

**SARASOTA COUNTY
VALUE ADJUSTMENT BOARD**



LOCAL ADMINISTRATIVE PROCEDURES

Revised August 30, 2018

SARASOTA COUNTY VALUE ADJUSTMENT BOARD (VAB) 2018 LOCAL ADMINISTRATIVE PROCEDURES

I. CREATION AND COMPOSITION OF THE VALUE ADJUSTMENT BOARD

The Value Adjustment Board (“VAB”) was created to provide citizens a forum to address complaints when they believe the Property Appraiser overvalued or undervalued their property, improperly denied an exemption or classification, or that the Tax Collector improperly denied a tax deferral. Citizens may also institute legal action in Circuit Court.

The VAB consists of two Members of the Board of County Commissioners (BCC), one of whom shall be elected Chairperson; one Member of the School Board; a BCC Citizen Appointee who owns homestead property in Sarasota County; and a School Board Citizen Appointee who owns a business that occupies commercial space located within the School District in Sarasota County.

In 2010, the Florida Department of Revenue (FDOR) developed a Uniform Policies and Procedure Manual for hearings before Value Adjustment Boards, which is updated on a yearly basis. In 2018, the Manual consists of:

- **CHAPTER 12D-9 REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE VALUE ADJUSTMENT BOARDS**
- **CHAPTER 12D-10 VALUE ADJUSTMENT BOARDS**
- **FORMS**
- **CHECKLISTS**
- **CHAPTER 194, FLORIDA STATUTES: ADMINISTRATIVE AND JUDICIAL REVIEW OF PROPERTY TAXES**
- **CHAPTER 286: PUBLIC BUSINESS**
- **OTHER LEGAL RESOURCES AND REFERENCE MATERIALS**
- **NOTICE REGARDING CASE LAW – REJECTION OF EVERY REASONABLE HYPOTHESIS STANDARD**

This Uniform Policies and Procedures Manual is available on the Department of Revenue’s Website at <http://floridarevenue.com/dor/property/vab/pdf/vabuppmmanual.pdf>

The Local Administrative Procedures set forth below have been adopted by the Sarasota County VAB to facilitate its administrative review of ad valorem property tax assessments. However, the Uniform Rules shall supersede these local administrative procedures to the extent of any conflict.

II. THE VAB CLERK

The Board Records Department is Clerk to the VAB. The VAB Clerk is responsible for making petition forms available to the public, receiving and acknowledging completed petitions, scheduling hearings and meetings, communicating with Petitioners and the Property Appraiser, making copies of rules and forms used in the VAB process available to the Public, preparing agendas and minutes for the VAB and providing assistance to the Public, Board Members and Special Magistrates as necessary in the performance of their duties.

The VAB Clerk has implemented an online Case Management System known as “Axia” which allows for convenient online filing of petitions, electronic communication with the Parties, electronic orders on VAB petitions, and electronic management of evidence to be presented at VAB hearings. The VAB Axia Case Management System is located at www.sarasotaclerk.com.

The VAB Clerk’s preferred method of communication is via e-mail and the VAB Clerk will communicate with Petitioners via e-mail if an e-mail address is provided by the Petitioner on the petition form. The clerk’s email address is vabclerk@scgov.net.

The VAB Clerk is authorized by statute to make determinations on requests for “good cause” rescheduling of hearings.

III. THE VAB ATTORNEY

The primary role of the VAB Attorney shall be to advise the VAB 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 in a manner that will promote and maintain a high level of public trust and confidence in the administrative review process. The VAB Attorney is not an advocate for either Party in a VAB proceeding, but instead ensures that the proceedings are fair and consistent with the law. The VAB Attorney shall advise the Board of the actions necessary for compliance with the law including:

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.

The VAB Attorney is also available to provide legal advice to Special Magistrates to assist in the performance of their duties. The VAB Attorney shall also review and respond to written complaints alleging noncompliance with the law by the Board, Special Magistrates, the VAB Clerk, and the Parties.

In Sarasota County, the VAB Attorney is the Designee of the Board who will make determinations of “good cause” submitted with late-filed petitions.

