

## **RULES OF PROCEDURE**

### **GILCHRIST COUNTY VALUE ADJUSTMENT BOARD**

#### **I. GENERALLY**

- A. The Value Adjustment Board (“VAB”) is created by F.S. 194.015, consisting of two members from the Gilchrist County Commission, one member from the Gilchrist County School Board, a citizen selected by the Gilchrist County Commission who has a homestead in Gilchrist County, and a citizen selected by the Gilchrist County School Board who owns a business occupying commercial space within the school district. A citizen member may not be a member or employee of any taxing authority and may not be a person who represents property owners in any administrative or judicial review of property taxes. Each elected member of the board shall serve on the board until he is replaced by a successor elected by his respective parent board or is no longer a member of the governing body or school board of the county. A member of the VAB may be temporarily replaced by another member of the respective board by appointment by the respective board’s chair.
- B. The VAB shall have the authority as set forth in state law and may meet for any purpose as authorized by state law.
- C. The VAB clerk shall be the County Clerk for Gilchrist County. The board shall appoint a legal counsel who has practiced law for over 5 years, does not represent the property appraiser, tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes.
- D. The VAB shall, at the annual organizational meeting, elect a chair and vice chair. The chair must be elected from among the county commissioners serving on the board.
- E. A quorum shall consist of at least three members of the VAB. Provided, however, the quorum shall consist of at least one member from the School Board, one member from the County Commission, and one citizen member. These quorum requirements may not be waived by anyone, including the petitioner.
- F. Meetings of the VAB may be called at any time by the property appraiser or the VAB clerk.

- G. If the VAB does not appoint one or more special magistrates to hear petitions as provided in Section II, the members of the VAB or the appointed attorney to the VAB shall attend training as provided by F.S. 194.035.

## II. OPTION TO APPOINT SPECIAL MAGISTRATES

- A. The VAB shall have the authority to appoint one or more special magistrates for the purpose of taking testimony and making recommendations to the VAB. The VAB may elect to appoint an Attorney Special Magistrate only and retain for itself the duties that would be performed by an Appraiser Special Magistrate.
- B. Special magistrates shall be selected from a list of those qualified individuals who are willing to serve as special magistrates for the VAB. The qualifications for a special magistrate shall be as follows:
  - 1. Special magistrates shall not be elected or appointed officials or employees of a taxing authority or of the state.
  - 2. An Appraiser Special Magistrate shall be a state certified real estate appraiser with not less than five 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 five years experience in tangible personal property valuation.
  - 3. An Attorney Special Magistrate shall be a member of good standing in the Florida Bar with no less than five years experience in the area of local government law or ad valorem taxation.
- C. A special magistrate shall be prohibited from representing a taxpayer for the VAB or before any special magistrate in any tax year during which the special magistrate serves the VAB as a special magistrate.
- D. Compensation and other terms of engagement of special magistrates shall be as agreed to and set forth in a contract between the VAB and each special magistrate.
- E. Special magistrates shall receive 24-hour notice of cancellation of their scheduled hearings or receive payment for the scheduled hearings.

## III. FILING PETITIONS

- A. A petition to the VAB shall be on a form approved by the Florida Department of Revenue. Petition forms shall be available from the property appraiser's office, the Value Adjustment Board secretary's office or may be obtained at the Florida Department of Revenue website.
- B. Petitions shall be filed in compliance with deadlines as set forth in Florida statutes.
- C. The completed petition shall be filed with the clerk of the VAB. Incomplete petitions shall not be accepted. In the event that an incomplete petition has been received by the VAB clerk, such incomplete petition shall be returned to the petitioner with a description of the missing information.
- D. 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 VAB proceedings, including appeals of a VAB decision by the Property Appraiser pursuant to F.S. 194.036.
- E. 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.

