

VALUE ADJUSTMENT BOARD
RULES OF PROCEDURE
(rev. 8/2009)

CHAPTER 1: ORGANIZATION

1. The Value Adjustment Board is a separate and distinct governmental body created by statute and is composed of two members of the Board of County Commissioners, one member of the School Board and two citizen members. One citizen member shall be appointed by the Board of County Commissioners and must own homestead property within the county. The other citizen member shall be appointed by the School Board and must own a business occupying commercial space located within the school district. The citizen members 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.
2. One of the two members of the Board of County Commissioners shall be elected as Chairman of the Board.
3. The members of the Board may be temporarily replaced by other members of the respective boards (i.e. the Commission and School Board) on appointment by their respective chairpersons.
4. Any three members of the Board constitute a quorum, except that each quorum must include at least one member of the Board of County Commissioners, one member of the School Board and one citizen member. No meeting of the Board can take place without a quorum.
5. Two-fifths on the expenses of the Board are borne by the School Board and three-fifths by the County Commission.
6. As used herein, the word "Board" means "Value Adjustment Board" and "Special Magistrates."

CHAPTER 2: POWERS AND DUTIES

1. The Board must meet not earlier than 30 days, nor later than 60 days after the mailing of the "Notices of Proposed Property Taxes" by the Property Appraiser under Section 194.011(1), Florida Statutes; provided, however, that no Board hearing may be held before approval of all or any part of the assessment rolls by the Department of Revenue. The Board may meet for the following purposes:
 - (a) Hearing taxpayers' petitions relating to the amount of assessments.
 - (b) Hearing complaints relating to Homestead exemptions.

- (c) Hearing appeals from exemptions denied, or disputes arising from exemption granted, upon the filing of exemption applications (i.e. other than Homestead exemptions)
- (d) Hearing appeals concerning ad valorem tax deferrals and classifications.
- (e) Hearing appeals regarding denied requests for assessment.
- (f) Hearing appeals of denied applications that request transfer or the amount of the transfer of homestead assessment difference.

Notwithstanding the foregoing, the 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 classifications, and deferrals under (b), (c), and (d). In such event, the Board may not certify any assessments under Section 193.122 until after the Department has approved such assessments in accordance with Section 193.1142 and after all hearings have been held with respect to the Particular parcel under appeal.

2. For each petition filed pursuant to Section 194.011, Florida Statutes, the Board requires the payment of a filing fee to the Clerk in the amount of \$15.00 for each separate parcel of property, real or personal, covered by the petition and subject to appeal (i.e. with certain exceptions pertaining to denials of homestead exemptions and tax deferrals). Petitions filed without the appropriate filing fee are deemed invalid and must be rejected. Further, the Board has adopted the provisions of Section 194.013, Florida Statutes, and the applicable regulations set forth therein including, but not limited to, those regulations relating to single filing fees, joint petitions, waiver of filing fees, payment of filing fees, refund of filing fees and utilization of filing fees collected.

3. The Board is required to 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. The Board has chosen to act upon such recommendations without further hearings. Appeals to the full Board by Taxpayers and the Property Appraiser requesting de novo review of the Special Magistrate's recommendations will be denied. Special Magistrates must meet the criteria set forth in Section 194.035, Florida Statutes.

4. The Board is required to 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 is disapproved by the Florida Department of Revenue, the Board is required to reconvene to hear petitions, complaints, appeals and disputes filed upon the finally approved roll or part of a roll.

5. 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. The Board is bound by the same standards as the County Property Appraiser in determining value and the granting of exemptions. With certain exceptions, all property, real and personal, must be assessed at fair market value as of January 1 of the tax year. The Board, or its Special Magistrates, may not reduce an assessment below fair market value (i.e. in order to "equalize" it with other assessments), but for

purposes of reviewing a petition, the Board may consider assessments among comparable properties within homogeneous areas or neighborhoods.

6. 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.

7. The Board, in determining the valuation of a specific property, may not consider the ultimate amount of tax required by the various taxing authorities.

8. The powers, authorities, duties and functions of the Board, insofar as they are appropriate, apply equally to real property and tangible personal property.

9. The Board may not extend the time for the filing of petitions. However, the failure to meet the statutory deadline for filing a petition is not an absolute bar to consideration by the Board if such petition is mailed and postmarked on or before the statutory filing deadline. The Clerk shall accept but not schedule for hearing a petition submitted to the Board after the statutory deadline has expired.