IV. SPECIAL MAGISTRATES

In Sarasota County, the VAB utilizes Special Magistrates to conduct VAB hearings, take testimony, and make recommendations on petitions, as outlined in Section 194.035, Florida Statutes. In Sarasota County, all Special Magistrates will have no less than five years of experience as either a state certified Appraiser, Member of the Florida Bar or Member of a nationally recognized Appraiser’s organization, as applicable. In accordance with Rule 12D-9.012(5) and prior to holding hearings, all Special Magistrates must complete annual training provided by the Florida Department of Revenue (FDOR).

Special Magistrates shall be compensated by the VAB for the amount of time devoted to considering each assigned petition. Special Magistrates shall submit a statement of the amount of time devoted to each assigned petition on the form provided by the VAB Clerk.

V. FILING A PETITION WITH THE VAB

Pursuant to Section 195.022, Florida Statutes, petitions may only be filed on forms developed or approved by the FDOR. Beginning in 2010, the VAB Clerk has made an electronic Case Management System known as “Axia” available on its website to allow for the electronic filing of petitions at www.sarasotaclerk.com. Petition forms are also available at the VAB Clerk’s Offices listed below, the Property Appraiser’s Offices, online at the FDOR website (<http://dor.myflorida.com/dor/property/forms>), and on the Clerk’s website at www.sarasotaclerk.com. Petitions can be mailed or submitted in person to the VAB Clerk’s Office located at 1660 Ringling Boulevard, Suite 210, Sarasota, Florida 34236; or to the South County Clerk’s Office, 4000 South Tamiami Trail, Suite 222, Venice, Florida 34293.

Beginning on July 1, 2016, the taxpayer must sign the petition to the Value Adjustment Board or the taxpayer's written authorization or power of attorney must accompany the petition at the time of filing unless the person filing the petition is an employee of the taxpayer or an affiliated entity, an attorney who is a member of The Florida Bar, a real estate appraiser licensed under chapter 475, a real estate broker licensed under chapter 475, or a certified public accountant licensed under chapter 473, retained by the taxpayer. These statutorily authorized representatives, may file a petition with a Value Adjustment Board without the taxpayer's signature or written authorization by certifying under penalty of perjury that he or she has authorization to file the petition on the taxpayer’s behalf. If a taxpayer notifies the Value Adjustment Board that a representative has filed a petition for the taxpayer's property without his or her consent, the Value Adjustment Board may require the person filing the petition to provide written authorization from the taxpayer authorizing the person to proceed with the appeal before a hearing is held. If the Value Adjustment Board finds that a statutorily authorized representative person willfully and knowingly filed a petition that the taxpayer did not authorize, the Value Adjustment Board must require the person to provide the taxpayer's written authorization for representation to the Value Adjustment Board clerk before any petition filed by that person is heard. The taxpayer’s written authorization for representation is valid for one assessment year, and a new power of attorney or written authorization by the taxpayer is required for each subsequent assessment year. However, an authorized individual, agent, or legal entity may not

receive or access the taxpayer's confidential information without written authorization from the taxpayer.

The Department of Revenue has promulgated Form DR-486A (Written Authorization for Representation before Value Adjustment Board) to assist a taxpayer in complying with the requirement for written authorization for filing of a VAB petition by an individual other than the taxpayer or statutorily authorized representative pursuant to Section 194.034, Florida Statutes.

Resolution No. 2010-003, initially adopted by the Board on September 22, 2010, authorizes the VAB Clerk to collect a nonrefundable \$15.00 filing fee for each parcel of real or personal property subject to petition(s). Petitions filed electronically are subject to a convenience fee of 3.5%.

All Petitioners will receive a transaction number and a password to view the status and documents in their case using the online Axia Case Management System. Petitioners filing online should log back in to verify a petition number has been assigned or contact the VAB Clerk at VABclerk@scgov.net or by telephone at (941) 861-5279.

