appearance. The board clerk shall simultaneously notify the property appraiser or tax collector. The board clerk may electronically send this notification to the petitioner, if the petitioner indicates on his or her petition this means of communication for receiving notices, materials, and communications.

(b) When scheduling hearings, the board clerk shall consider:

1. The anticipated amount of time if indicated on the petition;
2. The experience of the petitioner;
3. The complexity of the issues or the evidence to be presented;
4. The number of petitions/parcels to be heard at a single hearing;
5. The efficiency or difficulty for the petitioner of grouping multiple hearings for a single petitioner on the same day; and
6. The likelihood of withdrawals, cancellations of hearings or failure to appear.

(c) Upon request of a party, the board clerk shall consult with the petitioner and the property appraiser or tax collector to ensure that, within the

board clerk's judgment, an adequate amount of time is provided for presenting and considering evidence.

(2) No hearing shall be scheduled related to valuation issues prior to completion by the governing body of each taxing authority of the public hearing on the tentative budget and proposed millage rate.

(3)(a) The notice of hearing before the value adjustment board shall be in writing, and shall be delivered by regular or certified U.S. mail or personal delivery, or in the manner requested by the petitioner on Form DR-486, so that the notice shall be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The Form DR-486 series is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice of hearing form shall meet the requirements of this section and shall be subject to approval by the department. The department provides Form DR-481 as a format for the form of such notice. Form DR-481 is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice shall include these elements:

1. The parcel number, account number or legal address of all properties being heard at the scheduled hearing;
2. The type of hearing scheduled;
3. The date and time of the scheduled hearing;
4. The time reserved, or instructions on how to obtain this information;
5. The location of the hearing, including the hearing room number if known, together with board clerk contact information including office address and telephone number, for petitioners to request assistance in finding hearing rooms;
6. Instructions on how to obtain a list of the potential special magistrates for the type of petition in question;
7. A statement of the petitioner's right to participate in the exchange of evidence with the property appraiser;
8. A statement that the petitioner has the right to reschedule the hearing one time by making a written request to the board clerk at least five calendar days before the hearing;
9. Instructions on bringing copies of evidence;
10. Any information necessary to comply with

federal or state disability or accessibility acts; and

11. Information regarding where the petitioner may obtain a copy of the uniform rules of procedure.

(b) If the petitioner has requested a copy of the property record card, it shall be sent no later than the time at which the notice of hearing is sent.

(4)(a) The petitioner may reschedule the hearing without good cause one time by submitting a written request to the board clerk no fewer than five (5) calendar days before the scheduled appearance. To calculate the five (5) days, the petitioner shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing. 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 previous day which is neither a Saturday, Sunday, or legal holiday.

(b) A petitioner may request a rescheduling of a hearing for good cause by submitting a written request to the board clerk before the scheduled appearance or as soon as practicable. A rescheduling for good cause shall not be treated as the one time rescheduling to which a petitioner has a right upon timely request under Section 194.032(2), F.S. Reasons for "good cause" that a board clerk or board designee may consider in providing for a rescheduling are:

1. Petitioner is scheduled for a value adjustment board hearing for the same time in another jurisdiction;
2. Illness of the petitioner or a family member;
3. Death of a family member;
4. The taxpayer's hearing does not begin within a reasonable time of their scheduled hearing time; or
5. Other reasons beyond the control of the petitioner.

(c) The property appraiser or tax collector may submit a written request to the board clerk to reschedule the hearing, and must provide a copy of the request to the petitioner. If there is a conflict, such as the attorney or staff needs to attend two different hearings which are scheduled at the same time, the property appraiser or tax collector may request a reschedule.

(5) A request to reschedule the hearing made by the petitioner fewer than five calendar days before the scheduled hearing may be made only for an emergency when good cause is shown. Such a request shall be made to the board clerk who shall forward the request to the board or a board designee, which includes the board clerk, board legal counsel or a special magistrate.

(a) If the board or a board designee determines that the request does not show good cause, the request will be denied and the board may proceed with the hearing as scheduled.

(b) If the board or a board designee determines that the request demonstrates good cause, the request will be granted. In that event, the board clerk will issue a notice of hearing with the new hearing date, which shall be the earliest date that is convenient for all parties.

(c) The board clerk shall give appropriate notice to the petitioner of the determination as to good cause. Form DR-485WCN is designated and may be used for this purpose. Form DR-485WCN is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The board clerk shall also appropriately notify the property appraiser or tax collector.

(d) When rescheduling hearings under this rule subsection or subsection (4) above, if the parties are unable to agree on an earlier date, the board clerk is authorized to schedule the hearing and send a notice of such hearing by regular or certified U.S. mail or personal delivery, or in the manner requested by the petitioner on the petition Form DR-486, so that the notice shall be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The board clerk is responsible for notifying the parties of any rescheduling.

(6) If a hearing is rescheduled, the deadlines for the exchange of evidence shall be computed from the new hearing date, if time permits.

(7)(a) If a petitioner's hearing does not commence as scheduled, the board clerk is authorized to determine good cause exists to reschedule a petition.

(b) In no event shall a petitioner be required to wait more than a reasonable time from the scheduled time to be heard. The board clerk is authorized to find that a reasonable time has

elapsed based on other commitments, appointments or hearings of the petitioner, lateness in the day, and other hearings waiting to be heard earlier than the petitioner's hearing with the board or special magistrate. If his or her petition has not been heard within a reasonable time, the petitioner may request to be heard immediately. If the board clerk finds a reasonable time has elapsed and petitioner is not heard, the board clerk shall find good cause is present and shall reschedule the petitioner's hearing.

(c) A petitioner is not required to wait any length of time as a prerequisite to filing an action in circuit court.

(8) Copies of the forms incorporated in Section 12D-16.002, F.A.C., may be obtained at the Department's Internet site:

<http://dor.myflorida.com/dor/property/forms/>. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 195.022, 213.05 FS. History-New 3-30-10.

12D-9.020 Exchange of Evidence.

(1) The petitioner has the option of participating in an exchange of evidence with the property appraiser. If the petitioner chooses not to participate in the evidence exchange, the petitioner may still present evidence for consideration by the board or the special magistrate. However, as described in this section, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser a reasonable time before the hearing, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. These requirements are more specifically described in subsection (8) of this rule and in Rule 12D-9.025(4)(a) and (f), F.A.C.

(2)(a) If the petitioner chooses to participate in an exchange of evidence with the property appraiser, at least fifteen (15) days before the hearing, the petitioner shall provide the property

appraiser with a list and summary of evidence to be presented at the hearing accompanied by copies of documentation to be presented at the hearing. To calculate the fifteen (15) days, the petitioner shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

(b) If the petitioner chooses to participate in an exchange of evidence with the property appraiser and he or she shows good cause to the board clerk for not being able to meet the fifteen (15) day requirement and the property appraiser is unwilling to agree to a different timing of the exchange, the board clerk is authorized to reschedule the hearing to allow for the exchange of evidence to occur.

(c) 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 accompanied by copies of documentation to be presented by the property appraiser at the hearing. The evidence list must contain the property record card if provided by the board clerk. To calculate the seven (7) days, the property appraiser shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

(d) 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 previous day which is neither a Saturday, Sunday, or legal holiday.

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

(b) If the property appraiser does not provide the information within the time required by paragraph (2)(c), the hearing shall be rescheduled to allow the petitioner additional time to review the property appraiser's evidence.

(4) By agreement of the parties the evidence exchanged in subsection (2) shall be delivered by

regular or certified U.S. mail, personal delivery, overnight mail, FAX or email. The petitioner and property appraiser may agree to a different timing and method of exchange. "Provided" means received by the party not later than the time frame provided in this rule section. If either party does not designate a desired manner for receiving information in the evidence exchange, the information shall be provided by U.S. mail. The property appraiser shall provide the information at the address listed on the petition form for the petitioner.

(5) Level of detail on evidence summary: The summary pursuant to subsection (2) 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.

(6) Hearing procedures: Neither the board nor the special magistrate shall take any general action regarding compliance with this section, 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 this section, and shall be taken at a scheduled hearing and 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.

(7) A property appraiser shall not use at a hearing evidence that was not supplied to the petitioner as required. The 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.

(8) No petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser in connection with a filed petition, of which the petitioner had knowledge and denied to the property appraiser. Such evidentiary materials shall be considered timely if provided to the property appraiser no later than fifteen (15) days before the hearing in accordance with the exchange of evidence rules in this section. If provided to the property appraiser less

than fifteen (15) days before the hearing, such materials shall be considered timely if the board or special magistrate determines they were provided a reasonable time before the hearing, as described in paragraph 12D-9.025(4)(f), F.A.C. A petitioner's ability to introduce the evidence, requested of the petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph. This provision does not preclude rebuttal evidence that was not specifically requested of the petitioner by the property appraiser.

(9) As the trier of fact, the board or special magistrate may independently rule on the admissibility and use of evidence. If the board or special magistrate has any questions relating to the admissibility and use of evidence, the board or special magistrate should consult with the board legal counsel. The basis for any ruling on admissibility of evidence must be reflected in the record.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.074, 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 200.069, 213.05 FS. History—New 3-30-10.

12D-9.021 Withdrawn or Settled Petitions; Petitions Acknowledged as Correct; Non-Appearance; Summary Disposition of Petitions.

(1) A petitioner may withdraw a petition prior to the scheduled hearing. Form DR-485WI is prescribed by the department for such purpose; however, other written or electronic means may be used. Form DR-485WI is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. Form DR-485WI shall indicate the reason for the withdrawal as one of the following:

- (a) Petitioner agrees with the determination of the property appraiser or tax collector;
- (b) Petitioner and property appraiser or tax collector have reached a settlement of the issues;
- (c) Petitioner does not agree with the decision or assessment of the property appraiser or tax collector but no longer wishes to pursue a remedy through the value adjustment board process; or
- (d) Other specified reason.

(2) The board clerk shall cancel the hearing upon receiving a notice of withdrawal from the

petitioner and there shall be no further proceeding on the matter.

(3) If a property appraiser or tax collector agrees with a petition challenging a decision to deny an exemption, classification, portability assessment difference transfer, or deferral, the property appraiser or tax collector shall issue the petitioner a notice granting said exemption, classification, portability assessment difference transfer, or deferral and shall file with the board clerk a notice that the petition was acknowledged as correct. The board clerk shall cancel the hearing upon receiving the notice of acknowledgement and there shall be no further proceeding on the matter acknowledged as correct.

(4) If parties do not file a notice of withdrawal or notice of acknowledgement but indicate the same at the hearing, the board or special magistrate shall so state on the hearing record and shall not proceed with the hearing and shall not issue a decision. If a petition is withdrawn or acknowledged as correct under subsection (1), (2), or (3), or settlement is reached and filed by the parties, at any time before a recommended decision or final board decision is issued, the board, special magistrate or clerk need not issue such decision. The board clerk shall list and report all withdrawals, settlements, acknowledgements of correctness as withdrawn or settled petitions. Settled petitions shall include those acknowledged as correct by the property appraiser or tax collector.

(5) For all withdrawn or settled petitions, a special magistrate shall not produce a recommended decision and the board shall not produce a final decision.

(6) When a petitioner does not appear by the commencement of a scheduled hearing and the petitioner has not indicated a desire to have their petition heard without their attendance and a good cause request is not pending, the board or the special magistrate shall not commence or proceed with the hearing and shall produce a decision or recommended decision as described in this section. If the petitioner makes a good cause request before the decision, if no special magistrate is used, or recommended decision, if a special magistrate is used, is issued, the board or board designee shall rule on the good cause

request before determining that the decision or recommended decision should be set aside and that the hearing should be rescheduled, or that the board or special magistrate should issue the decision or recommended decision.

(7) When a petitioner does not appear by the commencement of a scheduled hearing and a good cause request is pending, the board or board designee shall rule on the good cause request before determining that the hearing should be rescheduled or that the board or special magistrate should issue a decision or recommended decision.

(a) If the board or board designee finds good cause for the petitioner's failure to appear, the board clerk shall reschedule the hearing.

(b) If the board or board designee does not find good cause for the petitioner's failure to appear, the board or special magistrate shall issue a decision or recommended decision.

(8) Decisions issued under subsection (6) or subsection (7) shall not be treated as withdrawn or settled petitions and shall contain:

(a) A finding of fact that the petitioner did not appear at the hearing and did not state good cause; and

(b) A conclusion of law that the relief is denied and the decision is being issued in order that any right the petitioner may have to bring an action in circuit court is not impaired.

(9) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the Department's Internet site:
<http://dor.myflorida.com/dor/property/forms/>.
Rulemaking Authority 194.011(5), 194.034(1), 194.034, 195.027(1) FS. Law Implemented 193.155, 194.011, 194.032, 194.037, 213.05 FS. History--New 3-30-10.

12D-9.022 Disqualification or Recusal of Special Magistrates or Board Members.

(1) If either the petitioner or the property appraiser communicates a reasonable belief that a special magistrate does not possess the statutory qualifications in accordance with Sections 194.035 and 475.611(1)(h) and (i), F.S., to conduct a particular proceeding, the basis for that belief shall be included in the record of the proceeding or submitted prior to the hearing in writing to the board legal counsel.

(2)(a) Upon review, if the board or its legal counsel determines that the original special magistrate does not meet the statutory requirements and qualifications, the board or legal counsel shall enter into the record an instruction to the board clerk to reschedule the petition before a different special magistrate to hear or rehear the petition without considering actions that may have occurred during any previous hearing.

(b) Upon review, if the board or its legal counsel determines that the special magistrate does meet the statutory requirements and qualifications, such determination shall be issued in writing and placed in the record, and the special magistrate will conduct the hearing, or, if a hearing was already held, the recommended decision will be forwarded to the board in accordance with these rules.

(3) Board members and special magistrates shall recuse themselves from hearing a petition when they have a conflict of interest or an appearance of a conflict of interest.

(4)(a) If either the petitioner or the property appraiser communicates a reasonable belief that a board member or special magistrate has a bias, prejudice or conflict of interest, the basis for that belief shall be stated in the record of the proceeding or submitted prior to the hearing in writing to the board legal counsel.

(b) If the board member or special magistrate agrees with the basis stated in the record, the board member or special magistrate shall recuse himself or herself on the record. A special magistrate who recuses himself or herself shall close the hearing on the record and notify the board clerk of the recusal. Upon a board member's recusal, the hearing shall go forward if there is a quorum. Upon a special magistrate's recusal, or a board member's recusal that results in a quorum not being present, the board clerk shall reschedule the hearing.

(c) If the board member or special magistrate questions the need for recusal, the board member or special magistrate shall request an immediate determination on the matter from the board's legal counsel.

(d) Upon review, if the board legal counsel:

1. Determines that a recusal is necessary, the board member or special magistrate shall recuse

himself or herself and the board clerk shall reschedule the hearing; or

2. Is uncertain whether recusal is necessary, the board member or special magistrate shall recuse himself or herself and the board clerk shall reschedule the hearing; or

3. Determines the recusal is unnecessary, the board legal counsel shall set forth the basis upon which the request was not based on sufficient facts or reasons.

(e) In a rescheduled hearing, the board or special magistrate shall not consider any actions that may have occurred during any previous hearing on the same petition.

(5) A rescheduling for disqualification or recusal shall not be treated as the one time rescheduling to which a petitioner has a right upon timely request under Section 194.032(2), F.S. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 194.035, 213.05, 475.611, FS. History-New 3-30-10.

12D-9.023 Hearings Before Board or Special Magistrates.

(1) Hearing rooms, office space, computer systems, personnel, and other resources used for any of the board's functions shall be controlled by the board through the board clerk of the value adjustment board. The board clerk shall perform his or her duties in a manner to avoid the appearance of a conflict of interest. The board clerk shall not use the resources of the property appraiser's or tax collector's office and shall not allow the property appraiser or tax collector to control or influence any part of the value adjustment board process.

(2) Boards and special magistrates shall adhere as closely as possible to the schedule of hearings established by the board clerk but must ensure that adequate time is allowed for parties to present evidence and for the board or special magistrate to consider the admitted evidence. If the board or special magistrate determines from the petition form that the hearing has been scheduled for less time than the petitioner requested on the petition, the board or special magistrate must consider whether the hearing should be extended or continued to provide additional time.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New 3-30-10.

12D-9.024 Procedures for Commencement of a Hearing.

(1) If all parties are present and the petition is not withdrawn or settled, a hearing on the petition shall commence.

(2) The hearing shall be open to the public.

(3) Upon the request of either party, a special magistrate shall swear in all witnesses in that proceeding on the record. Upon such request and if the witness has been sworn in during an earlier hearing, it shall be sufficient for the special magistrate to remind the witness that he or she is still under oath.

(4) Before or at the start of the hearing, the board, the board's designee or the special magistrate shall give a short overview verbally or in writing of the rules of procedure and any administrative issues necessary to conduct the hearing.

(5) Before or at the start of the hearing, unless waived by the parties, the board or special magistrate shall make an opening statement or provide a brochure or taxpayer information sheet that:

(a) States the board or special magistrate is an independent, impartial, and unbiased hearing body or officer, as applicable;

(b) States the board or special magistrate does not work for the property appraiser or tax collector, is independent of the property appraiser or tax collector, and is not influenced by the property appraiser or tax collector;

(c) States the hearing will be conducted in an orderly, fair, and unbiased manner;

(d) States that the law does not allow the board or special magistrate to review any evidence unless it is presented on the record at the hearing or presented upon agreement of the parties while the record is open; and

(e) States that the law requires the board or special magistrate to evaluate the relevance and credibility of the evidence in deciding the results of the petition.