10. The Board is required to hear disputed or appealed applications for exemption and must grant such exemptions, in whole or in part, in accordance with the criteria established by law. In addition, the Board may review previously granted exemptions on its own motion or upon motion of the Property Appraiser. Review of an exemption application upon motion of the Board cannot be heard until the applicant has had at least five (5) calendar days notice of the Board's intent to review the application.

11. The Board will comply with all valid rules and regulations promulgated by the Florida Department of Revenue. To the extent that the Board's Rules of Procedure conflict with the rules and regulations as promulgated by the Florida Department of Revenue, the rules and regulations as promulgated by the Florida Department of Revenue shall apply.

CHAPTER 3: PRE-HEARING EVIDENCE EXCHANGE

1. At least fifteen (15) days before the scheduled hearing, the taxpayer/petitioner must provide the Property Appraiser with a written list and summary of evidence, along with copies of all documentation to be presented at the hearing and a summary of the evidence to be presented by witnesses. The form for the list and summary of evidence is attached hereto and made a part of this rule. The taxpayer/petitioner should take such measures as are necessary to ensure receipt of these materials by the Property Appraiser within this time period. The complete evidence package must be provided to the Property Appraiser, along with three copies. The Property Appraiser will be responsible for forwarding copies of the evidence package to the Clerk to the Board for the Special Magistrate, the VAB attorney and for the official record. If the fifteenth day falls on a Saturday, Sunday or legal holiday, the information shall be provided no later than the previous business day.

2. No later than seven (7) days before the hearing, if the Property Appraiser receives the taxpayer/petitioner's documentation, and if requested in writing by the taxpayer/petitioner, the

Property Appraiser must provide the taxpayer/petitioner with a written list and summary of its evidence to be presented at hearing. This list and summary must likewise be accompanied with copies of the documentation to be presented. The evidence list must contain the property record card if provided. When computing the seven day period, Saturdays, Sundays and legal holidays shall be included.

3. If the taxpayer/petitioner does not provide the information to the Property Appraiser at least fifteen (15) days prior to the hearing pursuant to Section 1 above, the Property Appraiser need not provide the information to the taxpayer/petitioner pursuant to Section 2. If the Property Appraiser requests in writing any evidentiary materials of the taxpayer/petitioner, and the taxpayer/petitioner refuses to provide the requested materials prior to the hearing, such information shall not be presented or considered at the scheduled hearing by the Special Magistrate. (Section 194.034(1)(d), Florida Statutes).

4. If the Property Appraiser does not provide the information within the time required under Section 2, and the taxpayer/petitioner notifies the Clerk in writing, the hearing will be re-scheduled.

5. The documentation exchanged under Section 1 and 2 above must be delivered by regular or certified mail, personal delivery, overnight mail, facsimile or e-mail. The date of transmission by e-mail or fax to an address provided by the addressee shall be deemed to constitute the date of delivery to the recipient. For such purpose, three e-mail or fax attempts to the address provided by the addressee will be deemed sufficient. If more than one fax number is provided, three (3) attempts must be made to each number to satisfy this requirement. "Provided" means made available in the manner designated by the property appraiser or by the taxpayer/petitioner in his/her submission of information, as via email, facsimile, U.S. Mail, or at the property appraiser's office for pick up. If the taxpayer/petitioner designates delivery by U.S. Mail or does not specifically designate the desired manner for receiving the Property Appraiser's information, the information shall be deposited into the mail by the Property Appraiser. The taxpayer/petitioner and the Property Appraiser may agree to a different method or timing of the exchange.

6. The information must be sent to the taxpayer/petitioner or agent at the address shown on the petition form; however, it may be submitted to an e-mail or fax address if so indicated by the taxpayer/petitioner.

7. In computing any period of time prescribed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. 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 day which is neither a Saturday, Sunday or legal holiday. If the fifteenth day before a hearing is a Saturday, Sunday, or legal holiday, the information under subsection 2 shall be provided no later than the previous business day.

8. The summary of any testimony submitted pursuant to Sections 1 and 2 shall be sufficiently detailed as to reasonably inform a party of the general subject matter of the witness testimony, and shall contain the name and address of the witness.

9. No taxpayer/petitioner may present nor shall the Special Magistrate accept for consideration any “testimony or other evidentiary materials” that were requested of the taxpayer/petitioner in writing by the Property Appraiser of which the taxpayer “had knowledge and denied to the Property Appraiser.” (Section 194.034(1)(d), Florida Statutes.)