The owner of contiguous, undeveloped parcels may file a single joint petition if the Property Appraiser determines that such parcels are substantially similar in nature. Contiguous parcel petitions must be accompanied with a written statement from the Property Appraiser, verifying the parcels are contiguous, or the petition will be deemed incomplete. Single petitions filed for multiple properties by condominium, cooperative, and homeowners association or the Owner of contiguous parcels shall pay an additional fee of \$5.00 for each parcel included in the petition. To obtain the required written statement from the Property Appraiser for contiguous parcels, please contact the Property Appraiser's office at (941) 861-8200.

The owner of multiple tangible personal property accounts may also file a single joint petition if the Property Appraiser determines that such parcels are substantially similar in nature. Multiple tangible personal property account petitions must be accompanied with a written statement from the Property Appraiser, verifying the Property Appraiser believes the tangible personal property accounts are substantially similar in nature, or the petition will be deemed incomplete. Single petitions filed for multiple tangible personal property accounts shall pay an additional fee of \$5.00 for each parcel included in the petition. To obtain the required written statement from the Property Appraiser for multiple tangible personal property accounts, please contact the Property Appraiser's office at (941) 861-8200.

If a Petitioner files an incomplete petition, the VAB clerk shall notify the Petitioner and give the Petitioner 10 calendar days from the date that notification of the incomplete petition is mailed in which to provide additional materials need to complete the petition.

VI. LATE-FILED PETITIONS

Petitioners who file their petitions after the statutory deadline must provide a written, verifiable "good cause" explanation as to why the Petitioner missed the filing deadline. To do so, a Petitioner must file a petition and pay the filing fee along with the submission of the written "good cause" explanation. The VAB Attorney shall review the written explanation of good cause and any supporting documentation submitted. Petitioners will be granted or denied a hearing based on the VAB Attorney's decision.

VII. SCHEDULING HEARINGS

The hearing schedule is determined by the VAB Clerk based upon Special Magistrate and hearing room availability. Once a hearing date and time is determined for each petition, the VAB Clerk shall notify the Parties by e-mailing the Notice of Hearing to the e-mail address provided by the Petitioner. If no e-mail address is provided, the VAB Clerk will mail the Notice of Hearing to the mailing address provided by the Petitioner on the petition form.

Beginning on July 1, 2016, the Petitioner and the Property Appraiser may each reschedule the hearing a single time for good cause. "Good cause" means circumstances beyond the control of the person seeking to reschedule the hearing which reasonably prevent him or her from having adequate representation at the hearing. If the hearing is rescheduled, the clerk must notify the Petitioner of his or her rescheduled time at least 15 calendar days before the rescheduled appearance.

Because the Uniform Rules of Procedure have eliminated a taxpayer's ability to reschedule a hearing without showing good cause, it is strongly suggested that a taxpayer or his or her representative provide a list of dates that the taxpayer or representative is NOT available to the clerk at the time of the filing of the petition.

In accordance with the Americans with Disabilities Act, a Petitioner in need of special accommodation to participate in any VAB proceedings should contact the VAB Clerk at (941) 861-5279 when filing the petition, or at least one week before the scheduled VAB proceedings requiring such accommodation.

The Sarasota VAB permits Petitioners to appear for VAB hearings telephonically. The procedures for a telephonic appearance are as follows:

1. All telephonic hearings will be held in various locations within the Sarasota County Administration Center located at 1660 Ringling Boulevard, Sarasota, Florida 34236 based on space availability. The room assignment for the telephonic hearing shall be identified at the time the telephonic hearing is scheduled. The equipment to be made available to accommodate the telephonic hearing will be a speakerphone.
2. Before making a request for a telephonic hearing with the Clerk, a Petitioner must contact the Property Appraiser's office and obtain written agreement ("Written Agreement") to the following:
 - A. The Property Appraiser must agree to hold the hearing by telephone;
 - B. The Petitioner and Property Appraiser must agree to the method of swearing witnesses, presenting evidence, and placement of the testimony on the record;
 - C. The Petitioner and Property Appraiser must agree which Parties or other Witnesses will appear by telephone and which will appear at the hearing;
 - D. Any other procedures agreed to by the Petitioner and Property Appraiser relating to the hearing (i.e., Parties supplying other electronic media to facilitate the hearing).