(6) The board or special magistrate shall ask the parties if they have any questions regarding the verbal or written overview of the procedures for the hearing.

(7) After the opening statement, and clarification of any questions with the parties, the board or special magistrate shall proceed with the hearing. The property appraiser shall indicate for the record his or her determination of just value, classified use value, tax exemption, property classification, or “portability” assessment difference, or deferral or penalties. Under subsection 194.301(1), F.S., in a hearing on just, classified use, or assessed value, the first issue to be considered is whether the property appraiser establishes a presumption of correctness for the assessment. The property appraiser shall present evidence on this issue first.

(8) If at any point in a hearing or proceeding the petitioner withdraws the petition or the parties agree to settlement, the petition becomes a withdrawn or settled petition and the hearing or proceeding shall end. The board or special magistrate shall state or note for the record that the petition is withdrawn or settled, shall not proceed with the hearing, shall not consider the petition, and shall not produce a decision or recommended decision.

(9)(a) If the petitioner does not appear by the commencement of a scheduled hearing, the board or special magistrate shall not commence the hearing and shall proceed under the requirements set forth in subsection 12D-9.021(6), F.A.C., unless:

1. The petition is on a “portability” assessment difference transfer in which the previous homestead is the subject of the petition and is located in a county other than the county where the new homestead is located. Requirements specific to hearings on such petitions are set forth in subsection 12D-9.028(6), F.A.C.; or

2. The petitioner has indicated that he or she does not wish to appear at the hearing, but would like for the board or special magistrate to consider evidence submitted by the petitioner.

(b) A petitioner who has indicated that he or she does not wish to appear at the hearing, but would like for the board or special magistrate to consider his or her evidence, shall submit his or

her evidence to the board clerk and property appraiser before the hearing. The board clerk shall:

1. Keep the petitioner’s evidence as part of the petition file;

2. Notify the board or special magistrate before or at the hearing that the petitioner has indicated he or she will not appear at the hearing, but would like for the board or special magistrate to consider his or her evidence at the hearing; and

3. Give the evidence to the board or special magistrate at the beginning of the hearing.

(10) If the property appraiser or tax collector does not appear by the commencement of a scheduled hearing, except a good cause hearing, the board or special magistrate shall state on the record that the property appraiser or tax collector did not appear at the hearing. Then, the board or special magistrate shall request the petitioner to state for the record whether he or she wants to have the hearing rescheduled or wants to proceed with the hearing without the property appraiser or tax collector. If the petitioner elects to have the hearing rescheduled, the board clerk shall reschedule the hearing. If the petitioner elects to proceed with the hearing without the property appraiser or tax collector, the board or special magistrate shall proceed with the hearing and shall produce a decision or recommended decision.

(11) In any hearing conducted without one of the parties present, the board or special magistrate must take into consideration the inability of the opposing party to cross-examine the non-appearing party in determining the sufficiency of the evidence of the non-appearing party.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New 3-30-10.

12D-9.025 Procedures for Conducting a Hearing; Presentation of Evidence; Testimony of Witnesses.

(1) As part of administrative reviews, the board or special magistrate must:

(a) Review the evidence presented by the parties;

(b) Determine whether the evidence presented is admissible;

(c) Admit the evidence that is admissible, and identify the evidence presented to indicate that it is admitted or not admitted; and

(d) Consider the admitted evidence.

(2)(a) In these rules, the term “admitted evidence” means evidence that has been admitted into the record for consideration by the board or special magistrate. Board and special magistrate proceedings are not controlled by strict rules of evidence and procedure. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(b) For administrative reviews, “relevant evidence” is evidence that is reasonably related, directly or indirectly, to the statutory criteria that apply to the issue under review. This description means the evidence meets or exceeds a minimum level of relevance necessary to be admitted for consideration, but does not necessarily mean that the evidence has sufficient relevance to legally justify a particular conclusion.

(c) Rebuttal evidence is relevant evidence used solely to disprove or contradict the original evidence presented by an opposing party.

(d) As the trier of fact, the board or special magistrate may independently rule on the admissibility and use of evidence. If the board or special magistrate has any questions relating to the admissibility and use of evidence, the board or special magistrate should consult with the board legal counsel. The basis for any ruling on admissibility of evidence must be reflected in the record. The special magistrate may delay ruling on the question during the hearing and consult with board legal counsel after the hearing.

(3)(a) In a board or special magistrate hearing, the petitioner is responsible for presenting relevant and credible evidence in support of his or her belief that the property appraiser’s determination is incorrect. The property appraiser is responsible for presenting relevant and credible evidence in support of his or her determination.

(b) Under Section 194.301, F.S., “preponderance of the evidence” is the standard of proof that applies in assessment challenges. The “clear and convincing evidence” standard of proof no longer applies, starting with 2009 assessments. A taxpayer shall never have the burden of proving that the property appraiser’s assessment is not

supported by any reasonable hypothesis of a legal assessment.

(4)(a) No evidence shall be considered by the board or special magistrate except when presented and admitted during the time scheduled for the petitioner’s hearing, or at a time when the petitioner has been given reasonable notice. The petitioner may still present evidence if he or she does not participate in the evidence exchange. However, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and refuses to provide it to the property appraiser, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. These requirements are more specifically described in paragraph (f) below.

(b) If a party submits evidence to the board clerk prior to the hearing, the board or special magistrate shall not review or consider such evidence prior to the hearing.

(c) In order to be reviewed by the board or special magistrate, any evidence filed with the board clerk shall be brought to the hearing by the party. This requirement shall not apply where:

1. A petitioner does not appear at a hearing on a “portability” assessment difference transfer petition in which the previous homestead is the subject of the petition and is located in a county other than the county where the new homestead is located. Requirements specific to hearings on such petitions are set forth in subsection 12D-9.028(6), F.A.C.; or

2. A petitioner has indicated that he or she does not wish to appear at the hearing but would like for the board or special magistrate to consider evidence submitted by the petitioner.

(d) A petitioner who has indicated that he or she does not wish to appear at the hearing, but would like for the board or special magistrate to consider his or her evidence, shall submit his or her evidence to the board clerk before the hearing. The board clerk shall:

1. Keep the petitioner’s evidence as part of the petition file;

2. Notify the board or special magistrate before or at the hearing that the petitioner has indicated he or she will not appear at the hearing,

but would like for the board or special magistrate to consider his or her evidence at the hearing; and

3. Give the evidence to the board or special magistrate at the beginning of the hearing.

(e) The board clerk may provide an electronic system for the filing and retrieval of evidence for the convenience of the parties, but such evidence shall not be considered part of the record and shall not be reviewed by the board or special magistrate until presented at a hearing. Any exchange of evidence should occur between the parties and such evidence is not part of the record until presented by the offering party and deemed admissible at the hearing.

(f)1. No petitioner shall present for consideration, nor shall the board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser in connection with a filed petition, of which the petitioner had knowledge and denied to the property appraiser. Such evidentiary materials shall be considered timely if provided to the property appraiser no later than fifteen (15) days before the hearing in accordance with the exchange of evidence rules in Rule 12D-9.020, F.A.C., and, if provided to the property appraiser less than fifteen (15) days before the hearing, shall be considered timely if the board or special magistrate determines they were provided a reasonable time before the hearing. A petitioner's ability to introduce the evidence, requested of the petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph. This provision does not preclude rebuttal evidence that was not specifically requested of the petitioner by the property appraiser. For purposes of this rule and Rule 12D-9.020, F.A.C., reasonableness shall be assumed if the property appraiser does not object. Otherwise, reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. If a petitioner has acted in good faith and not denied evidence to the property appraiser prior to the hearing, as provided by Section 194.034(1)(d), F.S., but wishes to submit evidence at the hearing which is of a nature

that would require investigation or verification by the property appraiser, then the special magistrate may allow the hearing to be recessed and, if necessary, rescheduled so that the property appraiser may review such evidence.

2. A property appraiser shall not present undisclosed evidence that was not supplied to the petitioner as required under the evidence exchange rule, Rule 12D-9.020, F.A.C. The 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.

(5) When testimony is presented at a hearing, each party shall have the right to cross-examine any witness.

(6)(a) By agreement of the parties entered in the record, the board or special magistrate may leave the record open and postpone completion of the hearing to a date certain to allow a party to collect and provide additional relevant and credible evidence. Such postponements shall be limited to instances where, after completing original presentations of evidence, the parties agree to the collection and submittal of additional, specific factual evidence for consideration by the board or special magistrate. In lieu of completing the hearing, upon agreement of the parties the board or special magistrate is authorized to consider such evidence without further hearing.

(b) If additional hearing time is necessary, the hearing must be completed at the date, place, and time agreed upon for presenting the additional evidence to the board or special magistrate for consideration.

(c) The following limitations shall apply if the property appraiser seeks to present additional evidence that was unexpectedly discovered and that would increase the assessment.

1. The board or special magistrate shall ensure that such additional evidence is limited to a correction of a factual error discovered in the physical attributes of the petitioned property; a change in the property appraiser's judgment is not such a correction and shall not justify an increase in the assessment.

2. A notice of revised proposed assessment shall be made and provided to the petitioner in accordance with the notice provisions set out in Florida Statutes for notices of proposed property

taxes.

3. A new hearing shall be scheduled and notice of the hearing shall be sent to the petitioner along with a copy of the revised property record card if requested.

4. The evidence exchange procedures in Rule 12D-9.020, F.A.C., shall be available.

5. The back assessment procedure in Section 193.092, F.S., shall be used for any assessment already certified.

(7)(a) The board or special magistrate shall receive, identify for the record, and retain all exhibits presented during the hearing and send them to the board clerk along with the recommended decision or final decision. Upon agreement of the parties, the board clerk is authorized to make an electronic representation of evidence that is difficult to store or maintain.

(b) The board or special magistrate shall have the authority, at a hearing, to ask questions at any time of either party, the witnesses, or board staff. When asking questions, the board or special magistrate shall not show bias for or against any party or witness. The board or special magistrate shall limit the content of any question asked of a party or witness to matters reasonably related, directly or indirectly, to matters already in the record.

(c) Representatives of interested municipalities may be heard as provided in Section 193.116, F.S.

(8) Unless a board or special magistrate determines that additional time is necessary, the board or special magistrate shall conclude all hearings at the end of the time scheduled for the hearing. If a hearing is not concluded by the end of the time scheduled, the board or special magistrate shall determine the amount of additional time needed to conclude the hearing.

(a) If the board or special magistrate determines that the amount of additional time needed to conclude the hearing would not unreasonably disrupt other hearings, the board or special magistrate is authorized to proceed with conclusion of the hearing.

(b) If the board or special magistrate determines that the amount of additional time needed to conclude the hearing would unreasonably disrupt other hearings, the board or special magistrate shall so state on the record and

shall notify the board clerk to reschedule the conclusion of the hearing to a time as scheduled and noticed by the board clerk.

(9) The board or special magistrate shall not be required to make, at any time during a hearing, any oral or written finding, conclusion, decision, or reason for decision. The board or special magistrate has the discretion to determine whether to make such determinations during a hearing or to consider the petition and evidence further after the hearing and then make such determinations.

(10) For purposes of reporting board action on decisions and on the notice of tax impact, the value as reflected on the initial roll shall mean the property appraiser's determination as presented at the commencement of the hearing or as reduced by the property appraiser during the hearing, but before a decision by the board or a recommended decision by the special magistrate. See Rule 12D-9.038, F.A.C.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.092, 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New 3-30-10.

12D-9.026 Procedures for Conducting a Hearing by Electronic Media.

(1) Hearings conducted by electronic media shall occur only under the conditions set forth in this rule section.

(a) The board must approve and have available the necessary equipment and procedures.

(b) The special magistrate, if one is used, must agree in each case to the electronic hearing.

(c) The board must reasonably accommodate parties that have hardship or lack necessary equipment or ability to access equipment. The board must provide a physical location at which a party may appear, if requested.

(2) For any hearing conducted by electronic media, the board shall ensure that all equipment is adequate and functional for allowing clear communication among the participants and for creating the hearing records required by law. The board procedures shall specify the time period within which a party must request to appear at a hearing by electronic media.

(3) Consistent with board equipment and

procedures:

(a) Any party may request to appear at a hearing before a board or special magistrate, using telephonic or other electronic media. If the board or special magistrate allows a party to appear by telephone, all members of the board in the hearing or the special magistrate must be physically present in the hearing room. Unless required by other provisions of state or federal law, the board clerk need not comply with such a request if such telephonic or electronic media are not reasonably available.

(b) The parties must also all agree on the methods for swearing witnesses, presenting evidence, and placing testimony on the record. Such methods must comply with the provisions of this rule chapter. The agreement of the parties must include which parties must appear by telephonic or other electronic media, and which parties will be present in the hearing room.

(4) Such hearings must be open to the public either by providing the ability for interested members of the public to join the hearing electronically or to monitor the hearing at the location of the board or special magistrate. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 195.035, 195.022, 195.084, 213.05 FS. History-New 3-30-10.

12D-9.027 Process of Administrative Review.

(1) This section sets forth the sequence of general procedural steps for administrative reviews. This order of steps applies to: the consideration of evidence, the development of conclusions, and the production of written decisions. The board or special magistrate shall follow this general sequence in order to fulfill the procedural requirements of Section 194.301, F.S. The following subsections set forth the steps for administrative reviews of:

(a) Just valuations in subsection (2);

(b) Classified use valuations, and assessed valuations of limited increase property, in subsection (3); and

(c) Exemptions, classifications, and portability assessment transfers in subsection (4).

(2) In administrative reviews of the just valuation of property, the board or special magistrate shall follow this sequence of general procedural steps:

(a) Determine whether the property appraiser established a presumption of correctness for the assessment, and determine whether the property appraiser's just valuation methodology is appropriate. The presumption of correctness is not established unless the admitted evidence proves by a preponderance of the evidence that the property appraiser's just valuation methodology complies with Section 193.011, F.S., and professionally accepted appraisal practices, including mass appraisal standards, if appropriate.

(b)1. In administrative reviews of just valuations, if the property appraiser establishes a presumption of correctness, determine whether the admitted evidence proves by a preponderance of the evidence that:

a. The property appraiser's just valuation does not represent just value; or

b. The property appraiser's just valuation is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the property appraiser to comparable property within the same county.

2. If one or both of the conditions in subparagraph (b)1. above are determined to exist, the property appraiser's presumption of correctness is overcome.

3. If the property appraiser does not establish a presumption of correctness, or if the presumption of correctness is overcome, the board or special magistrate shall determine whether the hearing record contains competent, substantial evidence of just value which cumulatively meets the criteria of Section 193.011, F.S., and professionally accepted appraisal practices.

a. If the hearing record contains competent, substantial evidence for establishing a revised just value, the board or an appraiser special magistrate shall establish a revised just value based only upon such evidence. In establishing a revised just value, the board or special magistrate is not restricted to any specific value offered by one of the parties.

b. If the hearing record lacks competent, substantial evidence for establishing a revised just value, the board or special magistrate shall remand

the assessment to the property appraiser with appropriate directions for establishing just value.

4. If the property appraiser establishes a presumption of correctness and that presumption of correctness is not overcome as described in subparagraph (b)1. above, the assessment stands.

(3) In administrative reviews of the classified use valuation of property or administrative reviews of the assessed valuation of limited increase property, the board or special magistrate shall follow this sequence of general procedural steps:

(a) Identify the statutory criteria that apply to the classified use valuation of the property or to the assessed valuation of limited increase property, as applicable.

(b) Determine whether the property appraiser established a presumption of correctness for the assessment, and determine whether the property appraiser's classified use or assessed valuation methodology is appropriate. The presumption of correctness is not established unless the admitted evidence proves by a preponderance of the evidence that the property appraiser's valuation methodology complies with the statutory criteria that apply to the classified use valuation or assessed valuation, as applicable, of the petitioned property.

(c)1. In administrative reviews of classified use valuations, if the property appraiser establishes a presumption of correctness, determine whether the admitted evidence proves by a preponderance of the evidence that:

a. The property appraiser's classified use valuation does not represent classified use value; or

b. The property appraiser's classified use valuation is arbitrarily based on classified use valuation practices that are different from the classified use valuation practices generally applied by the property appraiser to comparable property of the same property classification within the same county.

2. If one or both of the conditions in subparagraph (c)1. above are determined to exist, the property appraiser's presumption of correctness is overcome.

3. If the property appraiser does not establish a presumption of correctness, or if the presumption

of correctness is overcome, the board or special magistrate shall determine whether the hearing record contains competent, substantial evidence of classified use value which cumulatively meets the statutory criteria that apply to the classified use valuation of the petitioned property.

a. If the hearing record contains competent, substantial evidence for establishing a revised classified use value, the board or an appraiser special magistrate shall establish a revised classified use value based only upon such evidence. In establishing a revised classified use value, the board or special magistrate is not restricted to any specific value offered by one of the parties.

b. If the hearing record lacks competent, substantial evidence for establishing a revised classified use value, the board or special magistrate shall remand the assessment to the property appraiser with appropriate directions for establishing classified use value.

4. If the property appraiser establishes a presumption of correctness and that presumption of correctness is not overcome as described in subparagraph (c)1. above, the assessment stands.