10. Neither the Board nor the Special Magistrate shall take any general action regarding compliance with this Chapter, 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. The normal remedy for such non-compliance shall be a rescheduling of the hearing to allow the petitioner an opportunity to review the information of the Property Appraiser.

11. The Board will comply with all valid rules and regulations of promulgated by the Florida Department of Revenue. To the extent that the Board's Rules of Procedure conflict with the rules and regulations promulgated by the Florida Department of Revenue, the rules and regulations promulgated by the Florida Department of Revenue shall apply.

CHAPTER 4: CONDUCT OF HEARINGS; PROCEDURES

1. Proceedings of the Board must be conducted in compliance with the Florida Sunshine Law (i.e. Section 268.011, Florida Statutes):

- (a) Reasonable notice must be given to the public prior to a Board meeting.
- (b) All Board meetings at which any official action may be taken must be held in the open.

2. Board and Special Magistrate hearings are required to be conducted in accordance with the applicable provisions of Chapter 194 and 196, Florida Statutes, and Administrative Rules promulgated by the Florida Department of Revenue. Chapter 120, Florida Statutes, does not apply to VAB proceedings, including hearings before the Special Magistrates.

3. Upon the filing of a petition by a taxpayer, the Clerk to the Board is required to deliver to the person so filing, an acknowledgment of receipt of such petition and must promptly furnish a copy of same to the Property Appraiser. The failure to file the appropriate filing fee with the petition will result in the rejection of the petition.

4. The Clerk to the Board will prepare a schedule of appearances before the Board (Special Magistrates) based on petitions (including applications for Homestead Exemptions denied by the Property Appraiser) timely filed with him. The Clerk must notify each petitioner of the

scheduled time of his appearance in writing by U.S. mail or Personal delivery so that the notice is received by the taxpayer no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The Clerk is deemed to have prima facie complied with such notice requirements if the notice is deposited in the U.S. Mail thirty (30) days prior to the day of such scheduled appearance. The Clerk will include a copy of the property record card with the notice in all cases, whether or not requested by the taxpayer. The Clerk will not schedule hearings in personal property cases, unless a return is filed within the time prescribed by the Board.

5. The petitioner has the right to reschedule his or her hearing ONE time by submitting to the Clerk a written request to reschedule NO LESS THAN FIVE (5) calendar days before the day of the originally scheduled hearing.

6. The Board and its Special Magistrates act in a quasi-judicial capacity with respect to the conduct of these hearings.

7. Board members and Special Magistrates should disqualify themselves on their own initiative or upon motion of any party interest or other cause for which a judge may be recused, with respect to any appeal coming before the Board.

8. No Board member or Special Magistrate should communicate ex parte with any taxpayer or the Property Appraiser relative to the merits of any case. However, this should not preclude a Board member or special magistrate from requesting from a taxpayer or the Property Appraiser additional raw data upon which a finding might be based. Any communications concerning the proper conclusion to be drawn from any such raw data would constitute a discussion of the merits and results in an ex parte communication prohibited by law.

9. (a) Any taxpayer may be represented by an attorney or agent before the Board or Special Magistrate, or may appear on his own behalf. If represented by an agent, the agent shall provide, prior to the onset of the hearing, written authorization from the taxpayer evidencing his/her authority to act on the taxpayer's behalf. An authorization form may be obtained from the Clerk to the Board.

(b) A condominium homeowners' association (or qualified incorporated mobile home park association) may appear before the Board or Special Magistrate to present testimony and evidence regarding the assessment of condominium units which said association represents. Said testimony and evidence must also be considered by the Board or Special Magistrate with respect to petitions filed by individual condominium unit owners, unless the owner requests otherwise.

10. (a) Irrelevant, immaterial or unduly repetitious evidence may be excluded by the Board or special magistrate but all other evidence of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs is admissible, whether or not such evidence would be admissible in a court of law.

(b) Any part of a taxpayer's evidence may be received in written form, and all testimony of parties and witnesses is required to be made under oath upon the request of either party. The Special Magistrate or court reporter will administer the oath to all persons providing

testimony, including parties. Witnesses for either party may be cross – examined by the other party when testimony is taken.

(c) Hearsay evidence may be admitted for the purpose of supplementing or explaining other evidence, but it is not sufficient in itself to support a finding unless it would be admissible over objection in a civil action in the courts of this State.

