

## CLAY COUNTY VALUE ADJUSTMENT BOARD LOCAL ADMINISTRATIVE PROCEDURES

In addition to the Florida Statutes and Florida Administrative Rules which govern the conduct of the Value Adjustment Board, the Value Adjustment Board shall also utilize the following local administrative procedures.

### VAB Local Administrative Procedure No. 1

SECOND PUBLIC HEARING BEFORE VAB. The VAB, if requested, will conduct a second public hearing to consider whether the recommended decisions of the Special Magistrate meet the requirements of F.A.C. Rule 12D-9.031(1), and the VAB may rely on the VAB's legal counsel for such determination. The VAB's adoption of recommended decisions need not include a review of the underlying record of the prior Special Magistrate conducted public hearing. The VAB will not consider any evidence from either the Petitioner or the Property Appraiser which was not first submitted to the Special Magistrate, nor authorize the second public hearing to take place until after the conclusion of the Special Magistrate conducted initial hearing. The Petitioner and Property Appraiser must notify the Clerk of the VAB of the desire for a second public hearing no later than 10 days prior to the date of the public hearing before the VAB. Legal Authority: F.S. ss. 194.301, 194.034(2), and 194.035(1), and F.A.C. Rule 12D-9.031. (revised and adopted 9/10, re-adopted 9/13/11, revised and adopted 9/7/12).

### VAB Local Administrative Procedure No. 2

USE OF PRIVATELY PREPARED APPRAISAL AT HEARING. If a Petitioner desires to use a privately prepared appraisal as evidence to support a Petition at the hearing before the Special Magistrate, then it will be the Petitioner's responsibility to arrange for the appraiser who prepared the appraisal to be present and/or to testify at the hearing before the Special Magistrate. In order to present the appraisal, the appraiser who prepared it must appear at the hearing and the Property Appraiser must be given the opportunity to question or cross examine the appraiser with regard to the private appraisal. Otherwise, the Special Magistrate may decline to consider the appraisal on the grounds that it will be considered hearsay evidence and properly excludable under the law. Any expense of the appraiser in attending and testifying at the hearing will be the responsibility of the Petitioner. Nothing in this Local Administrative Procedure No. 2 will be deemed to alter the responsibilities of both the Property Appraiser and the Petitioner under the provisions of the Uniform Rules of Procedure for Hearings before Value Adjustment Boards promulgated by the State of Florida, Department of Revenue, Property Tax Oversight Program, Rule Chapter 12D-9, Florida Administrative Code. Legal Authority: F.S. s. 194.034(1)(a) and F.A.C. Rule 12D-9.025(1), (2) and (5). (revised and adopted 9/10, readopted 9/13/11, revised and adopted 9/7/12)

### VAB Local Administrative Procedure No. 3

VAB ENGAGED LEGAL COUNSEL TO BE PRESENT AT ALL VAB HEARINGS. Legal counsel engaged to represent and advise the VAB as to legal issues applicable to the VAB process shall be present at all scheduled VAB hearings on filed VAB petitions in order to provide immediate rulings and applicable law

interpretations to the Special Magistrate conducting such hearings. Legal Authority: F.S. s. 194.015(1) and F.A.C. Rules 12D-9.008 and 12d-9.009, which require value adjustment boards to retain private legal counsel to provide advice on legal issues which arise during VAB hearings and the overall VAB process. Reference also the Summary Final Order in Turner, et al., v. Department of Revenue, et al., State of Florida, Division of Administrative Hearings, Case No. 11-0677RU, entered June 22, 2011, p. 13, n. 2. (adopted 9/13/11, revised and adopted 9/7/12)

#### VAB Local Administrative Procedure No. 4

MANDATORY EVIDENCE EXCHANGE FOR VAB HEARINGS. In instances in which the Property Appraiser has demanded in writing to be provided with the Petitioner's evidence to be relied on at the VAB hearing in compliance with F.S. s. 194.034(1)(d), the Petitioner must comply with the Property Appraiser's request, and may only provide at the VAB hearing any evidence provided to the Property Appraiser as set forth in F.S. s. 194.011(4)(a). No Petitioner may present for consideration, nor may the VAB 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. No other evidence proposed to be put forward by the Petitioner may be presented at the VAB hearing on that petition, admitted to the record of that VAB hearing, or considered by the Special Magistrate presiding over that VAB hearing, without an express voir dire inquiry and finding by the Special Magistrate that such other evidence proposed to be adduced at the VAB hearing was in fact either not in existence or not actually known to the Petitioner at the time such evidence was required to be provided to the Property Appraiser pursuant to F.S. s. 194.011(4)(a) and s. 194.034(1)(d). If the Special Magistrate determines that such evidence was not in existence, or was not actually known to the Petitioner at the time that evidence was due to be provided to the Property Appraiser (i.e., fifteen days prior to the scheduled hearing), then the Property Appraiser shall be afforded a reasonable time to review that evidence and to prepare its own submission of any responsive evidence to the Petitioner's evidence, and the Property Appraiser's motion for a recess or continuance shall be liberally granted by the Special Magistrate conducting the hearing. Legal Authority: F.S. s. 194.011(4)(a) and s. 194.034(1)(d); F.A.C. Rule 12D-9.020(8); and the Summary Final Order in Turner, et al., v. Department of Revenue, et al., State of Florida, Division of Administrative Hearings, Case No. 11-0677RU, entered June 22, 2011, p.38, n. 11 and 12, and pp. 41-42, Paragraph 54, determining portions of F.A.C. rule 12D-9.020(1), (2)(a), and (2)(b) to be in contravention of the plain statutory language of F.S. s. 194.011(4)(a), and therefore found to be an invalid rule enacted by the DOR in exercise of its delegated legislative authority. (adopted 9/13/11, revised and adopted 9/7/12)

#### VAB Local Administrative Procedure No. 5

NO HEARING TO COMMENCE IF PETITIONER HAS NOT PARTICIPATED IN MANDATORY EVIDENCE EXCHANGE, HAS NOT ELECTED TO HAVE ANY SUBMITTED EVIDENCE CONSIDERED IN PETITIONER'S ABSENCE, AND DOES NOT APPEAR AT SCHEDULED VAB HEARINGS. The Special Magistrate charged with presiding over a scheduled VAB hearing shall not commence or proceed with that hearing if the Petitioner has not timely provided the Property Appraiser with any specifically requested evidence intended to be used by the Petitioner at the VAB hearing, if the Petitioner has not checked the box in

Part 1 of Form DR-486 indicating that the Petitioner wants the Petitioner's submitted evidence to be considered even in the event that the Petitioner does not attend the VAB hearing in person, and if neither the Petitioner nor the Petitioner's duly authorized tax representative attends the VAB hearing. Instead of commencing the VAB hearing on that petition, and without requesting any evidence from the Property Appraiser, the presiding Special Magistrate shall forthwith announce its recommended decision containing (a) a finding of fact that the Petitioner did not appear at this hearing and did not state good cause and (b) a conclusion of law that the relief sought by the Petitioner 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. Legal Authority: F.A.C. Rules 12D-9.021(6) and (8). (adopted 9/13/11, revised and adopted 9/7/2012)

VAB Procedural Rules—revised September 7, 2012