(d)1. In administrative reviews of assessed valuations of limited increase property, if the property appraiser establishes a presumption of correctness, determine whether the admitted evidence proves by a preponderance of the evidence that:

a. The property appraiser's assessed valuation does not represent assessed value; or

b. The property appraiser's assessed valuation is arbitrarily based on assessed valuation practices that are different from the assessed valuation practices generally applied by the property appraiser to comparable property within the same county.

2. If one or both of the conditions in subparagraph (d)1. above are determined to exist, the property appraiser's presumption of correctness is overcome.

3. If the property appraiser does not establish a presumption of correctness, or if the presumption of correctness is overcome, the board or special magistrate shall determine whether the hearing record contains competent, substantial evidence of assessed value which cumulatively meets the

statutory criteria that apply to the assessed valuation of the petitioned property.

a. If the hearing record contains competent, substantial evidence for establishing a revised assessed value, the board or an appraiser special magistrate shall establish a revised assessed value based only upon such evidence. In establishing a revised assessed value, the board or special magistrate is not restricted to any specific value offered by one of the parties.

b. If the hearing record lacks competent, substantial evidence for establishing a revised assessed value, the board or special magistrate shall remand the assessment to the property appraiser with appropriate directions for establishing assessed value.

4. If the property appraiser establishes a presumption of correctness and that presumption of correctness is not overcome as described in subparagraph (d)1. above, the assessment stands.

(4) In administrative reviews of exemptions, classifications, and portability assessment transfers, the board or special magistrate shall follow this sequence of general procedural steps:

(a) In the case of an exemption, the board or special magistrate shall consider whether the denial was valid or invalid and shall:

1. Review the exemption denial, and compare it to the applicable statutory criteria in Section 196.193(5), F.S.;

2. Determine whether the denial was valid under Section 196.193, F.S.; and

3. If the denial is found to be invalid, not give weight to the exemption denial or to any evidence supporting the basis for such denial, but shall instead proceed to dispose of the matter without further consideration in compliance with Section 194.301, F.S.

4. If the denial is found to be valid, proceed with steps in paragraphs (b) through (g) below.

(b) Consider the admitted evidence presented by the parties.

(c) Identify the particular exemption, property classification, or portability assessment transfer issue that is the subject of the petition.

(d) Identify the statutory criteria that apply to the particular exemption, property classification, or portability assessment difference transfer that

was identified as the issue under administrative review.

(e) Identify and consider the essential characteristics of the petitioned property or the property owner, as applicable, based on the statutory criteria that apply to the issue under administrative review.

(f) Identify and consider the basis used by the property appraiser in issuing the denial for the petitioned property.

(g) Determine whether the admitted evidence proves by a preponderance of the evidence that the property appraiser's denial is incorrect and the exemption, classification, or portability assessment transfer should be granted because all of the applicable statutory criteria are satisfied. Where necessary and where the context will permit in these rules, the term "statutory criteria" includes any constitutional criteria that do not require implementation by legislation.

(5) "Standard of proof" means the level of proof needed by the board or special magistrate to reach a particular conclusion. The standard of proof that applies in administrative reviews is called "preponderance of the evidence," which means "greater weight of the evidence."

(6) When applied to evidence, the term "sufficient" is a test of adequacy. Sufficient evidence is admitted evidence that has enough overall weight, in terms of relevance and credibility, to legally justify a particular conclusion. A particular conclusion is justified when the overall weight of the admitted evidence meets the standard of proof that applies to the issue under consideration. The board or special magistrate must determine whether the admitted evidence is sufficiently relevant and credible to reach the standard of proof that applies to the issue under consideration. In determining whether the admitted evidence is sufficient for a particular issue under consideration, the board or special magistrate shall:

(a) Consider the relevance and credibility of the admitted evidence as a whole, regardless of which party presented the evidence;

(b) Determine the relevance and credibility, or overall weight, of the evidence;

(c) Compare the overall weight of the evidence to the standard of proof;

(d) Determine whether the overall weight of the evidence is sufficient to reach the standard of proof; and

(e) Produce a conclusion of law based on the determination of whether the overall weight of the evidence has reached the standard of proof. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.122, 194.011, 194.015, 194.032, 194.034, 194.036, 194.037, 194.301, 195.002, 195.084, 195.096, 196.011, 196.151, 196.193, 197.122, 213.05 FS. History—New 3-30-10.

12D-9.028 Petitions on Transfer of “Portability” Assessment Difference.

(1) This rule section applies to the review of denials of assessment limitation difference transfers or of the amount of an assessment limitation difference transfer. No adjustment to the just, assessed or taxable value of the previous homestead parcel may be made pursuant to a petition under this rule.

(2) A petitioner may file a petition with the value adjustment board, in the county where the new homestead is located, to petition either a denial of a transfer or the amount of the transfer, on Form DR-486PORT. Form DR-486PORT is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. Such petition must be filed at any time during the taxable year on or before the 25th day following the mailing of the notice of proposed property taxes as provided in Section 194.011, F.S. If only a part of a transfer of assessment increase differential is granted, the notice of proposed property taxes shall function as notice of the taxpayer’s right to appeal to the board.

(3) The petitioner may petition to the board the decision of the property appraiser refusing to allow the transfer of an assessment difference, and the board shall review the application and evidence presented to the property appraiser upon which the petitioner based the claim and shall hear the petitioner on behalf of his or her right to such assessment. Such petition shall be heard by an attorney special magistrate if the board uses special magistrates.

(4) This subsection will apply to value adjustment board proceedings in a county in

which the previous homestead is located. Any petitioner desiring to appeal the action of a property appraiser in a county in which the previous homestead is located must so designate on Form DR-486PORT.

(5) If the petitioner does not agree with the amount of the assessment limitation difference for which the petitioner qualifies as stated by the property appraiser in the county where the previous homestead property was located, or if the property appraiser in that county has not stated that the petitioner qualifies to transfer any assessment limitation difference, upon the petitioner filing a petition to the value adjustment board in the county where the new homestead property is located, the board clerk in that county shall, upon receiving the petition, send a notice using Form DR-486XCO, to the board clerk in the county where the previous homestead was located, which shall reconvene if it has already adjourned. Form DR-486XCO is adopted, and incorporated by reference, in Rule 12D-16.002, F.A.C.

(6)(a) If a cross county petition is filed as described in subsection (5), such notice operates as a timely petition and creates an appeal to the value adjustment board in the county where the previous homestead was located on all issues surrounding the previous assessment differential for the taxpayer involved. However, the petitioner may not petition to have the just, assessed, or taxable value of the previous homestead changed.

(b) The board clerk in the county where the previous homestead was located shall set the petition for hearing and notify the petitioner, the property appraiser in the county where the previous homestead was located, the property appraiser in the county where the new homestead is located, and the value adjustment board in that county, and shall hear the petition.

(c) The board clerk in the county in which the previous homestead was located must note and file the petition from the county in which the new homestead is located. No filing fee is required. The board clerk shall notify each petitioner of the scheduled time of appearance. The notice shall be in writing and delivered by regular or certified U.S. mail, or personal delivery, or delivered in the manner requested by the petitioner on Form DR-486PORT, so that the notice shall be received by

the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The board clerk will have prima facie complied with the requirements of this section if the notice was deposited in the U.S. mail thirty (30) days prior to the day of such scheduled appearance.

(d) Such petition shall be heard by an attorney special magistrate if the value adjustment board in the county where the previous homestead was located uses special magistrates. The petitioner may attend such hearing and present evidence, but need not do so. If the petitioner does not appear at the hearing, the hearing shall go forward. The board or special magistrate shall obtain the petition file from the board clerk. The board or special magistrate shall consider deeds, property appraiser records that do not violate confidentiality requirements, and other documents that are admissible evidence. The petitioner may submit a written statement for review and consideration by the board or special magistrate explaining why the “portability” assessment difference should be granted based on applications and other documents and records submitted by the petitioner.

(e) The value adjustment board in the county where the previous homestead was located shall issue a decision and the board clerk shall send a copy of the decision to the board clerk in the county where the new homestead is located.

(f) In hearing the petition in the county where the new homestead is located, that value adjustment board shall consider the decision of the value adjustment board in the county where the previous homestead was located on the issues pertaining to the previous homestead and on the amount of any assessment reduction for which the petitioner qualifies. The value adjustment board in the county where the new homestead is located may not hold its hearing until it has received the decision from the value adjustment board in the county where the previous homestead was located.

(7) This rule does not authorize the consideration or adjustment of the just, assessed, or taxable value of the previous homestead property.

(8) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the

Department’s Internet site:

<http://dor.myflorida.com/dor/property/forms/>.
Rulemaking Authority 194.011(5), 194.034(1), 195.027(1) FS. Law Implemented 193.155, 194.011, 195.084, 213.05 FS. History--New 3-30-10.

12D-9.029 Procedures for Remanding Value Assessments to the Property Appraiser.

(1) The board or appraiser special magistrate shall remand a value assessment to the property appraiser when the board or special magistrate has concluded that:

(a) The property appraiser did not establish a presumption of correctness, or has concluded that the property appraiser established a presumption of correctness that is overcome, as provided in Rule 12D-9.027, F.A.C.; and

(b) The record does not contain the competent substantial evidence necessary for the board or special magistrate to establish a revised just value, classified use value, or assessed value, as applicable.

(2) An attorney special magistrate shall remand an assessment to the property appraiser for a classified use valuation when the special magistrate has concluded that a property classification will be granted.

(3) The board shall remand an assessment to the property appraiser for a classified use valuation when the board:

(a) Has concluded that a property classification will be granted; and

(b) Has concluded that the record does not contain the competent substantial evidence necessary for the board to establish classified use value.

(4) The board or special magistrate shall, on the appropriate decision form from the Form DR-485 series, produce written findings of fact and conclusions of law necessary to determine that a remand is required, but shall not render a recommended or final decision unless a continuation hearing is held as provided in subsection (9). The Form DR-485 series is adopted, and incorporated by reference, in Rule 12D-16.002, F.A.C.

(5) When an attorney special magistrate remands an assessment to the property appraiser

for classified use valuation, an appraiser special magistrate retains authority to produce a recommended decision in accordance with law. When an appraiser special magistrate remands an assessment to the property appraiser, the special magistrate retains authority to produce a recommended decision in accordance with law. When the value adjustment board remands an assessment to the property appraiser, the board retains authority to make a final decision on the petition in accordance with law.

(6) For remanding an assessment to the property appraiser, the board or special magistrate shall produce a written remand decision which shall include appropriate directions to the property appraiser.

(7) The board clerk shall concurrently provide, to the petitioner and the property appraiser, a copy of the written remand decision from the board or special magistrate. The petitioner's copy of the written remand decision shall be sent by regular or certified U.S. mail, or by personal delivery, or in the manner requested by the taxpayer on Form DR-486.

(8)(a) After receiving a board or special magistrate's remand decision from the board clerk, the property appraiser shall follow the appropriate directions from the board or special magistrate and shall produce a written remand review.

(b) The property appraiser or his or her staff shall not have, directly or indirectly, any ex parte communication with the board or special magistrate regarding the remanded assessment.

(9)(a) Immediately after receipt of the written remand review from the property appraiser, the board clerk shall send a copy of the written remand review to the petitioner by regular or certified U.S. mail or by personal delivery, or in the manner requested by the taxpayer on Form DR-486, and shall send a copy to the board or special magistrate. The board clerk shall retain, as part of the petition file, the property appraiser's written remand review. Together with the petitioner's copy of the written remand review, the board clerk shall send to the petitioner a copy of this rule subsection.

(b) The board clerk shall schedule a continuation hearing if the petitioner notifies the

board clerk, within 25 days of the date the board clerk sends the written remand review, that the results of the property appraiser's written remand review are unacceptable to the petitioner and that the petitioner requests a further hearing on the petition. The board clerk shall send the notice of hearing so that it will be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance, as described in subsection 12D-9.019(3), F.A.C. When a petitioner does not notify the board clerk that the results of the property appraiser's written remand review are unacceptable to the petitioner and does not request a continuation hearing, or if the petitioner waives a continuation hearing, the board or special magistrate shall issue a decision or recommended decision. Such decision shall contain:

1. A finding of fact that the petitioner did not request a continuation hearing or waived such hearing; and

2. A conclusion of law that the decision is being issued in order that any right the petitioner may have to bring an action in circuit court is not impaired.

The petition shall be treated and listed as board action for purposes of the notice required by Rule 12D-9.038, F.A.C.

(c) At a continuation hearing, the board or special magistrate shall receive and consider the property appraiser's written remand review and additional relevant and credible evidence, if any, from the parties. Also, the board or special magistrate may consider evidence admitted at the original hearing.

(10) In those counties that use special magistrates, if an attorney special magistrate has granted a property classification before the remand decision and the property appraiser has produced a remand classified use value, a real property valuation special magistrate shall conduct the continuation hearing.

(11) In no case shall a board or special magistrate remand to the property appraiser an exemption, "portability" assessment difference transfer, or property classification determination.

(12) Copies of all evidence shall remain with the board clerk and be available during the remand process.

(13) In lieu of remand, the board or special magistrate may postpone conclusion of the hearing upon agreement of the parties if the requirements of subsection 12D-9.025(6), F.A.C., are met.

(14) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the Department's Internet site:

<http://dor.myflorida.com/dor/property/forms/>.
Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 194.035, 194.301, 213.05 FS. History-New 3-30-10.

12D-9.030 Recommended Decisions.

(1) For each petition not withdrawn or settled, special magistrates shall produce a written recommended decision that contains findings of fact, conclusions of law, and reasons for upholding or overturning the property appraiser's determination. Each recommended decision shall contain sufficient factual and legal information and reasoning to enable the parties to understand the basis for the decision, and shall otherwise meet the requirements of law. The special magistrate and board clerk shall observe the petitioner's right to be sent a timely written recommended decision containing proposed findings of fact and proposed conclusions of law and reasons for upholding or overturning the determination of the property appraiser. After producing a recommended decision, the special magistrate shall provide it to the board clerk.

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

(a) Knows the date, time, and place at which the recommended decision will be considered by the board, the board clerk shall include such information when he or she sends the recommended decision to the petitioner and the property appraiser; or

(b) Does not yet know the date, time, and place at which the recommended decision will be considered by the board, the board clerk shall include information on how to find the date, time, and place of the meeting at which the

recommended decision will be considered by the board.

(3) Any board or special magistrate workpapers, worksheets, notes, or other materials that are made available to a party shall immediately be sent to the other party. Any workpapers, worksheets, notes, or other materials created by the board or special magistrates during the course of hearings or during consideration of petitions and evidence, that contain any material prepared in connection with official business, shall be transferred to the board clerk and retained as public records. Value adjustment boards or special magistrates using standardized workpapers, worksheets, or notes, whether in electronic format or otherwise, must receive prior department approval to ensure that such standardized documents comply with the law.

(4) For the purpose of producing the recommended decisions of special magistrates, the department prescribes the Form DR-485 series, and any electronic equivalent forms approved by the department under Section 195.022, F.S. The Form DR-485 series is adopted, and incorporated by reference, in Rule 12D-16.002, F.A.C. All recommended decisions of special magistrates, and all forms used for the recommended decisions, must contain the following required elements:

(a) Findings of fact;

(b) Conclusions of law; and

(c) Reasons for upholding or overturning the determination of the property appraiser.

(5) As used in this section, the terms "findings of fact" and "conclusions of law" include proposed findings of fact and proposed conclusions of law produced by special magistrates in their recommended decisions.

(6) Legal advice from the board legal counsel relating to the facts of a petition or to the specific outcome of a decision, if in writing, shall be included in the record and referenced within the findings of fact and conclusions of law. If not in writing, such advice shall be documented within the findings of fact and conclusions of law.

(7) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the Department's Internet site:

<http://dor.myflorida.com/dor/property/forms/>.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1) FS. Law Implemented 193.155, 194.011, 195.022, 213.05 FS. History--New 3-30-10.

12D-9.031 Consideration and Adoption of Recommended Decisions of Special Magistrates by Value Adjustment Boards in Administrative Reviews.

(1) All recommended decisions shall comply with Sections 194.301, 194.034(2), and 194.035(1), F.S. A special magistrate shall not submit to the board, and the board shall not adopt, any recommended decision that is not in compliance with Sections 194.301, 194.034(2), and 194.035(1), F.S.

(2) As provided in Sections 194.034(2) and 194.035(1), F.S., the board shall consider the recommended decisions of special magistrates and may act upon the recommended decisions without further hearing. If the board holds further hearing for such consideration, the board clerk shall send notice of the hearing to the parties. Any notice of hearing shall be in the same form as specified in paragraph 12D-9.019(3)(a), F.A.C., but need not include items specified in subparagraphs 6. through 9. of that subsection. The board shall consider whether the recommended decisions meet the requirements of subsection (1), and may rely on board legal counsel for such determination. Adoption of recommended decisions need not include a review of the underlying record.

(3) If the board determines that a recommended decision meets the requirements of subsection (1), the board shall adopt the recommended decision. When a recommended decision is adopted and rendered by the board, it becomes final.

(4) If the board determines that a recommended decision does not comply with the requirements of subsection (1), the board shall proceed as follows:

(a) The board shall request the advice of board legal counsel to evaluate further action and shall take the steps necessary for producing a final decision in compliance with subsection (1).

(b) The board may direct a special magistrate to produce a recommended decision that complies

with subsection (1) based on, if necessary, a review of the entire record.