(d) Formal rules of evidence shall not apply, but fundamental due process will be observed. All relevant evidence will be admitted if petitioner complied with the disclosure requirements contained in Chapter 3 and it is the type of evidence upon which reasonable and responsible persons would rely in the normal conduct of business affairs. The Special Magistrate may, but is not required to, take judicial notice of information located on or obtained from the official web sites of governmental entities and constitutional officers, such as Property Appraisers or Tax Collectors from this and other jurisdictions. The party intending to rely on this information should provide advance notice to the opposing party whenever possible, but the failure to do so will not require that such evidence be rejected. Any evidence obtained from the internet must identify the source of the information and the website address.

11. (a) In any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the Property Appraiser’s assessments are presumed correct if the Property Appraiser proves by a preponderance of the evidence that the assessment was arrived at by complying with the valuation criteria mandated by statute and professionally accepted appraisal practices. However, a taxpayer/petitioner who challenges an assessment is entitled to a determination by the Board or court of the appropriateness of the appraisal methodology used in making the assessment.

(b) In any administrative or judicial action in which an ad valorem tax assessment is challenged, the burden of proof is on the party initiating the challenge.

(i) 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:

(A) 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;

(B) Does not represent the classified use value or fractional value of the property if the property is required to be assessed based on character or use; or

(C) Is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the Property Appraiser to comparable property within the county.

(ii) If the party challenging the assessment satisfies the requirements of paragraph (b)(i), the presumption provided in subsection (a) is overcome, and the Board or the court shall establish the assessment if there is competent, substantial evidence of value in the

record which cumulatively meets the valuation criteria mandated by statute and professional accepted appraisal practices. If the record lacks such evidence, the matter must be remanded to the Property Appraiser with appropriate directions from the Board or the court, and the Property Appraiser must comply with those directions.

(iii) If the revised assessment following remand is challenged, the procedures described in this Section 11 shall apply.

(iv) 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.

12. The Clerk to the Board is required to maintain a verbatim record of all proceedings and must preserve all documentary evidence and listings for a period of not less than four (4) years. The Board and its Special Magistrates should insist that all documentary evidence relied upon by any party be incorporated into the Board's files. In the event a party refuses to relinquish possession of any such documentary evidence, the Board and its Special Magistrates should not consider the same in making a finding of fact or conclusion of law.

13. No petitioner may present, nor may the Board or Special Magistrate accept, testimony or other evidentiary materials for consideration 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 evidence shall be considered by the Board or Special Magistrate except when presented during the time scheduled for the petitioner's hearing, or at a time when the petitioner has been given reasonable notice.

14. Every decision of the Board or recommendation by a Special Magistrate must contain specific and detailed findings of fact, including 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.

(a) An ultimate finding is a determination of fact 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 evidence.

(c) Reasons are those clearly stated grounds upon which the Board or Property Appraiser acted.

15. All decisions made must include the nature of the change made and indicate the just, taxable, and exempt value before and after the change.

16. The Special Magistrate shall render a written recommendation in a form provided by the Clerk to the Board, within five (5) days of the hearing. This recommendation may, but need not, be rendered at the conclusion of the hearing. All recommendations are presented to the Board at a publicly noticed meeting and approved by the Board without further hearing.

17. All final decisions by the Board must be issued within twenty (20) calendar days of the last day the Board is in session, and the clerk, upon issuance thereof, must notify by first class mail each taxpayer, the Property Appraiser and the Department of Revenue of the decision of the Board. If no decision is rendered in a case, the reason therefore must be placed in the records, compiled by the Clerk and maintained along with the verbatim record.

UNIFORM VALUE ADJUSTMENT BOARD EVIDENCE LIST AND SUMMARY FOR ALL PARTIES

For Petition # _____ My email address: _____

Scheduled Hearing Date _____ My fax phone no. _____

Name _____

Address _____

Parcel ID# _____

1. Documentary Evidence and Exhibits. Please provide a copy of all documents.

Date	Author	Subject

(Attach additional sheets if necessary)

2. The following witnesses will testify to the information below.

Witness.

Name

Address

Summary of Testimony:

Witness.

Name

Address

Summary of Testimony:

(Attach additional sheets if necessary)

Witness.

Name

Address

Summary of Testimony:

Witness.

Name

Address

Summary of Testimony:

Witness.

Name

Address

Summary of Testimony:

Attach additional sheets if necessary.