#### IV. SETTLED OR WITHDRAWN PETITIONS

- A. When the VAB clerk is provided written notification by a taxpayer that the taxpayer wishes to withdraw a filed VAB petition, the VAB clerk shall take no further action on the petition such as setting it for hearing before the VAB or special magistrate.
- B. When the property appraiser agrees to grant the relief requested in a petition, or otherwise agrees with the taxpayer to settle the matters raised in a petition, the VAB clerk shall not take any further action on the petition, such as setting it for hearing before the VAB or special magistrate, when the VAB clerk receives one of the following:
  - 1. Copy of notification to taxpayer that property appraiser has granted the exemption.
  - 2. A written notification by a taxpayer that the taxpayer wishes to withdraw the VAB petition.

3. A settlement agreement signed by the taxpayer and the property appraiser which contains a clause providing that by agreeing to the settlement the taxpayer agrees to withdrawal of the VAB petition.

## V. PRE-HEARING PROCEDURES

- A. For any action of the VAB or a special magistrate which is quasi-judicial in nature, ex parte contacts shall be avoided. In the event a VAB member or special magistrate shall have any written, oral, graphic, or other ex parte communication, such ex parte communication shall be forwarded to the clerk of the VAB to be included in the record of the proceedings and shall be disclosed at the beginning of a hearing on the matter.
- B. The VAB clerk shall promptly forward to the Property Appraiser all accepted petitions and prepare a schedule of appearances before the VAB or special magistrate. The 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, personal delivery or as requested by the Representative on the DR-486 form, so that the notice shall be received by the taxpayer no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The clerk will have prima facie complied with the requirements of this section if the notice was deposited in the U.S. mail thirty days prior to the day of such scheduled appearance. The notice of hearing shall include a copy of the property card containing relevant information used in computing the current assessment if such card was requested by the petitioner, and a copy of these VAB procedures.
- C. The petitioner shall have the right to reschedule a hearing a single time by submitting to the VAB clerk a written request to reschedule. Such request must be received by the VAB clerk no less than five calendar days before the day of the originally scheduled hearing.
- D. Any rescheduling request by a petitioner that is in addition to a request made under C above, or is not in compliance with C above, shall be made prior to the scheduled date of the hearing and shall be granted by the VAB clerk only upon proof of: (a) death in the petitioner's immediate family; (b) medical conditions which prevent the petitioner's appearance; (c) jury duty by petitioner; (d) time-certain court appearances by petitioner; (e) prepaid travel plans by petitioner; (f) incarceration of petitioner; or (g) failure of the property appraiser to furnish information when required to do so pursuant to paragraph F below. If a rescheduling request pursuant to this subsection is not granted by the VAB clerk, the hearing may be conducted, and a decision may be made in the absence of the party.

- E. At least 10 days before the scheduled hearing, the petitioner shall provide to the property appraiser, through the clerk of the VAB, a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing. The summary shall provide the name of each witness and describe the general subject matter of testimony to be given by each witness.
- F. No later than seven days before the hearing if the clerk of the VAB receives the information required in E above and if requested in writing by the petitioner, the property appraiser shall provide to the petitioner a list and summary of evidence to be presented at the hearing. The list and summary must be accompanied by copies of documentation to be presented at the hearing. The evidence list must contain the property record card if provided by the clerk. The summary shall provide the name of each witness and describe the general subject matter of testimony to be given by each witness. The property appraiser need not provide this disclosure if the petitioner fails to comply with E above. The property appraiser shall send a notice of compliance with this evidence exchange requirement to the VAB clerk.
- G. If the property appraiser fails to timely provide disclosure when required to do so by F above, the petitioner shall be entitled to reschedule the hearing.
- H. A disclosure as required by E or F above may be delivered by regular or certified U.S. mail, personal delivery, overnight mail, FAX or e-mail. A party shall be deemed to have complied with the delivery requirements if the information was deposited in the U.S. mail five calendar days prior to the date of required delivery. The information shall be sent to the mailing address listed on the petition form, or it may be sent to an e-mail or FAX address if provided by the petitioner. The taxpayer and property appraiser may agree to a different timing and method of exchange.
- I. The VAB or special magistrate may, on a case by case basis, take action regarding compliance with the exchange requirements above. Where fairness dictates, a hearing may be re-scheduled due to noncompliance by any party with the exchange requirements.