(c) The board shall retain any recommended decisions and all other records of actions under this rule section.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.122, 194.011, 194.015, 194.032, 194.034, 194.035, 194.036, 194.037, 194.301, 195.002, 195.096, 196.011, 197.122, 213.05 FS. History--New 3-30-10.

12D-9.032 Final Decisions.

(1)(a) For each petition not withdrawn or settled, the board shall produce a written final decision that contains findings of fact, conclusions of law, and reasons for upholding or overturning the property appraiser's determination. Each final decision shall contain sufficient factual and legal information and reasoning to enable the parties to understand the basis for the decision, and shall otherwise meet the requirements of law. The board may fulfill the requirement to produce a written final decision by adopting a recommended decision of the special magistrate containing the required elements and providing notice that it has done so. The board may adopt the special magistrate's recommended decision as the decision of the board incorporating the recommended decision, using a postcard or similar notice. The board shall ensure regular and timely approval of recommended decisions.

(b) Legal advice from the board legal counsel relating to the facts of a petition or to the specific outcome of a decision, if in writing, shall be included in the record and referenced within the findings of fact and conclusions of law. If not in writing, such advice shall be documented within the findings of fact and conclusions of law.

(2) A final decision of the board shall state the just, assessed, taxable, and exempt value, for the county both before and after board action. Board action shall not include changes made as a result of action by the property appraiser. If the property appraiser has reduced his or her value or granted an exemption, property classification, or "portability" assessment difference transfer, whether before or during the hearing but before board action, the values in the "before" column

shall reflect the adjusted figure before board action.

(3) The board's final decision shall advise the taxpayer and property appraiser that further proceedings in circuit court shall be as provided in Section 194.036, F.S.

(4) Upon issuance of a final decision by the board, the board shall provide it to the board clerk and the board clerk shall promptly provide notice of the final decision to the parties. Notice of the final decision may be made by providing a copy of the decision. The board shall issue all final decisions within 20 calendar days of the last day the board is in session pursuant to Section 194.032, F.S.

(5) For the purpose of producing the final decisions of the board, the department prescribes the Form DR-485 series, and any electronic equivalent forms approved by the department under Section 195.022, F.S. The Form DR-485 series is adopted, and incorporated by reference, in Rule 12D-16.002, F.A.C. The Form DR-485 series, or approved electronic equivalent forms, are the only forms that shall be used for producing a final decision of the board. Before using any form to notify petitioners of the final decision, the board shall submit the proposed form to the department for approval. The board shall not use a form to notify the petitioner unless the department has approved the form. All decisions of the board, and all forms used to produce final decisions on petitions heard by the board, must contain the following required elements:

- (a) Findings of fact;
- (b) Conclusions of law; and
- (c) Reasons for upholding or overturning the determination of the property appraiser.

(6)(a) If, prior to a final decision, any communication is received from a party concerning a board process on a petition or concerning a recommended decision, a copy of the communication shall promptly be furnished to all parties, the board clerk, and the board legal counsel. No such communication shall be furnished to the board or a special magistrate unless a copy is immediately furnished to all parties. A party may waive notification or furnishing of copies under this subsection.

(b) The board legal counsel shall respond to such communication and may advise the board concerning any action the board should take concerning the communication.

(c) No reconsideration of a recommended decision shall take place until all parties have been furnished all communications, and have been afforded adequate opportunity to respond.

(d) The board clerk shall provide to the parties:

1. Notification before the presentation of the matter to the board; and

2. Notification of any action taken by the board.

(7) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05 FS. History-New 3-30-10.

12D-9.033 Further Judicial Proceedings.

After the board issues its final decision, further proceedings and the timing thereof are as provided in Sections 194.036 and 194.171, F.S.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05 FS. History-New 3-30-10.

12D-9.034 Record of the Proceeding.

(1) The board clerk shall maintain a record of the proceeding. The record shall consist of:

- (a) The petition;
- (b) All filed documents, including all tangible exhibits and documentary evidence presented, whether or not admitted into evidence; and
- (c) Meeting minutes and a verbatim record of the hearing.

(2) The verbatim record of the hearing may be kept by any electronic means which is easily retrieved and copied. In counties that use special magistrates, the special magistrate shall accurately and completely preserve the verbatim record during the hearing, and may be assisted by the board clerk. In counties that do not use special

magistrates, the board clerk shall accurately and completely preserve the verbatim record during the hearing. At the conclusion of each hearing, the board clerk shall retain the verbatim record as part of the petition file.

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

(4) If requested by the taxpayer, the taxpayer's agent, or the property appraiser, the board clerk shall retain these records until the final disposition of any subsequent judicial proceeding related to the same property.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 194.035, 213.05 FS. History--New 3-30-10.

12D-9.035 Duty of Clerk to Prepare and Transmit Record.

(1) When a change in the tax roll made by the board becomes subject to review by the Circuit Court pursuant to Section 194.036(1)(c), F.S., it shall be the duty of the board clerk, when requested, to prepare the record for review. The record shall consist of a copy of each paper, including the petition and each exhibit in the proceeding together with a copy of the board's decision and written findings of fact and conclusions of law. The board clerk shall transmit to the Court this record, and the board clerk's certification of the record which shall be in the following form:

Certification of Record

I hereby certify that the attached record, consisting of sequentially numbered pages one through _____, consists of true copies of all papers, exhibits, and the Board's findings of fact and conclusions of law, in the proceeding before the _____ County Value Adjustment Board upon petition numbered _____ filed by _____.

Clerk of Value Adjustment Board
By: _____
Deputy Clerk

Should the verbatim transcript be prepared other than by a court reporter, the board clerk shall also make the following certification:

CERTIFICATION OF VERBATIM TRANSCRIPT

I hereby certify that the attached verbatim transcript consisting of sequentially numbered pages _____ through _____ is an accurate and true transcript of the hearing held on _____ in the proceeding before the County Value Adjustment Board petition numbered _____ filed by:

Clerk of Value Adjustment Board
By: _____
Deputy Clerk

(2) The board clerk shall provide the petitioner and property appraiser, upon their request, a copy of the record at no more than actual cost. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.032, 194.036, 213.05 FS. History--New 3-30-10.

12D-9.036 Procedures for Petitions on Denials of Tax Deferrals.

(1) The references in these rules to the tax collector are for the handling of petitions of denials of tax deferrals under Sections 197.253, 197.3041, and 197.3073, F.S., and petitions of penalties imposed under Sections 197.301, 197.3047, and 197.3079, F.S.

(2) To the extent possible where the context will permit, such petitions shall be handled procedurally under this rule chapter in the same manner as denials of exemptions.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.032, 194.036, 197.253, 197.301, 197.3041, 197.3047, 197.3073, 197.3079, 213.05 FS. History--New 3-30-10.

Part III

Uniform Certification of Assessment Rolls

12D-9.037 Certification of Assessment Rolls.

(1)(a) When the tax rolls have been extended pursuant to Section 197.323, F.S., the initial certification of the value adjustment board shall be made on Form DR-488P. Form DR-488P is

adopted, and incorporated by reference, in Rule 12D-16.002, F.A.C.

(b) After all hearings have been held, the board shall certify an assessment roll or part of an assessment roll that has been finally approved pursuant to Section 193.1142, F.S. The certification shall be on the form prescribed by the department referenced in subsection (2) of this rule. A sufficient number of copies of the board's certification shall be delivered to the property appraiser who shall attach the same to each copy of each assessment roll prepared by the property appraiser.

(2) The form shall include a certification signed by the board chair, on behalf of the entire board, on Form DR-488, adopted, and incorporated by reference, in Rule 12D-16.002, F.A.C., designated for this purpose, that all requirements in Chapter 194, F.S., and department rules, were met as follows:

(a) The prehearing checklist pursuant to Rule 12D-9.014, F.A.C., was followed and all necessary actions reported by the board clerk were taken to comply with Rule 12D-9.014, F.A.C.;

(b) The qualifications of special magistrates were verified, including whether special magistrates completed the department's training;

(c) The selection of special magistrates was based solely on proper qualifications and the property appraiser and parties did not influence the selection of special magistrates;

(d) All petitions considered were either timely filed, or good cause was found for late filing after proper review by the board or its designee;

(e) All board meetings were duly noticed pursuant to Section 286.011, F.S., and were held in accordance with law;

(f) No ex parte communications were considered unless all parties were notified and allowed to rebut;

(g) All petitions were reviewed and considered as required by law unless withdrawn or settled as defined in this rule chapter;

(h) All decisions contain required findings of fact and conclusions of law in compliance with Chapter 194, F.S., and this rule chapter;

(i) The board allowed opportunity for public comment at the meeting at which special

magistrate recommended decisions were considered and adopted;

(j) All board members and the board's legal counsel have read this certification and a copy of the statement in subsection (1) is attached; and

(k) All complaints of noncompliance with Part I, Chapter 194, F.S., or this rule chapter called to the board's attention have been appropriately addressed to conform with the provisions of Part I, Chapter 194, F.S., and this rule chapter.

(3) The board shall provide a signed original of the certification required under this rule section to the department before publication of the notice of the findings and results of the board required by Section 194.037, F.S. See Form DR-529, Notice Tax Impact of Value Adjustment Board.

(4) Copies of the forms incorporated in Section 12D-16.002, F.A.C., may be obtained at the Department's Internet site:

<http://dor.myflorida.com/dor/property/forms/>.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.122, 194.011, 195.022, 195.084, 213.05 FS. History--New 3-30-10.

12D-9.038 Public Notice of Findings and Results of Value Adjustment Board.

(1) After all hearings have been completed, the board clerk shall publish a public notice advising all taxpayers of the findings and results of the board decisions, which shall include changes made by the board to the property appraiser's initial roll. Such notice shall be published to permit filing within the timeframe in subsections 12D-17.004(1) and (2), F.A.C., where provided. For petitioned parcels, the property appraiser's initial roll shall be the property appraiser's determinations as presented at the commencement of the hearing or as reduced by the property appraiser during the hearing but before a decision by the board or a recommended decision by a special magistrate. This section shall not prevent the property appraiser from providing data to assist the board clerk with the notice of tax impact. The public notice shall be in the form of a newspaper advertisement and shall be referred to as the "tax impact notice". The format of the tax impact notice shall be substantially as prescribed in Form DR-529, Notice Tax Impact of Value

Adjustment Board, incorporated by reference in Rule 12D-16.002, F.A.C.

(2) The size of the notice shall be at least a quarter page size advertisement of a standard or tabloid size newspaper. The newspaper notice shall include all of the above information and no change shall be made in the format or content without department approval. The notice shall be published in a part of the paper where legal notices and classified ads are not published.

(3) The notice of the findings and results of the value adjustment board shall be published in a newspaper of paid general circulation within the county. It shall be the specific intent of the publication of notice to reach the largest segment of the total county population. Any newspaper of less than general circulation in the county shall not be considered for publication except to supplement notices published in a paper of general circulation.

(4) The headline of the notice shall be set in a type no smaller than 18 point and shall read "TAX IMPACT OF VALUE ADJUSTMENT BOARD."

(5) It shall be the duty of the board clerk to insure publication of the notice after the board has heard all petitions, complaints, appeals, and disputes.

(6) Copies of the forms incorporated in Rule 12D-16.002, F.A.C., may be obtained at the Department's Internet site:
<http://dor.myflorida.com/dor/property/forms/>.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented Ch. 50, 194.032, 194.034, 194.037, 213.05 FS.
History--New 3-30-10.

**STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM**

**CHAPTER 12D-10
FLORIDA ADMINISTRATIVE CODE**

VALUE ADJUSTMENT BOARDS

12D-10.001 Composition of Value Adjustment Board.

Rulemaking Authority 195.027(1), 213.06(1) FS.
Law Implemented 194.015, 213.05 FS.
History--New 10-12-76, Formerly 12D-10.01,
Amended 12-31-98, Repealed 3-30-10.

12D-10.002 Appointment and Employment of Special Magistrates.

Rulemaking Authority 195.027(1), 213.06(1) FS.
Law Implemented 194.032, 194.034, 194.035,
213.05 FS. History--New 10-12-76, Formerly
12D-10.02, Repealed 3-30-10.

12D-10.003 Powers, Authority, Duties and Functions of Value Adjustment Board.

(1) The board has no power to fix the original valuation of property for ad valorem tax purposes or to grant an exemption not authorized by law and the board is bound by the same standards as the county property appraiser in determining values and the granting of exemptions. The board has no power to grant relief either by adjustment of the value of a property or by the granting of an exemption on the basis of hardship of a particular taxpayer. The board, in determining the valuation of a specific property, shall not consider the ultimate amount of tax required.

(2) The powers, authority, duties and functions of the board, insofar as they are appropriate, apply equally to real property and tangible personal property (including taxable household goods).

(3) Every decision of the board must contain specific and detailed findings of fact which shall include both ultimate findings of fact and basic and underlying findings of fact. Each basic and underlying finding must be properly annotated to its supporting evidence. For purposes of these rules, the following are defined to mean:

(a) An ultimate finding is a determination of fact. An ultimate finding is usually expressed in the language of a statutory standard and must be supported by and flow rationally from adequate basic and underlying findings.

(b) Basic and underlying findings are those findings on which the ultimate findings rest and which are supported by evidence. Basic and underlying findings are more detailed than the ultimate findings but less detailed than a summary of the evidence.

(c) Reasons are those clearly stated grounds upon which the board or property appraiser acted.
-Rulemaking Authority 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.122, 194.011, 194.015, 194.032, 194.034, 194.036, 194.037, 194.301, 195.002, 195.096, 196.011, 197.122, 213.05 FS. History--New 10-12-76, Formerly 12D-10.03, Amended 11-10-77, 9-30-82, 12-31-98, 3-30-10.

12D-10.004 Receipt of Taxpayer's Petition to Be Acknowledged.

Rulemaking Authority 195.027(1), 213.06(1) FS.
Law Implemented 194.011, 194.015, 194.032, 195.022, 200.069, 213.05 FS. History--New 10-12-76, Formerly 12D-10.04, Amended 1-11-94, 12-28-95. 12-31-98, 1-20-03, 12-30-04, Repealed 3-30-10.

12D-10.0044 Uniform Procedures for Hearings; Procedures for Information and Evidence Exchange Between the Petitioner and Property Appraiser, Consistent with s. 194.032, F.S.; Organizational Meeting; Uniform Procedures to be Available to Petitioners.

Rulemaking Authority 194.011(5), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034.035, 195.022, 200.069, 213.05 FS. History--New 4-4-04, Amended 12-30-04, Repealed 3-30-10.

12D-10.005 Duty of Clerk to Prepare and Transmit Record.

Rulemaking Authority 195.027(1), 213.06(1) FS.
Law Implemented 194.032, 194.036, 213.05 FS.
History--New 10-12-76, Amended 11-10-77,
Formerly 12D-10.05, Repealed 3-30-10.

**12D-10.006 Public Notice of Findings and
Results of Value Adjustment Board.**

Rulemaking Authority 195.027(1), 213.06(1) FS.
Law Implemented 50, 194.032, 194.034, 194.037,
213.05 FS. History--New 2-12-81, Formerly
12D-10.06, Repealed 3-30-10.

**STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT
PROGRAM**

EXCERPTS OF

**RULE CHAPER 12D-16
FLORIDA ADMINISTRATIVE CODE**

ADMINISTRATION OF FORMS

12D-16.002 Index to Forms.

(1) The following paragraphs list the forms utilized by the Department of Revenue. A copy of these forms may be obtained from the Department’s website at

<http://dor.myflorida.com/dor/>,

or by writing to: Director, Property Tax Oversight Program, Department of Revenue, Post Office Box 3000, Tallahassee, Florida 32315-3000. The Department of Revenue adopts, and hereby incorporates by reference in this rule, the following forms and instructions:

Form Number	Title	Effective Date
(22) DR-481	Value Adjustment Board – Notice of Hearing (n. 12/09)	3/10
(25)	485 Series:	
(a) DR-485M	Notice of Decision of the Value Adjustment Board (n. 12/09)	3/10
(b) DR-485R	Value Adjustment Board—Remand to Property Appraiser (n. 12/09)	3/10
(c) DR-485V	Decision of The Value Adjustment Board— Value Petition (n. 12/09)	3/10
(d) DR-485WCN	Value Adjustment Board-Clerk’s Notice (n. 12/09)	3/10
(e) DR-485WI	Value Adjustment Board - Withdrawal of Petition (n. 12/09)	3/10
(f) DR-485XC	Decision of the Value Adjustment Board- Exemption, Classification, or Assessment Difference Transfer Petition (n. 12/09)	3/10
(26)	486 Series:	
(a) DR-486	Petition to The Value Adjustment Board- Request for Hearing (r. 12/09)	3/10
(b) DR-486DP	Petition to the Value Adjustment Board-Tax Deferral or Penalties-Request for Hearing (n. 12/09)	3/10

(c) DR-486PORT	Petition to the Value Adjustment Board-Transfer of Homestead Assessment Difference-Request for Hearing (r. 12/09)	3/10
(d) DR-486XCO	Cross-County Notice of Appeal and Petition-Transfer of Homestead Assessment Difference (r. 12/09)	3/10
(27)(a) DR-488	Certification of the Value Adjustment Board (r. 12/09)	3/10
(b) DR-488P	Initial Certification of the Value Adjustment Board (n. 12/09)	3/10
(30)(a) DR-490	Notice of Disapproval of Application for Property Tax Exemption or Classification by The County Property Appraiser (r. 12/09)	3/10
(b) DR-490PORT	Notice of Denial of Transfer of Homestead Assessment Difference (r. 12/09)	3/10
(c) DR-529	Notice-Tax Impact of Value Adjustment Board (r. 12/09)	3/10
(a)DR-571A	Disapproval of Application for Tax Deferral-Homestead, Affordable Rental Housing, or Working Waterfront (n.12/09)	3/10

Rulemaking Authority 195.027(1), 213.06(1)
FS. Law Implemented 92.525, 95.18, 136.03, 192.001(18), 192.0105, 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.461, 193.503, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 195.095, 196.011, 196.015, 196.031, 196.075, 196.095, 196.101, 196.121, 196.141, 196.151, 196.193, 196.1961, 196.1983, 196.1995, 196.202, 196.24, 197.182, 197.222, 197.253, 197.304, 197.3041, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.502, 197.512, 197.552, 200.065, 200.069, 213.05, 218.66 FS. History–New 10-12-76, Amended 4-11-80, 9-17-80, 5-17-81, 1-18-82, 4-29-82, Formerly 12D-16.02, Amended 12-26-88, 1-9-92, 12-10-92, 1-11-94, 12-27-94, 12-28-95, 12-25-96, 12-30-97, 12-31-98, 2-3-00, 1-9-01, 12-27-01, 1-20-03, 1-26-04, 12-30-04, 1-16-06, 10-2-07, 3-30-10.