If the Parties are unable to reach an agreement on all requirements, a telephonic hearing will not be scheduled and the Petitioner and his/her Witnesses must appear for the hearing.

3. A Petitioner's request for a telephonic hearing along with the "Written Agreement" must be submitted to the VAB Clerk no less than 15 days prior to the hearing. If the request for a telephonic hearing is made less than 15 days prior to the hearing, the Petitioner must also request to reschedule the hearing. If a prior request to reschedule the hearing has been made, a "Good Cause" to reschedule the hearing to accommodate the telephone appearance must be shown pursuant to Rule 12D-9.019.

4. The VAB Clerk will consult with the assigned Special Magistrate to obtain his/her consent to the telephonic hearing.

5. If all requirements have been met, the VAB Clerk shall notify the Petitioner and the Property Appraiser of the approval and location of the hearing by Clerk's Notice or other appropriate form.

VIII. EVIDENCE

YOU WILL LIKELY BE RECEIVING A WRITTEN REQUEST FOR YOUR EVIDENTIARY MATERIALS FROM THE PROPERTY APPRAISER. IF YOU DO, YOU MUST PROVIDE COPIES OF THE EVIDENCE REQUESTED TO THE PROPERTY APPRAISER A REASONABLE TIME PRIOR TO THE HEARING IN ORDER FOR THE EVIDENCE TO BE ADMISSIBLE AT THE HEARING. 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 YOU FAIL TO PROVIDE YOUR EVIDENCE TO THE PROPERTY APPRAISER UPON REQUEST, THE EVIDENCE MAY BE EXCLUDED FROM CONSIDERATION DURING THE HEARING.

IF YOU WISH TO OBTAIN A COPY OF THE PROPERTY APPRAISER'S EVIDENCE, (ALSO KNOWN AS THE EVIDENCE EXCHANGE), YOU MUST ALSO DO THE FOLLOWING:

- 1. You must provide a list and summary of the evidence to be presented at the hearing, and copies of all documents you want to introduce into evidence to the Property Appraiser at least 15 days before the hearing**
AND
- 2. You must make a written request to the Property Appraiser for its evidence**

The VAB Axia Case Management System includes a component that allows Petitioners and the Property Appraiser to upload and maintain PDF copies of evidence to assist in providing that evidence to the other party.

If you elect to utilize the Axia Case Management System and upload PDF copies of your list, summary of evidence and documentation to be presented at the hearing at least 15 days prior to the hearing, the information will be deemed to be received by the Property Appraiser as of the date of the

upload. **WITH YOUR EVIDENCE UPLOAD INTO AXIA YOU MUST STILL MAKE A WRITTEN REQUEST FOR THE PROPERTY APPRAISER'S EVIDENCE. COPIES OF YOUR EVIDENCE TO BE USED AT THE HEARING AND YOUR REQUEST FOR THE PROPERTY APPRAISER'S EVIDENCE MUST BE UPLOADED NO LESS THAN 15 DAYS PRIOR TO YOUR SCHEDULED HEARING DATE.**

If you do not elect to utilize the VAB Case Management System, you must mail or fax the list and summary of the evidence to be presented at the hearing, and all documents you intend to introduce into evidence along with the request for the Property Appraiser's evidence so that the information and request is **RECEIVED** by the Property Appraiser at least 15 days prior to the date of the hearing.

If the Property Appraiser receives your list and summary of the evidence, documents to be introduced into evidence and your written request for the Property Appraiser's evidence at least 15 days prior to the hearing, the Property Appraiser is required to provide its list and summary of the evidence to be presented at the hearing, accompanied by copies of its evidence to be presented at the hearing. These documents must be provided to you at least 7 days prior to the date of the hearing. If the Property Appraiser fails to provide copies of their evidence to you at least 7 days prior to the hearing, the hearing may be rescheduled to allow the Petitioner additional time to review the Property Appraiser's evidence.