## VI. HEARINGS

- A. The following general rules apply to hearings held by the VAB or special magistrate pursuant to these procedures.
- B. Petitioners may be, but shall not be required to be, represented by an attorney or agent.

- C. The property appraiser may be represented by an attorney in defending the property appraiser's position.
- D. The VAB or special magistrate shall call the cases on the agenda but shall not be bound by the order in which the cases appear on the agenda.
- E. If required notice was given to a party who does not appear at the prescribed time of the hearing, the hearing may be conducted and the VAB or special magistrate may, based on the evidence submitted, reach a decision.
- F. A petitioner shall not be required to wait for more than four hours from the scheduled hearing time. If a petition is not heard in the four-hour period of time, the petitioner may report to the VAB or special magistrate that he or she intends to leave. If the petition is not thereafter heard immediately, the petitioner's administrative remedies will be deemed to have been exhausted. The petitioner may seek such further relief as allowed by law. If a petitioner leaves a scheduled meeting for undue delay, the VAB or special magistrate is not precluded from considering the petition of the taxpayer. In that event, if the petition contains sufficient information, the VAB or special magistrate is authorized to enter its decision on the petition.
- G. A verbatim record of the proceedings shall be made by electronic tape or digital recording and shall be retained by the clerk of the VAB for a period of not less than four years. In addition, the clerk shall retain a verbatim record and all documentary evidence. Nothing herein shall be deemed to prohibit any party from providing a court reporter for the proceedings.
- H. The parties may call and examine witnesses, introduce evidentiary materials, cross examine witnesses, and rebut evidence. All testimony shall be under oath if requested by either party. If a person refuses to be sworn for any reason, the VAB or special magistrate may receive the evidence but shall not assign to it the same weight or credibility as sworn testimony.
- I. No evidence shall be considered by the VAB or special magistrate except when properly presented during the time scheduled for the petitioner's hearing or at a time when the petitioner has been given reasonable notice.
- J. Formal rules of evidence shall not apply, but fundamental fairness shall be accorded to the parties. All relevant evidence shall be admitted if it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make such evidence inadmissible over objections in a

trial in a court of Florida. Irrelevant, immaterial or unduly repetitious evidence may be excluded.

- K. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in itself be considered sufficient to support a finding or decision unless the evidence would be admissible in civil actions.
- L. The VAB or special magistrate shall have the authority to ask questions at any time of either party, the witnesses, or staff. The VAB or special magistrate may request legal opinions from the VAB attorney.
- M.
  - 1) A county property appraiser's determination of value is entitled to a presumption of correctness if the property appraiser proves by a preponderance of the evidence that the assessment was arrived at in compliance with state law and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. The board shall determine the appropriateness of the appraisal methodology used in making the assessment. The petitioning taxpayer has the burden to prove by the preponderance of the evidence that the assessed value of the property does not represent the just value after taking into account any applicable limits on annual increases in the value of the property; 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 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 the challenge is to the classification or exemption status of the property, there is no presumption of correctness and the petitioner has the burden of proving by a preponderance of the evidence that the classification or exempt status assigned to the property is incorrect.
- N. All final decisions of the VAB shall be reduced to writing and shall be issued within 20 days of the last day of the VAB session.
- O. 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:
  - 1. 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.

2. 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.
  3. Reasons are those clearly stated grounds upon which the board or property appraiser acted.
- P. All decisions made shall include the nature of the change made, if any, and indicate the just, taxable, and exempt value before and after the change.