Florida Department of Revenue

**FORMS FOR
VALUE ADJUSTMENT BOARDS**

**These forms are available online at:
<http://dor.myflorida.com/dor/property/vab/>**



VALUE ADJUSTMENT BOARD NOTICE OF HEARING

Reset to blank form

Print Form

DR-481
N. 12/09

Rule 12D-16.002
Florida Administrative Code

County	Petition #	Petition type
Petitioner name		From
Address		Address
Parcel number, account number, or legal address	Phone	ext. Fax
	E-mail	

BOX 1

A hearing has been scheduled for

your petition

the continuation of your hearing after remand

other

BOX 2

A good cause hearing has been scheduled for

your late filed petition

other

If both Box 1 and 2 are checked, your good cause hearing will be immediately followed by a hearing on your petition, if good cause is found.

YOUR HEARING INFORMATION

Hearing date Time Time reserved	Hearing address and room
---	--------------------------

Bring _____ copies of your evidence, in addition to what you have provided to the property appraiser. Evidence becomes part of the record and will not be returned.

Please arrive 15 minutes before the scheduled hearing time with any witnesses. If you or your witnesses are unable to attend, or you need help finding the hearing room, contact the VAB clerk as soon as possible.

Enclosed is a copy of the property record card.

You have the right to reschedule your hearing one time without cause by submitting a written request to the VAB clerk at the address above at least five calendar days before the originally scheduled hearing (s. 194.032(2), F.S.). All other requests for rescheduling must include a statement of good cause with supporting documents.

You have the right to exchange evidence with the property appraiser. To initiate the exchange, you must submit your evidence directly to the property appraiser at least 15 days before the hearing and request the property appraiser's evidence. If you want to participate in the evidence exchange, your evidence is due by _____ at _____. At the hearing, you have the right to have witnesses sworn.

_____ Signature, deputy clerk	_____ Date
----------------------------------	---------------

For a list of potential magistrates	Phone ext.	Web
For a copy of the value adjustment board uniform rules of procedure	Phone ext.	Web

If you are disabled and need accommodations to participate in the hearing, you are entitled to assistance with no cost to you. Please contact the value adjustment board at the number above within 2 days of receiving this notice. If you are hearing or voice impaired, call _____.

<VAB return address>

<Petitioner name>
<Petitioner address>

Tax year:
Agenda number, if used, or petition number:
Account or parcel number:
Date notice mailed:
Certification date:

DR-485M
N. 12/09
Rule 12D-16.002
Florida Administrative Code

**NOTICE OF DECISION OF THE VALUE ADJUSTMENT BOARD
County, Florida**

You are hereby notified that after due consideration of your petition or application, the Value Adjustment Board (VAB) approved and adopted as its decision the special magistrate's written recommendations, set forth in the form "Decision of the Value Adjustment Board," previously mailed to you.

The Special Magistrate's written recommendations indicate whether or not tax relief has been granted by the VAB. The subject assessment(s) was certified on the date on the reverse side of this notice and has now been incorporated into the final tax roll.

NOTE: If you are not satisfied after you are notified of the final decision of the VAB, you have the right to file a lawsuit in circuit court to further contest your assessment (sections 193.155(8)(k), 194.036, 194.171(2), and 196.151, F.S.).

Value Adjustment Board



**VALUE ADJUSTMENT BOARD
REMAND TO PROPERTY APPRAISER**

DR-485R
N. 12/09
Rule 12D-16.002
Florida Administrative Code

Section 1. Completed by Value Adjustment Board or Special Magistrate

Petition #	County	Parcel ID	Date
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To: Property Appraiser	From: Clerk or Special Magistrate
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Name	Name
------	------

Address	Address
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The value adjustment board or special magistrate has:	
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Determined that the property appraiser's value is incorrect (section 194.301, F.S.).

Granted a property classification.

Include findings of fact on which remand decision is based or reference and attach Form DR-485V, Form DR-485XC, or other document with these items completed.

Include conclusions of law on which remand decision is based or reference and attach Form DR-485V, Form DR-485XC, or other document with these items completed.

Appropriate remand directions to property appraiser:

The board retains authority to make a final decision on this petition.

Section 2. Completed by Property Appraiser

Provide a revised just value or a classified use value and return this form to the clerk of the Board.

Just Valuation	<i>Enter whole numbers only. Do not include commas. Example: Enter \$1,222,333 as "1222333"</i>	Classified Use Valuation
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Previous	Revised	OR
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Signature, property appraiser

Print name

Date

Use additional pages, if needed.



DECISION OF THE VALUE ADJUSTMENT BOARD

VALUE PETITION

Reset to blank form

Print Form

DR-485V
N. 12/09

Rule 12D-16.002
Florida Administrative Code

County _____

The actions below were taken on your petition.

These actions are a recommendation only, not final. These actions are a final decision of the VAB.

If you are not satisfied after you are notified of the final decision of the VAB, you have the right to file a lawsuit in circuit court to further contest your assessment (sections 193.155(8)(k), 194.036, 194.171(2), and 196.151, F.S.).

Petition #	Parcel ID
Petitioner name The petitioner is: <input type="checkbox"/> taxpayer of record <input type="checkbox"/> taxpayer's agent <input type="checkbox"/> other, explain: _____	Address

Decision Summary

Denied your petition Granted your petition Granted your petition in part

Value	Before Board Action	After Board Action
Lines 1 and 4 must be completed.	Value presented by property appraiser Rule 12D-9.025(10), F.A.C.	
1. Market value, required	\$	\$
2. Assessed or classified use value,* if applicable	\$	\$
3. Exempt value,* enter "0" if none	\$	\$
4. Taxable value,* required	\$	\$

*All values entered should be county taxable values. School and other taxing authority values may differ (section 196.031(7)(d), F.S.).

Reasons for Decision

Findings of Fact	Use additional sheets, if needed.
Conclusions of Law	Use additional sheets, if needed.

Recommended Decision of Special Magistrate Findings and conclusions above are recommendations.

Signature, special magistrate	Print name	Date
Signature, VAB clerk or representative	Print name	Date
If this is a recommended decision, the board will consider the recommended decision on _____ at _____		
Address	Date	Time
If the line above is blank, the board does not yet know the date, time, and place when the recommended decision will be considered.		
To find the information, please call _____ or visit our web site at _____		

Final Decision of the Value Adjustment Board

Signature, chair, value adjustment board	Print name	Date of decision
Signature, VAB clerk or representative	Print name	Date mailed to parties



VALUE ADJUSTMENT BOARD CLERK'S NOTICE

[Reset to blank form](#)[Print Form](#)DR-485WCN
N. 12/09Rule 12D-16.002
Florida Administrative Code

County _____

To	From Clerk, Value Adjustment Board Address
Petition #	Phone ext Fax
Agent #	Email

This notice will inform the parties of the following action taken on the petition.

You have 10 days to complete the petition and return it to the value adjustment board. (Rule 12D-9.015(9), F.A.C.)

The petition will not be set for hearing because it was not completed and filed as specified in the previous clerk's notice. (Rule 12D-9.015(9), F.A.C.)

The board found good cause for your failure to file your petition on time. The clerk will schedule a hearing by separate notice. (Rule 12D-9.015(11), F.A.C.)

The board did not find good cause for your failure to file your petition on time. Your petition will not be scheduled for hearing. (Rule 12D-9.015(11), F.A.C.)

Your petition was returned. There was no filing fee included with the petition.

We received duplicate petitions for this property. The VAB is trying to resolve this issue. Please contact the clerk when you receive this notice.

The property appraiser has produced a revised assessment after remand (attached). You have the right to present additional evidence at a continuation hearing. You must notify the VAB clerk that the results of the remand are unacceptable and you must request a continuation hearing if you do not agree with the revised assessment. (Rule 12D-9.029, F.A.C.)

The board found good cause to reschedule your hearing. Your new hearing date will be sent to you.

The board did not find good cause to reschedule your hearing. Your hearing will be held on _____ at _____.

Other, specify.

Certificate of Service

I certify a true copy was served by US mail or the method requested on the petitioner's form on:	<input type="checkbox"/> petitioner	<input type="checkbox"/> other
	<input type="checkbox"/> A copy was provided to the property appraiser.	
Signature, deputy clerk _____	Date _____	



VALUE ADJUSTMENT BOARD WITHDRAWAL OF PETITION

Print Form

DR-485WI
N. 12/09

Rule 12D-16.002
Florida Administrative Code

To the value adjustment board of _____ County
Address

From	<input type="checkbox"/> Taxpayer <input type="checkbox"/> Agent
Parcel ID	Petition #
Property address	Mailing address
Email	Phone ext.

I do not wish to have a decision entered by the board or special magistrate. I understand that withdrawing this petition may mean I lose my right to file an appeal of the assessment in circuit court.*

The petition is withdrawn for the reason below.

- The petitioner agrees with the determination of the property appraiser or tax collector.
- The petitioner and property appraiser or tax collector have reached a settlement.
Value settled on \$ _____
- The petitioner does not agree with the decision or assessment of the property appraiser or tax collector but no longer wishes to pursue a remedy through the value adjustment board.
- Other reason, specify:

_____ Signature, taxpayer	OR	_____ Signature, petitioner or agent If signed by agent, I am authorized to withdraw this petition	
_____ Print name	_____ Date	_____ Print name	_____ Date

* If you are not satisfied after you are notified of the final decision of the VAB, you have the right to file a lawsuit in circuit court to further contest your assessment (sections 193.155(8)(k), 194.036, 194.171(2), and 196.151, F.S.).



DECISION OF THE VALUE ADJUSTMENT BOARD

EXEMPTION, CLASSIFICATION, OR ASSESSMENT DIFFERENCE TRANSFER PETITION

DR-485XC
N. 12/09
Rule 12D-16.002
Florida Administrative Code

The actions below were taken on your petition in the County of _____

These actions are a recommendation only, not final. These actions are a final decision of the VAB.

If you are not satisfied after you are notified of the final decision of the VAB, you have the right to file a lawsuit in circuit court to further contest your assessment (sections 193.155(8)(k), 194.036, 194.171(2), and 196.151, F.S.).

Petition #	Parcel ID
Petitioner name The petitioner is: <input type="checkbox"/> taxpayer of record <input type="checkbox"/> taxpayer's agent <input type="checkbox"/> other, explain:	Address

Decision Summary

Denied your petition
 Granted your petition
 Granted your petition in part

Value Lines 1 and 4 must be completed.	Before Board Action Value presented by property appraiser Rule 12D-9.025(10), F.A.C.	After Board Action
1. Market value, required	\$	\$
2. Assessed or classified use value,* if applicable	\$	\$
3. Exempt value,* enter "0" if none	\$	\$
4. Taxable value,* required	\$	\$

*All values entered should be county taxable values. School and other taxing authority values may differ (section 196.031(7)(d), F.S.).

Exemption, Classification, or Assessment Difference Transfer

<input type="checkbox"/> Homestead	<input type="checkbox"/> Widow/er	<input type="checkbox"/> Blind	<input type="checkbox"/> Totally and permanently disabled veteran
<input type="checkbox"/> Low income senior	<input type="checkbox"/> Disabled	<input type="checkbox"/> Disabled Veteran	<input type="checkbox"/> Use classification, specify: _____
<input type="checkbox"/> Parent/grandparent assessment reduction	<input type="checkbox"/> Use exemption, specify: _____		
<input type="checkbox"/> Transfer of homestead assessment difference	<input type="checkbox"/> Other,specify: _____		

Reasons for Decision

Findings of Fact Use additional sheets, if needed.

Conclusions of Law Use additional sheets, if needed.

Recommended Decision of Special Magistrate Findings and conclusions above are recommendations.

Signature, special magistrate	Print name	Date
Signature, VAB clerk or representative	Print name	Date

If this is a recommended decision, the board will consider the recommended decision on _____ Date _____ at _____ Time _____
 Address: _____
 If the line above is blank, please call _____ ext. _____ or visit our web site at _____

Final Decision of the Value Adjustment Board

Signature, chair, value adjustment board	Print name	Date of decision
Signature, VAB clerk or representative	Print name	Date mailed to parties



PETITION TO THE VALUE ADJUSTMENT BOARD REQUEST FOR HEARING

Print Form

DR-486
R. 12/09

Rule 12D-16.002
Florida Administrative Code

You have the right to an informal conference with the property appraiser. This conference is not required and does not change your filing due date. You can present facts that support your claim and the property appraiser can present facts that support the correctness of the assessment. To request a conference, contact your county property appraiser.

For portability of homestead assessment difference, use form DR-486PORT. For deferral or penalties, use DR-486DP.

COMPLETED BY CLERK OF THE VALUE ADJUSTMENT BOARD (VAB)			
Petition #	County	Tax Year <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/>	Date received
COMPLETED BY THE PETITIONER			
PART 1. Taxpayer Information			
Taxpayer name	Agent		
Mailing address for notices	Parcel ID and physical address or TPP account #		
Phone	Fax	Email	
The standard way to receive information is by US mail. If possible, I prefer to receive information by <input type="checkbox"/> Email <input type="checkbox"/> Fax			
<input type="checkbox"/> Send me a copy of the real property record card or tangible property worksheet with my hearing notice.			
<input type="checkbox"/> I will not attend the hearing but would like my evidence considered. In this instance only, you must submit duplicate copies of your evidence to the value adjustment board clerk. Florida law allows the property appraiser to cross examine or object to your evidence. The VAB special magistrate ruling will occur under the same statutory guidelines as if you were present.			
Type of property: <input type="checkbox"/> Res. 1-4 units <input type="checkbox"/> Industrial and miscellaneous <input type="checkbox"/> High-water recharge <input type="checkbox"/> Historic, commercial or nonprofit			
<input type="checkbox"/> Commercial <input type="checkbox"/> Res. 5+ units <input type="checkbox"/> Agricultural or classified use <input type="checkbox"/> Vacant lots and acreage <input type="checkbox"/> Business machinery, equipment			
PART 2. Reason for Petition <small>Check one. If more than one, file a separate petition.</small>			
<input type="checkbox"/> Real property value <input type="checkbox"/> Denial of exemption. Select or enter type: _____			
<input type="checkbox"/> Denial of classification <input type="checkbox"/> Denial for late filing of exemption or classification. Include a date stamped copy of application.			
<input type="checkbox"/> Parent/grandparent reduction <input type="checkbox"/> Tangible personal property value. A return required by s. 193.052 must have been filed. (S. 194.034, F.S.)			
<input type="checkbox"/> Check here if this is a joint petition. Attach a list of parcels with property appraiser's determination that parcels are substantially similar. (S. 194.011(3)(e) and (f), F.S.)			
<input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> minutes Enter the time you think you need to present your case. Most hearings take 15 minutes. The VAB is not bound by the requested time. For single joint petitions for multiple parcels, provide the time needed for the entire group.			
<input type="checkbox"/> There are specific dates I or my witnesses will not be available to attend. I have attached a list of the dates.			
You have the right to exchange evidence with the property appraiser. To initiate the exchange, you must submit your evidence directly to the property appraiser at least 15 days before the hearing and request the property appraiser's evidence. At the hearing, you have the right to have witnesses sworn.			
PART 3. Certification			
Under penalties of perjury, I declare that I am the owner of the property described in this petition or the authorized agent of the owner for purposes of filing this petition and for purposes of becoming agent for service of process under s. 194.011(3)(g), F.S., and that I have read this petition and the facts stated in it are true.			
Signature, taxpayer	Print name	Date	
Signature, agent	Professional license number or FBN		
A petition filed by an unlicensed agent must be signed by the taxpayer or include written authorization from the taxpayer.			
<input type="checkbox"/> I am filing this petition after the petition deadline. I have attached a statement of the reasons I filed late and any documents that support my statement.			

Your petition will not be complete until you pay the filing fee. When the VAB has reviewed and accepted it, they will assign a number, send you a confirmation, and give a copy to the property appraiser.



