

CLAY COUNTY VALUE ADJUSTMENT BOARD
LOCAL ADMINISTRATIVE PROCEDURES¹

In addition to the Florida Constitution, Florida Statutes, Florida Administrative Code, and applicable case law which govern the operation of the Value Adjustment Board (“VAB”), the VAB has adopted the following local administrative procedures.²

VAB Local Administrative Procedure No. 1

SECOND PUBLIC HEARING BEFORE VAB. The VAB, if requested, will conduct a second public meeting (the “Adoption Meeting”) to consider whether the special magistrates’ recommended decisions meet the requirements of Rule 12D-9.031(1), F.A.C. The VAB may rely on VAB counsel for such determination.³ The VAB’s adoption of recommended decisions need not include a review of the underlying record or the special magistrate hearing. At the Adoption Meeting, the VAB shall not consider evidence from the petitioner or the Property Appraiser (“PA”) which was not first submitted to the special magistrate, nor schedule an Adoption Meeting until after the applicable special magistrate hearing. At least 10 days before the VAB’s meeting date, either party may request a Second Meeting by notifying the VAB Clerk of such party’s request for same.

Legal Authority: ss. 194.301, 194.034(2), and 194.035(1), F.S.; Rule 12D-9.031, F.A.C.
(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 an appraisal report prepared by a Certified Residential Appraiser or Certified General Appraiser (an “Appraisal Report”) as evidence, the petitioner is required to ensure that the appraiser who prepared the Appraisal present and available to testify at the hearing, and the PA shall have an opportunity to examine such appraiser regarding, without limitation, the Appraisal Report. If the appraiser who prepared the Appraisal Report is not available to testify at the hearing and present at the hearing for examination by the PA regarding the Appraisal Report, then the Appraisal Report shall not be admissible.

Legal Authority: s. 194.034(1)(a), F.S.; Rule 12D-9.025(1), (2) and (5), F.A.C.
(Revised and adopted 9/10, readopted 9/13/11, revised and adopted 9/7/12).

VAB Local Administrative Procedure No. 3

VAB COUNSEL PRESENT AT HEARINGS. VAB counsel shall be present at all VAB hearings on VAB petitions to provide legal advice to the special magistrate as needed.

Legal Authority: s. 194.015(1), F.S.; Rules 12D-9.008, F.A.C. and 12D-9.009, F.A.C. (VAB must retain private counsel); *Turner, et al., v. Dept. of Rev., et al.*, Case No. 11-0677RU (June 22, 2011), p. 13, n. 2.

VAB Local Administrative Procedure No. 4

¹ Last revised September 7, 2012.

² See Rule 12D-9.013(1)(h), F.A.C. (“local administrative procedures ... must be ministerial in nature and not be inconsistent with governing statutes, case law, attorney general opinions or rules of the department.”).

³ See Rule 12D-9.031(2), F.A.C.

MANDATORY EVIDENCE EXCHANGE. In instances in which the PA has demanded in writing to be provided with the petitioner's evidence to be relied on at the VAB hearing in compliance with s. 194.034(1)(d), F.S. the petitioner must comply with the PA's request, and may only provide at the VAB hearing any evidence provided to the PA as set forth in s. 194.011(4)(a), F.S. 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 PA of which the petitioner had knowledge and denied to the PA. 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 PA pursuant to s. 194.011(4)(a), F.S. and s. 194.034(1)(d), F.S. 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 PA (i.e., fifteen days prior to the scheduled hearing), then the PA 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 PA's motion for a recess or continuance shall be liberally granted by the Special magistrate conducting the hearing. Legal Authority: s. 194.011(4)(a), F.S. and s. 194.034(1)(d), F.S.; Rule 12D-9.020(8), F.A.C.; and the Summary Final Order in *Turner, et al., v. Dept. of Rev., et al.*, Case No. 11-0677RU, June 22, 2011, p. 38, n. 11 and 12, and p. 41-42, Paragraph 54, determining portions of Rule 12D-9.020(1), (2)(a), and (2)(b), F.A.C. to contravene the plain language of s. 194.011(4)(a), F.S. and thus found to be an invalid exercise of its delegated legislative authority. (adopted 9/13/11, revised and adopted 9/7/12)

VAB Local Administrative Procedure No. 5

NO HEARING IF PETITIONER HAS NOT COMPLIED WITH EVIDENCE EXCHANGE, ELECTED TO HAVE EVIDENCE CONSIDERED IN PETITIONER'S ABSENCE, AND DOES NOT APPEAR AT NOTICED VAB HEARING. The special magistrate presiding over a noticed VAB hearing shall not commence with a hearing if:

- (1) the petitioner has not timely provided the PA with specifically requested evidence intended to be used by the petitioner at the VAB hearing,
- (2) the petitioner has not indicated that the petitioner wants the petitioner's submitted evidence to be considered in the petitioner's absence, and
- (3) petitioner does not attend the VAB hearing.

Instead of commencing the hearing, and without requesting evidence from the PA, the special magistrate shall include in the recommended decision: (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 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: Rules 12D-9.021(6) and (8), F.A.C. (adopted 9/13/11, revised and adopted 9/7/2012)