## VII. SPECIAL MAGISTRATE PROCEDURES

- A. In addition to the general hearing provisions in Section VII above, the provisions in this section shall apply if the VAB chooses to use one or more special magistrates.
- B. Hearings shall be scheduled by the VAB clerk before either an appraiser special magistrate or an attorney special magistrate depending on the nature of the issue(s) raised by the petition.
- C. At the conclusion of the presentation of the evidence and the taking of testimony, the special magistrate shall make a recommendation to the VAB. The recommendation shall include findings of fact as set forth in Paragraph VII above. If a change is recommended, the recommendation shall include the nature of the change and indicate the just, taxable, and exemption value before and after the change.
- D. The special magistrate's recommendations shall be announced orally at the conclusion of the hearing on the petition. The special magistrate may for good cause, however, defer ruling until a later date. In such event the parties shall be notified by the VAB clerk of the special magistrate's recommendation.
- E. A recommendation of the special magistrate shall be reduced to writing and served on the petitioner and property appraiser. Service shall be made by hand delivery or by regular U.S. mail.
- F. All recommendations of the special magistrates shall be placed on the agenda of a VAB meeting for consideration and action by the VAB. If no request for review is timely filed, the VAB may act on such recommendations without the necessity of further hearing.



- G. The VAB shall conduct a review of a special magistrate's recommendation upon request by a petitioner or the property appraiser, or upon its own motion.
- H. A request for review by a petitioner or the property appraiser shall be on the form available from the VAB clerk and shall set forth with particularity the factual or legal errors made in the special magistrate's recommendation.
- I. The request for review by the petitioner or property appraiser shall be filed with the VAB clerk not later than 15 calendar days after service of the special magistrate's recommendation. Failure to timely file a request for review by the VAB shall be deemed a waiver of the right to review.
- J. The VAB clerk shall schedule requests for review before the VAB. Notice of the scheduled request for review shall be sent by the VAB clerk to the petitioner and property appraiser. The notice shall be in writing and sent by the VAB clerk by regular mail to be received by the petitioner and property appraiser no less than 10 calendar days prior to the day of the scheduled hearing.
- K. The review by the VAB shall be in the form of an appeal. The VAB shall not accept or consider additional evidence during the review proceedings. The VAB shall accept the recommendation of the special magistrate unless the VAB determines that one or more of the following obtain:
  - 1. An essential finding of fact by the special magistrate is not supported by substantial competent evidence in the record.
  - 2. The conclusion reached by the special magistrate is not supported by the factual findings made by the special magistrate.
  - 3. The proceedings conducted by the special magistrate did not comply with the essential requirements of the law, or that procedural due process was not accorded.
- L. If the VAB determines not to accept the recommendation of the special magistrate, it shall do one of the following:
  - 1. Make a final decision based on the record of the proceedings before it.
  - 2. Remand the matter back to the special magistrate for additional fact-finding.
  - 3. Schedule a hearing before the VAB for additional fact-finding and final decision.

- M. If after proper notice of a review hearing a party does not appear, the hearing may be conducted and a decision made in the absence of the party.
- N. Further relief, such as appeal of the VAB decision to circuit court, shall be provided pursuant to the provisions of state law.

#### VIII. PROCEDURES FOR REMAND BY VALUE ADJUSTMENT BOARD

- A. In the event that the property appraiser's assessment is determined to be erroneous pursuant to the provisions of F.S. 194.301, and the record lacks competent, substantial evidence cumulatively meeting the just value criteria of F.S. 193.011, and professionally accepted appraisal practices, the matter shall be remanded to the property appraiser by either the special magistrate or VAB.
- B. The remand shall include appropriate and specific direction from the VAB.
- C. The property appraiser shall conduct a review of the assessment and, within 15 calendar days of the remand by the special magistrate or VAB, shall notify the petitioner by certified mail and notify the VAB, in writing, of the results of the review assessment.
- D. Petitioner shall have 15 calendar days from receipt of the notice to request a continuation of the hearing. In the event the petitioner desires a continuation of the hearing following notice of the review of the assessment by the property appraiser, a hearing shall be scheduled before a special magistrate and shall be conducted pursuant to the rules set forth above for a special magistrate hearing.