PETITION TO THE VALUE ADJUSTMENT BOARD TAX DEFERRAL OR PENALTIES REQUEST FOR HEARING

Print Form

DR-486DP
N. 12/09

Rule 12D-16.002
Florida Administrative Code

COMPLETED BY CLERK OF THE VALUE ADJUSTMENT BOARD (VAB)

Petition #	County	Tax Year	<input type="text"/>	<input type="text"/>	Date received
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COMPLETED BY THE PETITIONER

PART 1. Taxpayer Information

Taxpayer	Agent
Mailing address for notices	Parcel ID and physical address

Phone	Fax	Email
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The standard way to receive information is by US mail. If possible, I prefer to receive information by Email Fax

I will not attend the hearing but would like my evidence considered. You must submit duplicate copies of your evidence to the value adjustment board clerk. Florida law allows the tax collector to cross examine or object to your evidence. The VAB special magistrate ruling will occur under the same statutory guidelines as if you were present.

PART 2. Type of Deferral or Penalty Appeal*

- Disapproval of homestead tax deferral
- Disapproval of affordable rental tax deferral
- Disapproval of recreational and commercial working waterfront tax deferral
- Penalties imposed under section 197.301, F.S., homestead
- Penalties imposed under section 197.3079, F.S., affordable rental housing properties
- Penalties imposed under section 197.3047, F.S., recreational and commercial working waterfront

*You must submit a copy of the original application for tax deferral filed with the tax collector and any additional documents.

Enter the time you will need to present your case. Most hearings take 15 minutes. The VAB is not bound by the requested time. For single joint petitions for multiple parcels, provide the time needed for the entire group.

There are specific dates I or my witnesses will not be available to attend. I have attached a list of the dates.

At the hearing, you have the right to have witnesses sworn.

PART 3. Certification

Under penalties of perjury, I declare that I am the owner of the property described in this petition or the authorized agent of the owner for purposes of filing this petition and for purposes of becoming agent for service of process under s. 194.011(3)(g), F.S., and that I have read this petition and the facts stated in it are true.

Signature, taxpayer	Print name	Date
---------------------	------------	------

Signature, agent	Professional license number or FBN
------------------	------------------------------------

A petition filed by an unlicensed agent must be signed by the taxpayer or include written authorization from the taxpayer.

I am filing this petition after the petition deadline. I have attached a statement of the reasons I filed late and any documents that support my statement.

Your petition will not be complete until you pay the filing fee. When the VAB has reviewed and accepted it, they will assign a number, send you a confirmation, and give a copy to the tax collector.



**VALUE ADJUSTMENT BOARD
ATTACHMENT TO SINGLE JOINT PETITION
FOR MULTIPLE UNITS FILING**

DR-486MU
N. 12/09
Page ____ of ____
Suggested form

County _____
Phone _____

Each petition with any attachments must be filed with the proper filing fee or it will be invalid and rejected. Each parcel of property being appealed must be identified by a separate folio number. This form must be attached to a Form DR-486, when used.

Joint petitions filed by condominium, cooperative, or homeowners' associations as agents according to section 194.011(3)(e), F.S., should attach a copy of the board of administration or directors' resolution authorizing this filing.	
For Complex Only	
Name	Address
Mail notices to: <input type="checkbox"/> owner <input type="checkbox"/> agent	

Name		Home phone	
Address		Apt	Work phone
City	State	Zip	Other

List the folio numbers for all parcels covered by this petition.
First 9 digits of real estate folio number _____ Enter last 4 digits of each folio number in the spaces below.

Total number of parcels this page: _____
Continue on additional pages, if needed.
Number of pages, including this one: _____

Grand total, number of parcels filed, all pages _____

Signatures and Certification

Under penalties of perjury, I declare that I have read this attachment and the facts in it are true. If I am signing and filing this attachment and the related petition as an agent of the taxpayer/owner, I certify that I am duly authorized to do so.

Signature, petitioner/agent _____
Date

Attached or indicated below is the property appraiser's determination that the parcels are substantially similar as required by s. 194.011(3)(e) or (3)(f), F.S.

The parcels on this form are substantially similar as required by s. 194.011(3)(e) or (3)(f), F.S.

Signature, property appraiser _____
Date



**PETITION TO THE VALUE ADJUSTMENT BOARD
TRANSFER OF HOMESTEAD ASSESSMENT DIFFERENCE
REQUEST FOR HEARING**

Print Form

DR-486PORT
R. 12/09

Rule 12D-16.002
Florida Administrative Code

This petition does not authorize the consideration or adjustment of the just, assessed, or taxable value of the previous homestead. You have the right to an informal conference with the property appraiser. This conference is not required and does not change your filing due date. You can present facts that support your claim and the property appraiser can present facts that support the correctness of the assessment. To request a conference, contact your county property appraiser.

COMPLETED BY CLERK OF THE VALUE ADJUSTMENT BOARD

Petition #	County	Tax Year	<input type="text"/>	<input type="text"/>	<input type="text"/>	Date received
------------	--------	----------	----------------------	----------------------	----------------------	---------------

COMPLETED BY THE PETITIONER

PART 1. Taxpayer Information

Taxpayer	Agent
Mailing address for notices	Email
	Phone Fax

The standard way to receive information is by US mail. If possible, I prefer to receive information by: Email Fax

I will not attend the hearing but would like my evidence considered. You must submit duplicate copies of your evidence to the value adjustment board clerk. Florida law allows the property appraiser to cross examine or object to your evidence. The VAB special magistrate ruling will occur under the same statutory guidelines as if you were present.

	PREVIOUS HOMESTEAD	NEW HOMESTEAD
Parcel ID		
Physical address		
County		

PART 2. Reason for Petition Check all that apply.

I was denied the transfer of the assessment difference from my previous homestead to my new homestead.

I disagree with the assessment difference calculated by the property appraiser for transfer to my new homestead. I believe the amount that should be transferred is: \$ _____

I filed late with the property appraiser for the transfer of my homestead assessment difference. Late filed homestead assessment difference petitions must include a copy of the application filed with the property appraiser and date stamped by the property appraiser.

My previous homestead is in a different county. I am appealing action of the property appraiser in that county.

Enter the time you will need to present your case. Most hearings take 15 minutes. The VAB is not bound by the requested time. For single joint petitions for multiple parcels, provide the time needed for the entire group.

There are specific dates I or my witnesses will not be available to attend. I have attached a list of the dates.

You have the right to exchange evidence with the property appraiser. To initiate the exchange, you must submit your evidence directly to the property appraiser at least 15 days before the hearing and request the property appraiser's evidence. At the hearing, you have the right to have witnesses sworn.

PART 3. Certification

Under penalties of perjury, I declare that I am the owner of the property described in this petition or the authorized agent of the owner for purposes of filing this petition and for purposes of becoming agent for service of process under s.194.011(3)(g), F.S., and that I have read this petition and the facts stated in it are true.

Signature, taxpayer	Print Name	Date
---------------------	------------	------

Signature, agent	Professional license number or FBN
------------------	------------------------------------

A petition filed by an unlicensed agent must be signed by the taxpayer or include written authorization from the taxpayer.

I am filing this petition after the petition deadline. I have attached a statement of the reasons I filed late and any documents that support my statement.

Your petition will not be complete until you pay the filing fee. When the VAB has reviewed and accepted it, they will assign a number, send you a confirmation, and give a copy to the property appraiser.



CROSS-COUNTY NOTICE OF APPEAL AND PETITION TRANSFER OF HOMESTEAD ASSESSMENT DIFFERENCE

Reset to blank form

Print Form

DR-486XCO
R. 12/09

Rule 12D-16.002
Florida Administrative Code

For use by the Clerk of the Value Adjustment Board (VAB)

COMPLETED BY VAB CLERK IN THE COUNTY OF THE NEW HOMESTEAD

To: Clerk of the VAB, County of	From: Clerk of the VAB, County of
Contact Name	Contact Name
Address	Address
Phone ext.	Phone ext.
Email	Email
Fax	Fax

The attached petition appeals actions of the property appraiser in your county.

I certify that this petition to the Value Adjustment Board was filed with me on _____ Date

Signature, clerk of the value adjustment board

INSTRUCTIONS

Clerk of the VAB, County of the New Homestead

Use this form if a petition is filed because:

1. A taxpayer does not agree with the amount of the assessment limitation difference for which the taxpayer qualifies as stated by the property appraiser in the county of the previous homestead, or
2. The property appraiser in the county of the previous homestead
 - a. has said that the taxpayer does not qualify to transfer any assessment limitation difference, or
 - b. has not provided sufficient information to grant the assessment difference transfer.

When a taxpayer files a petition to the VAB in the county of the new homestead property, the clerk of the VAB in that county will send this notice, Form DR-486XCO, to the clerk of the VAB in the county of the previous homestead if the petition form DR-486PORT check box indicates there is an issue with the homestead in the previous county. Attach the taxpayer's petition form.

Clerk of the VAB, County of the Previous Homestead

The attached petition appeals the actions of the property appraiser in your county. If your VAB has already adjourned, it must reconvene. When the VAB makes a decision on the attached petition, promptly send a copy of the decision to the petitioner and the clerk of the VAB in the county of the new homestead.



CERTIFICATION OF THE VALUE ADJUSTMENT BOARD

Section 193.122, Florida Statutes

DR-488
R. 12/09
Page 1 of 2
Rule 12D-16.002
Florida Administrative Code

Tax Roll Year

The Value Adjustment Board of _____ County, after approval of the assessment roll below by the Department of Revenue, certifies that all hearings required by section 194.032, F.S., have been held and the Value Adjustment Board is satisfied that the

Check one. Real Property Tangible Personal Property

assessment for our county includes all property and information required by the statutes of the State of Florida and the requirements and regulations of the Department of Revenue.

On behalf of the entire board, I certify that we have ordered this certification to be attached as part of the assessment roll. The roll will be delivered to the property appraiser of this county on the date of this certification. The property appraiser will adjust the roll accordingly and make all extensions to show the tax attributable to all taxable property under the law.

The following figures* are correct to the best of our knowledge:

1. Taxable value of <input type="checkbox"/> real property <input type="checkbox"/> tangible personal property assessment roll as submitted by the property appraiser to the value adjustment board	\$	0
2. Net change in taxable value due to actions of the Board	\$	
3. Taxable value of <input type="checkbox"/> real property <input type="checkbox"/> tangible personal property assessment roll incorporating all changes due to action of the value adjustment board	\$	

*All values entered should be county taxable values. School and other taxing authority values may differ.

Signature, Chair of the Value Adjustment Board

Date

Continued on page 2

Certification of the Value Adjustment Board

PROCEDURES

Tax Roll Year

The value adjustment board has met the requirements below. Check all that apply.

The board:

<input type="checkbox"/>	1. Followed the prehearing checklist in Chapter 12D-9, Florida Administrative Code. Took all actions reported by the VAB clerk or the legal counsel to comply with the checklist.
<input type="checkbox"/>	2. Verified the qualifications of special magistrates, including if special magistrates completed the Department's training.
<input type="checkbox"/>	3. Based the selection of special magistrates solely on proper qualifications and the property appraiser did not influence the selection of special magistrates.
<input type="checkbox"/>	4. Considered only petitions filed by the deadline or found to have good cause for filing late.
<input type="checkbox"/>	5. Noticed all meetings as required by section 286.011, F.S.
<input type="checkbox"/>	6. Did not consider ex parte communications unless all parties were notified and allowed to object to or address the communication.
<input type="checkbox"/>	7. Reviewed and considered all petitions as required, unless withdrawn or settled by the petitioner.
<input type="checkbox"/>	8. Ensured that all decisions contained the required findings of fact and conclusions of law.
<input type="checkbox"/>	9. Allowed the opportunity for public comment at the meetings where the recommended decisions of special magistrates were considered or board decisions were adopted.
<input type="checkbox"/>	10. Addressed all complaints of noncompliance with the provisions of Chapter 194, Part I, Florida Statutes, and rule Chapter 12D-9, F.A.C., that were called to the board's attention.

All board members and the board's legal counsel have read this certification.

The board must submit this certification to the Department of Revenue before it publishes the notice of the findings and results required by section 194.037, F.S.

On behalf of the entire value adjustment board, I certify that the above statements are true and that the board has met all the requirements in Chapter 194, F.S., and Department rules.

After all hearings have been held, the board shall certify an assessment roll or part of an assessment roll that has been finally approved according to section 193.011, F.S. A sufficient number of copies of this certification shall be delivered to the property appraiser to attach to each copy of the assessment roll prepared by the property appraiser.

Signature, chair of the value adjustment board

Date

Print Form



INITIAL CERTIFICATION OF THE VALUE ADJUSTMENT BOARD

Print Form

DR-488P
N. 12/09

Rule 12D-16.002
Florida Administrative Code

Section 193.122(1), Florida Statutes

Tax Roll Year

The Value Adjustment Board of _____ County has not completed its hearings and certifies on order of the Board of County Commissioners according to sections 197.323 and 193.122(1), F.S., that the

Check one.

Real Property

Tangible Personal Property

assessment roll for our county has been presented by the property appraiser to include all property and information required by the statutes of the State of Florida and the requirements and regulations of the Department of Revenue.

On behalf of the entire board, I certify that we have ordered this certification to be attached as part of the assessment roll. We will issue a Certification of the Value Adjustment Board (Form DR-488) under section 193.122(1) and (3), F.S., when the hearings are completed. The property appraiser will make all extensions to show the tax attributable to all taxable property under the law.

Signature, Chair of the Value Adjustment Board

_____ Date



NOTICE OF DISAPPROVAL OF APPLICATION FOR PROPERTY TAX EXEMPTION OR CLASSIFICATION BY THE COUNTY PROPERTY APPRAISER

Reset to blank form

Print Form

DR-490
R. 12/09

Rule 12D-16.002
Florida Administrative Code

To:	County
	Parcel ID or property description

Exemptions Denied	
<input type="checkbox"/> Homestead - up to \$50,000	<input type="checkbox"/> Total and permanent disability (paraplegic, hemiplegic, wheelchair required for mobility, legally blind)
<input type="checkbox"/> Additional homestead - age 65 and older	<input type="checkbox"/> Veteran's service connected (total and permanent disability)
<input type="checkbox"/> Widow/er - \$500	<input type="checkbox"/> Disabled veteran discount
<input type="checkbox"/> Blind - \$500	<input type="checkbox"/> Other exemptions (Check box and enter type.)
<input type="checkbox"/> Disability - \$500	<input type="checkbox"/> Total Type: _____
<input type="checkbox"/> Disabled veteran - \$5,000	<input type="checkbox"/> Partial Type: _____
<input type="checkbox"/> Total and permanent disability (quadriplegics)	

Classifications Denied Agricultural High-water recharge Historic Conservation

Other Denial Specify: _____

Your application was denied because on January 1 of the tax year, you did not:

<input type="checkbox"/> Make property claimed as homestead your permanent residence (sections 196.011 and 196.031, F.S.).	<input type="checkbox"/> Meet income requirements for additional homestead, age 65 and older (section 196.075, F.S.).
<input type="checkbox"/> Have legal or beneficial title to your property.	<input type="checkbox"/> Use the property for the specified purpose. (Chapter 193, F.S.)

Meet other statutory requirements, specifically:

If you disagree with this denial, the Florida Property Taxpayer's Bill of Rights recognizes your right to an informal conference with the local property appraiser. You may also file an appeal with the county value adjustment board, according to sections 196.011 and 196.193, Florida Statutes. Petitions involving denials of exemptions or classifications are due by the 30th day after the mailing of this notice, whether or not you schedule an informal conference with the property appraiser.

Signature, property appraiser or deputy _____ County _____ Date _____

Property Appraiser Contact Information		
Print name	Email	
Mailing address	Phone	ext.
	Fax	

Value Adjustment Board Contact Information			
Email/web	Phone	ext.	Fax



NOTICE OF DENIAL OF TRANSFER OF HOMESTEAD ASSESSMENT DIFFERENCE

Reset to blank form

Print Form

DR-490PORT
R. 12/09

Rule 12D-16.002
Florida Administrative Code

To :	From: Property Appraiser, County of
	Contact name
	Address

	PREVIOUS HOMESTEAD	NEW HOMESTEAD
Parcel ID		
Physical address		
County		

Your application to transfer an assessment difference from your previous homestead to your new homestead was not approved because:

- 1. The information provided on your application was inaccurate or incomplete and could not be verified.
- 2. The property appraiser from the county of your previous homestead could not verify your homestead information.
- 3. The property appraiser from the county of your previous homestead did not provide sufficient information to grant a transfer of assessment difference to the new homestead.
- 4. The property identified as your previous homestead did not have homestead exemption in either of the two preceding years.
- 5. The homestead exemption is still being claimed on your previous homestead and is inconsistent with your transfer of a homestead assessment difference.
- 6. You did not establish your new homestead within the required time, or otherwise do not qualify for homestead exemption.
- 7. You did not meet other statutory requirements, specifically:

If you disagree with this denial, the Florida Taxpayer's Bill of Rights recognizes your right to an informal conference with the local property appraiser. You may also file an appeal with the county value adjustment board, according to section 193.155(8)(h), Florida Statutes. Petitions involving denials of transfer of homestead assessment difference are due by the 25th day after the mailing of the Notice of Proposed Property Taxes.

Signature, property appraiser or deputy _____ County _____ Date _____

Property Appraiser Contact Information

Print name	Email
Mailing address	Phone _____ ext. _____
	Fax _____

Value Adjustment Board Contact Information

Email/web _____	Phone _____	ext. _____	Fax _____
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NOTICE

TAX IMPACT OF VALUE ADJUSTMENT BOARD

DR-529
R. 12/09
Rule 12D-16.002
Florida Administrative Code

_____ County Tax Year

Members of the Board	
Honorable	Board of County Commissioners, District No.
Honorable	Board of County Commissioners, District No.
Honorable	School Board, District No.
Citizen Member	Business owner within the school district
Citizen Member	Homestead property owner

The Value Adjustment Board (VAB) meets each year to hear petitions and make decisions relating to property tax assessments, exemptions, classifications, and tax deferrals.

Summary of Year's Actions							
Type of Property	Number of Parcels					Reduction in County Taxable Value Due to Board Actions	Shift in Taxes Due to Board Actions
	Exemptions		Assessments*		Both		
	Granted	Requested	Reduced	Requested	Withdrawn or settled		
Residential						\$	\$
Commercial						\$	\$
Industrial and miscellaneous						\$	\$
Agricultural or classified use						\$	\$
High-water recharge						\$	\$
Historic commercial or nonprofit						\$	\$
Business machinery and equipment						\$	\$
Vacant lots and acreage						\$	\$
TOTALS						\$	\$

All values should be county taxable values. School and other taxing authority values may differ.

*Include transfer of assessment difference (portability) requests.

If you have a question about these actions, contact the Chair or the Clerk of the Value Adjustment Board.		
Chair's name	Phone	ext.
Clerk's name	Phone	ext.



DISAPPROVAL OF APPLICATION FOR TAX DEFERRAL

Homestead, Affordable Rental Housing, or Working Waterfront

[Reset to blank form](#)[Print Form](#)DR-571A
N. 12/09Rule 12D-16.002
Florida Administrative Code

Parcel ID		County
To:	Type of Property <input type="checkbox"/> Homestead <input type="checkbox"/> Affordable rental housing <input type="checkbox"/> Recreational or commercial working waterfront	
Your application for deferral of tax payments was denied because		
<input type="checkbox"/> The total of deferred taxes, non-ad valorem assessments and interest, and all other unsatisfied liens on the property is more than 85% of the assessed value of the property.		
<input type="checkbox"/> The total of the primary mortgage financing is more than 70% of the assessed value of the property.		
<input type="checkbox"/> You did not meet other statutory requirements, specifically:		
<p>If you disagree with this denial, the Florida Property Taxpayer's Bill of Rights recognizes your right to an informal conference with the local tax collector. You may also file an appeal with the county value adjustment board, according to sections 197.253, 197.3041, or 197.3073, Florida Statutes. Petitions involving denials of tax deferrals are due by the later of the 30th day after the mailing of this notice or the 20th day after you received this notice, whether or not you schedule an informal conference with the tax collector.</p>		
A copy of this notice was <input type="checkbox"/> personally delivered or <input type="checkbox"/> sent by registered mail to the applicant.		
Signature, tax collector		Date mailed
Contact name	E-mail	
Address	Phone	ext.
	Fax	

EXCERPT OF

CHAPTER 194

**ADMINISTRATIVE AND JUDICIAL
REVIEW OF PROPERTY TAXES**

PART I

**ADMINISTRATIVE REVIEW (ss. 194.011-
194.037)**

PART III

**ASSESSMENT: PRESUMPTION OF
CORRECTNESS (ss. 194.301, 194.3015)**

PART I

ADMINISTRATIVE REVIEW

194.011	Assessment notice; objections to assessments.
194.013	Filing fees for petitions; disposition; waiver.
194.015	Value adjustment board.
194.032	Hearing purposes; timetable.
194.034	Hearing procedures; rules.
194.035	Special magistrates; property evaluators.
194.036	Appeals.
194.037	Disclosure of tax impact.

194.011 Assessment notice; objections to assessments.—

(1) Each taxpayer whose property is subject to real or tangible personal ad valorem taxes shall be notified of the assessment of each taxable item of such property, as provided in s. 200.069.

¹(2) Any taxpayer who objects to the assessment placed on any property taxable to him or her, including the assessment of homestead property at less than just value under s. 193.155(8), may request the property appraiser to informally confer with the taxpayer. Upon receiving the request, the property appraiser, or a member of his or her staff, shall confer with the taxpayer regarding the correctness of the assessment. At this informal conference, the taxpayer shall present

those facts considered by the taxpayer to be supportive of the taxpayer's claim for a change in the assessment of the property appraiser. The property appraiser or his or her representative at this conference shall present those facts considered by the property appraiser to be supportive of the correctness of the assessment. However, nothing herein shall be construed to be a prerequisite to administrative or judicial review of property assessments.

(3) A petition to the value adjustment board must be in substantially the form prescribed by the department. Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board shall describe the property by parcel number and shall be filed as follows:

(a) The property appraiser shall have available and shall distribute forms prescribed by the Department of Revenue on which the petition shall be made. Such petition shall be sworn to by the petitioner.

(b) The completed petition shall be filed with the clerk of the value adjustment board of the county, who shall acknowledge receipt thereof and promptly furnish a copy thereof to the property appraiser.

(c) The petition shall state the approximate time anticipated by the taxpayer to present and argue his or her petition before the board.

(d) The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the mailing of notice by the property appraiser as provided in subsection (1). With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser under s. 193.461, s. 193.503, s. 193.625, or s. 196.193 or notice by the tax collector under s. 197.253.

(e) A condominium association, cooperative association, or any homeowners' association as

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defined in s. 723.075, with approval of its board of administration or directors, may file with the value adjustment board a single joint petition on behalf of any association members who own parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The condominium association, cooperative association, or homeowners' association as defined in s. 723.075 shall provide the unit owners with notice of its intent to petition the value adjustment board and shall provide at least 20 days for a unit owner to elect, in writing, that his or her unit not be included in the petition.

(f) An owner of contiguous, undeveloped parcels may file with the value adjustment board a single joint petition if the property appraiser determines such parcels are substantially similar in nature.

(g) 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 value adjustment board proceedings, including any appeals of a board decision by the property appraiser pursuant to s. 194.036.

(4)(a) At least 15 days before the hearing the petitioner shall provide to the property appraiser a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses.

(b) No later than 7 days before the hearing, if the petitioner has provided the information required under paragraph (a), and if requested in writing by the petitioner, the property appraiser shall provide to the petitioner a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses. The evidence list must contain the property record card if provided by the clerk. Failure of the property appraiser to timely comply with the requirements of this paragraph shall result in a rescheduling of the hearing.

(5)(a) The department shall by rule prescribe uniform procedures for hearings before the value adjustment board which include requiring:

1. Procedures for the exchange of information and evidence by the property appraiser and the petitioner consistent with s. 194.032.

2. That the value adjustment board hold an organizational meeting for the purpose of making these procedures available to petitioners.

(b) The department shall develop a uniform policies and procedures manual that shall be used by value adjustment boards, special magistrates, and taxpayers in proceedings before value adjustment boards. The manual shall be made available, at a minimum, on the department's website and on the existing websites of the clerks of circuit courts.

¹(6) The following provisions apply to petitions to the value adjustment board concerning the assessment of homestead property at less than just value under s. 193.155(8):

(a) If the taxpayer does not agree with the amount of the assessment limitation difference for which the taxpayer qualifies as stated by the property appraiser in the county where the previous homestead property was located, or if the property appraiser in that county has not stated that the taxpayer qualifies to transfer any assessment limitation difference, upon the taxpayer filing a petition to the value adjustment board in the county where the new homestead property is located, the value adjustment board in that county shall, upon receiving the appeal, send a notice to the value adjustment board in the county where the previous homestead was located, which shall reconvene if it has already adjourned.

(b) Such notice operates as a petition in, and creates an appeal to, the value adjustment board in the county where the previous homestead was located of all issues surrounding the previous assessment differential for the taxpayer involved. However, the taxpayer may not petition to have the just, assessed, or taxable value of the previous homestead changed.

(c) The value adjustment board in the county where the previous homestead was located shall set the petition for hearing and notify the taxpayer, the property appraiser in the county where the previous homestead was located, the property appraiser in the county where the new homestead is located, and the value adjustment board in that county, and shall hear the appeal. Such appeal shall be heard by

an attorney special magistrate if the value adjustment board in the county where the previous homestead was located uses special magistrates. The taxpayer may attend such hearing and present evidence, but need not do so. The value adjustment board in the county where the previous homestead was located shall issue a decision and send a copy of the decision to the value adjustment board in the county where the new homestead is located.

(d) In hearing the appeal in the county where the new homestead is located, that value adjustment board shall consider the decision of the value adjustment board in the county where the previous homestead was located on the issues pertaining to the previous homestead and on the amount of any assessment reduction for which the taxpayer qualifies. The value adjustment board in the county where the new homestead is located may not hold its hearing until it has received the decision from the value adjustment board in the county where the previous homestead was located.

(e) In any circuit court proceeding to review the decision of the value adjustment board in the county where the new homestead is located, the court may also review the decision of the value adjustment board in the county where the previous homestead was located.

History.—s. 25, ch. 4322, 1895; GS 525; s. 1, ch. 5605, 1907; ss. 23, 66, ch. 5596, 1907; RGS 723, 724; CGL 929, 930; s. 1, ch. 67-415; ss. 1, 2, ch. 69-55; s. 1, ch. 69-140; ss. 21, 35, ch. 69-106; s. 25, ch. 70-243; s. 34, ch. 71-355; s. 11, ch. 73-172; s. 5, ch. 76-133; s. 1, ch. 76-234; s. 1, ch. 77-102; s. 1, ch. 77-174; s. 2, ch. 78-354; s. 36, ch. 80-274; s. 13, ch. 82-208; ss. 8, 55, 80, ch. 82-226; s. 209, ch. 85-342; s. 1, ch. 86-175; s. 1, ch. 88-146; s. 143, ch. 91-112; s. 1, ch. 92-32; s. 977, ch. 95-147; s. 6, ch. 95-404; s. 4, ch. 96-204; s. 3, ch. 97-117; s. 2, ch. 2002-18; s. 1, ch. 2004-349; s. 7, ch. 2008-173; s. 3, ch. 2008-197.

¹**Note.**—Section 13, ch. 2008-173, provides that:

“(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

“(2) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules.”

Note.—Former s. 193.25.

194.013 Filing fees for petitions; disposition; waiver.—

(1) If so required by resolution of the value adjustment board, a petition filed pursuant to s. 194.011 shall be accompanied by a filing fee to be paid to the clerk of the value adjustment board in an amount determined by the board not to exceed \$15 for each separate parcel of property, real or personal, covered by the petition and subject to appeal. However, no such filing fee may be required with respect to an appeal from the disapproval of homestead exemption under s. 196.151 or from the denial of tax deferral under s. 197.253. Only a single filing fee shall be charged under this section as to any particular parcel of property despite the existence of multiple issues and hearings pertaining to such parcel. For joint petitions filed pursuant to s. 194.011(3)(e) or (f), a single filing fee shall be charged. Such fee shall be calculated as the cost of the special magistrate for the time involved in hearing the joint petition and shall not exceed \$5 per parcel. Said fee is to be proportionately paid by affected parcel owners.

(2) The value adjustment board shall waive the filing fee with respect to a petition filed by a taxpayer who demonstrates at the time of filing, by an appropriate certificate or other documentation issued by the Department of Children and Family Services and submitted with the petition, that the petitioner is then an eligible recipient of temporary assistance under chapter 414.

(3) All filing fees imposed under this section shall be paid to the clerk of the value adjustment board at the time of filing. If such fees are not paid at that time, the petition shall be deemed invalid and shall be rejected.

(4) All filing fees collected by the clerk shall be allocated and utilized to defray, to the extent possible, the costs incurred in connection with the administration and operation of the value adjustment board.

History.—s. 19, ch. 83-204; s. 210, ch. 85-342; s. 2, ch. 86-175; s. 4, ch. 86-300; s. 2, ch. 88-146; s. 144, ch. 91-112; s. 55, ch. 96-175; s. 18, ch. 99-8; s. 3, ch. 2000-262; s. 70, ch. 2004-11.

194.015 Value adjustment board.—There is hereby created a value adjustment board for each

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county, which shall consist of two members of the governing body of the county as elected from the membership of the board of said governing body, one of whom shall be elected chairperson, and one member of the school board as elected from the membership of the school board, and two citizen members, one of whom shall be appointed by the governing body of the county and must own homestead property within the county and one of whom must be appointed by the school board and must own a business occupying commercial space located within the school district. A citizen member may not be a member or an employee of any taxing authority, and may not be a person who represents property owners in any administrative or judicial review of property taxes. The members of the board may be temporarily replaced by other members of the respective boards on appointment by their respective chairpersons. Any three members shall constitute a quorum of the board, except that each quorum must include at least one member of said governing board, at least one member of the school board, and at least one citizen member and no meeting of the board shall take place unless a quorum is present. Members of the board may receive such per diem compensation as is allowed by law for state employees if both bodies elect to allow such compensation. The clerk of the governing body of the county shall be the clerk of the value adjustment board. The board shall appoint private counsel who has practiced law for over 5 years and who shall receive such compensation as may be established by the board. The private counsel may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes. No meeting of the board shall take place unless counsel to the board is present. Two-fifths of the expenses of the board shall be borne by the district school board and three-fifths by the district county commission.

History.—s. 2, ch. 69-140; s. 1, ch. 69-300; s. 26, ch. 70-243; s. 22, ch. 73-172; s. 5, ch. 74-234; s. 1, ch. 75-77; s. 6, ch. 76-133; s. 2, ch. 76-234; s. 1, ch. 77-69; s. 145, ch. 91-112; s. 978, ch. 95-147; s. 4, ch. 2008-197.

194.032 Hearing purposes; timetable.—

(1)(a) The value adjustment board shall meet not earlier than 30 days and not later than 60 days

after the mailing of the notice provided in s. 194.011(1); however, no board hearing shall be held before approval of all or any part of the assessment rolls by the Department of Revenue. The board shall meet for the following purposes:

1. Hearing petitions relating to assessments filed pursuant to s. 194.011(3).

2. Hearing complaints relating to homestead exemptions as provided for under s. 196.151.

3. Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications under s. 196.011.

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

(b) Notwithstanding the provisions of paragraph (a), the value adjustment board may meet prior to the approval of the assessment rolls by the Department of Revenue, but not earlier than July 1, to hear appeals pertaining to the denial by the property appraiser of exemptions, agricultural and high-water recharge classifications, classifications as historic property used for commercial or certain nonprofit purposes, and deferrals under subparagraphs (a)2., 3., and 4. In such event, however, the board may not certify any assessments under s. 193.122 until the Department of Revenue has approved the assessments in accordance with s. 193.1142 and all hearings have been held with respect to the particular parcel under appeal.

(c) In no event may a hearing be held pursuant to this subsection relative to valuation issues prior to completion of the hearings required under s. 200.065(2)(c).

(2) The clerk of the governing body of the county shall prepare a schedule of appearances before the board based on petitions timely filed with him or her. The clerk shall notify each petitioner of the scheduled time of his or her appearance no less than 25 calendar days prior to the day of such scheduled appearance. Upon receipt of this notification, the petitioner shall have the right to reschedule the hearing a single time by submitting to the clerk of the governing body of the county a written request to reschedule, no less than 5 calendar days before the day of the originally scheduled hearing. A copy of the property record card containing relevant information used in

computing the taxpayer's current assessment shall be included with such notice, if said card was requested by the taxpayer. Such request shall be made by checking an appropriate box on the petition form. No petitioner shall be required to wait for more than 4 hours from the scheduled time; and, if his or her petition is not heard in that time, the petitioner may, at his or her option, report to the chairperson of the meeting that he or she intends to leave; and, if he or she is not heard immediately, the petitioner's administrative remedies will be deemed to be exhausted, and he or she may seek further relief as he or she deems appropriate. Failure on three occasions with respect to any single tax year to convene at the scheduled time of meetings of the board shall constitute grounds for removal from office by the Governor for neglect of duties.

(3) The board shall remain in session from day to day until all petitions, complaints, appeals, and disputes are heard. If all or any part of an assessment roll has been disapproved by the department pursuant to s. 193.1142, the board shall reconvene to hear petitions, complaints, or appeals and disputes filed upon the finally approved roll or part of a roll.

History.—s. 4, ch. 69-140; ss. 21, 35, ch. 69-106; s. 27, ch. 70-243; s. 12, ch. 73-172; s. 6, ch. 74-234; s. 7, ch. 76-133; s. 3, ch. 76-234; s. 1, ch. 77-174; s. 13, ch. 77-301; ss. 1, 9, 37, ch. 80-274; s. 5, ch. 81-308; ss. 14, 16, ch. 82-208; ss. 9, 11, 23, 26, 80, ch. 82-226; ss. 20, 21, 22, 23, 24, 25, ch. 83-204; s. 146, ch. 91-112; s. 979, ch. 95-147; s. 5, ch. 96-204; s. 4, ch. 97-117; s. 2, ch. 98-52; s. 3, ch. 2002-18; s. 2, ch. 2004-349.

194.034 Hearing procedures; rules.—

(1)(a) Petitioners before the board may be represented by an attorney or agent and present testimony and other evidence. The property appraiser or his or her authorized representatives may be represented by an attorney in defending the property appraiser's assessment or opposing an exemption and may present testimony and other evidence. The property appraiser, each petitioner, and all witnesses shall be required, upon the request of either party, to testify under oath as administered by the chairperson of the board. Hearings shall be conducted in the manner prescribed by rules of the department, which rules

shall include the right of cross-examination of any witness.

(b) Nothing herein shall preclude an aggrieved taxpayer from contesting his or her assessment in the manner provided by s. 194.171, whether or not he or she has initiated an action pursuant to s. 194.011.

(c) The rules shall provide that 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; that a verbatim record of the proceedings shall be made, and proof of any documentary evidence presented shall be preserved and made available to the Department of Revenue, if requested; and that further judicial proceedings shall be as provided in s. 194.036.

(d) Notwithstanding the provisions of this subsection, 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.

(e) Chapter 120 does not apply to hearings of the value adjustment board.

(f) An assessment may not be contested until a return required by s. 193.052 has been filed.

(2) In each case, except when a complaint is withdrawn by the petitioner or is acknowledged as correct by the property appraiser, the value adjustment board shall render a written decision. All such decisions shall be issued within 20 calendar days of the last day the board is in session under s. 194.032. The decision of the board shall contain findings of fact and conclusions of law and shall include reasons for upholding or overturning the determination of the property appraiser. When a special magistrate has been appointed, the recommendations of the special magistrate shall be considered by the board. The clerk, upon issuance of the decisions, shall, on a form provided by the Department of Revenue, notify by first-class mail each taxpayer, the property appraiser, and the department of the decision of the board.

(3) Appearance before an advisory board or agency created by the county may not be required

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as a prerequisite condition to appearing before the value adjustment board.

(4) A condominium homeowners' association may appear before the board to present testimony and evidence regarding the assessment of condominium units which the association represents. Such testimony and evidence shall be considered by the board with respect to hearing petitions filed by individual condominium unit owners, unless the owner requests otherwise.

(5) For the purposes of review of a petition, the board may consider assessments among comparable properties within homogeneous areas or neighborhoods.

(6) For purposes of hearing joint petitions filed pursuant to s. 194.011(3)(e), each included parcel shall be considered by the board as a separate petition. Such separate petitions shall be heard consecutively by the board. If a special magistrate is appointed, such separate petitions shall all be assigned to the same special magistrate.

History.—s. 21, ch. 83-204; s. 12, ch. 83-216; s. 3, ch. 86-175; s. 147, ch. 91-112; s. 2, ch. 92-32; s. 980, ch. 95-147; s. 71, ch. 2004-11.

194.035 Special magistrates; property evaluators.—

(1) In counties having a population of more than 75,000, 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. These special magistrates may not be elected or appointed officials or employees of the county but shall be selected from a list of those qualified individuals who are willing to serve as special magistrates. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve as special magistrates. The clerk of the board shall annually notify such individuals or their professional associations to make known to them that opportunities to serve as special magistrates exist. The Department of Revenue shall provide a list of qualified special magistrates to any county with a population of 75,000 or less. Subject to appropriation, the department shall reimburse counties with a population of 75,000 or less for payments made to special magistrates appointed for the purpose of

taking testimony and making recommendations to the value adjustment board pursuant to this section. The department shall establish a reasonable range for payments per case to special magistrates based on such payments in other counties. Requests for reimbursement of payments outside this range shall be justified by the county. If the total of all requests for reimbursement in any year exceeds the amount available pursuant to this section, payments to all counties shall be prorated accordingly. If a county having a population less than 75,000 does not appoint a special magistrate to hear each petition, the person or persons designated to hear petitions before the value adjustment board or the attorney appointed to advise the value adjustment board shall attend the training provided pursuant to subsection (3), regardless of whether the person would otherwise be required to attend, but shall not be required to pay the tuition fee specified in subsection (3). A special magistrate appointed to hear issues of exemptions and classifications shall be a member of The Florida Bar with no less than 5 years' experience in the area of ad valorem taxation. A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years' experience in real property valuation. A 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 5 years' experience in tangible personal property valuation. A special magistrate need not be a resident of the county in which he or she serves. A special magistrate may not represent a person before the board in any tax year during which he or she has served that board as a special magistrate. Before appointing a special magistrate, a value adjustment board shall verify the special magistrate's qualifications. The value adjustment 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. The special magistrate shall accurately and completely preserve all testimony and, in making recommendations to the value adjustment board, shall include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of

the property appraiser. The expense of hearings before magistrates and any compensation of special magistrates shall be borne three-fifths by the board of county commissioners and two-fifths by the school board.

(2) The value adjustment board of each county may employ qualified property appraisers or evaluators to appear before the value adjustment board at that meeting of the board which is held for the purpose of hearing complaints. Such property appraisers or evaluators shall present testimony as to the just value of any property the value of which is contested before the board and shall submit to examination by the board, the taxpayer, and the property appraiser.

(3) The department shall provide and conduct training for special magistrates at least once each state fiscal year in at least five locations throughout the state. Such training shall emphasize the department's standard measures of value, including the guidelines for real and tangible personal property. Notwithstanding subsection (1), a person who has 3 years of relevant experience and who has completed the training provided by the department under this subsection may be appointed as a special magistrate. The training shall be open to the public. The department shall charge tuition fees to any person attending this training in an amount sufficient to fund the department's costs to conduct all aspects of the training. The department shall deposit the fees collected into the Certification Program Trust Fund pursuant to s. 195.002(2).

History.—s. 22, ch. 83-204; s. 148, ch. 91-112; s. 981, ch. 95-147; s. 4, ch. 2002-18; s. 72, ch. 2004-11; s. 5, ch. 2008-197.

194.036 Appeals.—Appeals of the decisions of the board shall be as follows:

(1) If the property appraiser disagrees with the decision of the board, he or she may appeal the decision to the circuit court if one or more of the following criteria are met:

(a) The property appraiser determines and affirmatively asserts in any legal proceeding that there is a specific constitutional or statutory violation, or a specific violation of administrative rules, in the decision of the board, except that

nothing herein shall authorize the property appraiser to institute any suit to challenge the validity of any portion of the constitution or of any duly enacted legislative act of this state;

(b) There is a variance from the property appraiser's assessed value in excess of the following: 15 percent variance from any assessment of \$50,000 or less; 10 percent variance from any assessment in excess of \$50,000 but not in excess of \$500,000; 7.5 percent variance from any assessment in excess of \$500,000 but not in excess of \$1 million; or 5 percent variance from any assessment in excess of \$1 million; or

(c) There is an assertion by the property appraiser to the Department of Revenue that there exists a consistent and continuous violation of the intent of the law or administrative rules by the value adjustment board in its decisions. The property appraiser shall notify the department of those portions of the tax roll for which the assertion is made. The department shall thereupon notify the clerk of the board who shall, within 15 days of the notification by the department, send the written decisions of the board to the department. Within 30 days of the receipt of the decisions by the department, the department shall notify the property appraiser of its decision relative to further judicial proceedings. If the department finds upon investigation that a consistent and continuous violation of the intent of the law or administrative rules by the board has occurred, it shall so inform the property appraiser, who may thereupon bring suit in circuit court against the value adjustment board for injunctive relief to prohibit continuation of the violation of the law or administrative rules and for a mandatory injunction to restore the tax roll to its just value in such amount as determined by judicial proceeding. However, when a final judicial decision is rendered as a result of an appeal filed pursuant to this paragraph which alters or changes an assessment of a parcel of property of any taxpayer not a party to such procedure, such taxpayer shall have 60 days from the date of the final judicial decision to file an action to contest such altered or changed assessment pursuant to s. 194.171(1), and the provisions of s. 194.171(2) shall not bar such action.

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(2) Any taxpayer may bring an action to contest a tax assessment pursuant to s. 194.171.

(3) The circuit court proceeding shall be de novo, and the burden of proof shall be upon the party initiating the action.

History.—s. 23, ch. 83-204; s. 149, ch. 91-112; s. 982, ch. 95-147.

194.037 Disclosure of tax impact.—

(1) After hearing all petitions, complaints, appeals, and disputes, the clerk shall make public notice of the findings and results of the board in at least a quarter-page size advertisement of a standard size or tabloid size newspaper, and the headline shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county. The newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter, pursuant to chapter 50. The headline shall read: TAX IMPACT OF VALUE ADJUSTMENT BOARD. The public notice shall list the members of the value adjustment board and the taxing authorities to which they are elected. The form shall show, in columnar form, for each of the property classes listed under subsection (2), the following information, with appropriate column totals:

(a) In the first column, the number of parcels for which the board granted exemptions that had been denied or that had not been acted upon by the property appraiser.

(b) In the second column, the number of parcels for which petitions were filed concerning a property tax exemption.

(c) In the third column, the number of parcels for which the board considered the petition and reduced the assessment from that made by the property appraiser on the initial assessment roll.

(d) In the fourth column, the number of parcels for which petitions were filed but not considered by the board because such petitions were withdrawn or settled prior to the board's consideration.

(e) In the fifth column, the number of parcels for which petitions were filed requesting a change

in assessed value, including requested changes in assessment classification.

(f) In the sixth column, the net change in taxable value from the assessor's initial roll which results from board decisions.

(g) In the seventh column, the net shift in taxes to parcels not granted relief by the board. The shift shall be computed as the amount shown in column 6 multiplied by the applicable millage rates adopted by the taxing authorities in hearings held pursuant to s. 200.065(2)(d) or adopted by vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution, but without adjustment as authorized pursuant to s. 200.065(6). If for any taxing authority the hearing has not been completed at the time the notice required herein is prepared, the millage rate used shall be that adopted in the hearing held pursuant to s. 200.065(2)(c).

(2) There must be a line entry in each of the columns described in subsection (1), for each of the following property classes:

(a) Improved residential property, which must be identified as "Residential."

(b) Improved commercial property, which must be identified as "Commercial."

(c) Improved industrial property, utility property, leasehold interests, subsurface rights, and other property not properly attributable to other classes listed in this section, which must be identified as "Industrial and Misc."

(d) Agricultural property, which must be identified as "Agricultural."

(e) High-water recharge property, which must be identified as "High-Water Recharge."

(f) Historic property used for commercial or certain nonprofit purposes, which shall be identified as "Historic Commercial or Nonprofit."

(g) Tangible personal property, which must be identified as "Business Machinery and Equipment."

(h) Vacant land and nonagricultural acreage, which must be identified as "Vacant Lots and Acreage."

(3) The form of the notice, including appropriate narrative and column descriptions, shall be prescribed by department rule and shall be brief and nontechnical to minimize confusion for the average taxpayer.

History.—s. 24, ch. 83-204; s. 150, ch. 91-112; s. 6, ch. 96-204; s. 5, ch. 97-117; s. 6, ch. 2007-321; s. 6, ch. 2008-197.

**PART III
ASSESSMENT:
PRESUMPTION OF CORRECTNESS**

- 194.301 Challenge to ad valorem tax assessment.
194.3015 Burden of proof.

¹194.301 Challenge to ad valorem tax assessment.—

(1) In any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the property appraiser's assessment is presumed correct if the appraiser proves by a preponderance of the evidence that the assessment was arrived at by complying with s. 193.011, any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. However, a taxpayer who challenges an assessment is entitled to a determination by the value adjustment board or court of the appropriateness of the appraisal methodology used in making the assessment. The value of property must be determined by an appraisal methodology that complies with the criteria of s. 193.011 and professionally accepted appraisal practices. The provisions of this subsection preempt any prior case law that is inconsistent with this subsection.

(2) In an administrative or judicial action in which an ad valorem tax assessment is challenged, the burden of proof is on the party initiating the challenge.

(a) If the challenge is to the assessed value of the property, the party initiating the challenge has the burden of proving by a preponderance of the evidence that the assessed value:

1. Does not represent the just value of the property after taking into account any applicable limits on annual increases in the value of the property;

2. Does not represent the classified use value or fractional value of the property if the property is required to be assessed based on its character or use; or

3. Is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the property appraiser to comparable property within the same county.

(b) If the party challenging the assessment satisfies the requirements of paragraph (a), the presumption provided in subsection (1) is overcome, and the value adjustment board or the court shall establish the assessment if there is competent, substantial evidence of value in the record which cumulatively meets the criteria of s. 193.011 and professionally accepted appraisal practices. If the record lacks such evidence, the matter must be remanded to the property appraiser with appropriate directions from the value adjustment board or the court, and the property appraiser must comply with those directions.

(c) If the revised assessment following remand is challenged, the procedures described in this section apply.

(d) If the challenge is to the classification or exemption status of the property, there is no presumption of correctness, and the party initiating the challenge has the burden of proving by a preponderance of the evidence that the classification or exempt status assigned to the property is incorrect.

History.—s. 1, ch. 97-85; s. 1, ch. 2009-121.

¹Note.—Section 3, ch. 2009-121, provides that “[t]his act shall take effect [June 4, 2009,] and shall first apply to assessments in 2009.”

¹194.3015 Burden of proof.—

(1) It is the express intent of the Legislature that a taxpayer shall never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment. All cases establishing the every-reasonable-hypothesis standard were expressly rejected by the Legislature on the adoption of chapter 97-85, Laws of Florida. It is the further intent of the Legislature that any cases published since 1997 citing the every-reasonable-hypothesis

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standard are expressly rejected to the extent that they are interpretative of legislative intent.

(2) This section is intended to clarify existing law and apply retroactively.

History.—s. 2, ch. 2009-121.

¹**Note.**—Section 3, ch. 2009-121, provides that “[t]his act shall take effect [June 4, 2009,] and shall first apply to assessments in 2009.”

EXCERPT OF

CHAPTER 286

**PUBLIC BUSINESS: MISCELLANEOUS
PROVISIONS**

286.0105 Notices of meetings and hearings must advise that a record is required to appeal.

286.011 Public meetings and records; public inspection; criminal and civil penalties.

286.0113 General exemptions from public meetings.

286.0105 Notices of meetings and hearings must advise that a record is required to appeal.

-Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The requirements of this section do not apply to the notice provided in s. [200.065](#)(3).

History.--s. 1, ch. 80-150; s. 14, ch. 88-216; s. 209, ch. 95-148.

286.011 Public meetings and records; public inspection; criminal and civil penalties.—

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or

commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(4) Whenever an action has been filed against any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision to enforce the provisions of this section or to invalidate the actions of any such board, commission, agency, or authority, which action was taken in violation of this section, and the court determines that the defendant or defendants to such action acted in violation of this section, the court shall assess a reasonable attorney's fee against such agency, and may assess a reasonable attorney's fee against the individual filing such an action if the court finds it was filed in bad faith or was frivolous. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission. However, this subsection shall not apply to a state attorney or his or her duly authorized assistants or

any officer charged with enforcing the provisions of this section.

(5) Whenever any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision appeals any court order which has found said board, commission, agency, or authority to have violated this section, and such order is affirmed, the court shall assess a reasonable attorney's fee for the appeal against such board, commission, agency, or authority. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission.

(6) All persons subject to subsection (1) are prohibited from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a manner as to unreasonably restrict public access to such a facility.

(7) Whenever any member of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision is charged with a violation of this section and is subsequently acquitted, the board or commission is authorized to reimburse said member for any portion of his or her reasonable attorney's fees.

(8) Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation. **History.**--s. 1, ch. 67-356; s. 159, ch. 71-136; s. 1, ch. 78-365; s. 6, ch. 85-301; s. 33, ch. 91-224; s. 1, ch. 93-232; s. 210, ch. 95-148; s. 1, ch. 95-353.

286.0113 General exemptions from public meetings.--

(1) That portion of a meeting that would reveal a security system plan or portion thereof made confidential and exempt by s. [119.071](#)(3)(a) is exempt from s. [286.011](#) and s. 24(b), Art. I of the State Constitution.

(2)(a) A meeting at which a negotiation with a vendor is conducted pursuant to s. [287.057](#)(3) is exempt from s. [286.011](#) and s. 24(b), Art. I of the State Constitution.

(b)1. A complete recording shall be made of any meeting made exempt in paragraph (a). No portion of the meeting may be held off the record.

2. The recording required under subparagraph 1. is exempt from s. [119.07](#)(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. [120.57](#)(3)(a) or until 20 days after the final competitive sealed replies are all opened, whichever occurs earlier.

3. If the agency rejects all sealed replies, the recording remains exempt from s. [119.07](#)(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. [120.57](#)(3)(a) concerning the reissued invitation to negotiate or until the agency withdraws the reissued invitation to negotiate. A recording is not exempt for longer than 12 months after the initial agency notice rejecting all replies.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

History.--s. 2, ch. 2001-361; s. 44, ch. 2005-251; s. 2, ch. 2006-158; s. 2, ch. 2006-284.

NOTICE REGARDING CASE LAW

A new statute (2009) regarding the administrative review of just valuations addresses the use of case law in administrative reviews of assessments.

“The provisions of this subsection preempt any prior case law that is inconsistent with this subsection.”

See subsection 194.301(1), Florida Statutes (2009), as amended by Chapter 2009-121, Laws of Florida (House Bill 521).

“It is the express intent of the Legislature that a taxpayer shall never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment. All cases establishing the every-reasonable-hypothesis standard were expressly rejected by the Legislature on the adoption of chapter 97-85, Laws of Florida. It is the further intent of the Legislature that any cases published since 1997 citing the every-reasonable-hypothesis standard are expressly rejected to the extent that they are interpretative of legislative intent.”

See subsection 194.3015(1), Florida Statutes (2009). Value adjustment boards and appraiser special magistrates should use case law in conjunction with legal advice from the board legal counsel.