If a Petitioner chooses to participate in an exchange of evidence with the Property Appraiser and he or she shows good cause to the VAB clerk for not being able to meet the 15 day requirement and the Property Appraiser is unwilling to agree to a different timing of the exchange, the VAB clerk is authorized to reschedule the hearing to allow for the exchange of evidence to occur.

YOU MUST BRING 3 COPIES OF YOUR EVIDENCE TO THE HEARING, EVEN IF YOU HAVE PREVIOUSLY UPLOADED YOUR EVIDENCE INTO VAB'S AXIA CASE MANAGEMENT SYSTEM AND/OR HAVE PROVIDED YOUR EVIDENCE TO THE PROPERTY APPRAISER DIRECTLY IN THE EVIDENCE EXCHANGE.

IX. WITHDRAWN PETITIONS

A Petitioner may withdraw a petition prior to the scheduled hearing. The withdrawal shall be in writing and 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 VAB process; or
- (d) Other specified reason.

The Department of Revenue has promulgated Form **DR-485WI** for use by a Petitioner seeking to withdraw a petition. The VAB Clerk shall cancel the hearing upon receiving a notice of withdrawal. For all withdrawn or settled petitions, the Special Magistrate shall not produce a recommended decision and the Board shall not produce a final decision.

X. HEARING PROCEDURES

Assignment of hearing rooms is determined by the VAB Clerk annually and is based upon space availability. For the 2018 VAB year, hearings will be held in various locations within the Sarasota County Administration Center located at 1660 Ringling Boulevard, Sarasota, Florida 34236, the Terrace Building located at 101 S. Washington Boulevard, Sarasota, Florida 34236, the Sarasota County Justice Center, 2071 Ringling Boulevard, Sarasota, Florida 34237 and at the Robert L. Anderson Administration Building, 4000 S. Tamiami Trail, Venice, Florida 34293. The room assignment for each hearing shall be identified at the time the hearing is scheduled. A Hearing Location Map and Parking instructions will be included in the Notice of Hearing sent no later than 25 calendar days before the scheduled time of appearance.

The Petitioner must provide three sets of their evidence at the hearing (one to be entered into evidence by the Special Magistrate, one for the Property Appraiser and one for Petitioner). Evidence received by the VAB Clerk prior to the hearing will be imaged into the VAB Case Management System and will be available electronically at the hearing, but such evidence shall not be considered part of the record and shall not be reviewed by the Special Magistrate until presented at a hearing by the offering Party and deemed admissible at the hearing.

The Special Magistrate **cannot** consider evidence, unless the Special Magistrate specifically requested the information during the hearing or presented upon agreement of the Parties on the record.

The Petitioner may testify at the hearing and may present the testimony of other Witnesses to support his/her position. The Property Appraiser, each Petitioner, and all Witnesses shall be required, upon the request of either Party, to testify under oath. Hearings shall be conducted in the manner prescribed by rules of the Florida Department of Revenue (FDOR), which rules shall include the right of cross-examination of any Witness. See Section 194.034(1)(a), (2018) Florida Statutes.

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), Florida Statutes, 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 VAB Attorney who shall review the same and make a determination on the request.

A Petitioner may indicate on the petition form or communicate to the VAB Clerk that he or she does not wish to appear at the hearing but would like for the Special Magistrate to consider evidence, shall submit his or her evidence to the VAB Clerk before the hearing. The VAB Clerk shall keep the Petitioner's evidence as part of the petition file and notify the Special Magistrate before or at the hearing that the Petitioner has indicated he or she will not appear at the hearing.

XI. THE RECORD

The VAB Clerk shall maintain a record of the proceedings. The record shall consist of the electronic digital record of the proceeding and proof of any documentary evidence presented and shall be maintained for four years after the final decision has been rendered by the VAB if no appeal is filed in Circuit Court or for five years if an appeal is filed. If requested by the Taxpayer, the Taxpayer's

Agent, or the Property Appraiser, the VAB Clerk shall retain these records until the final disposition of any subsequent judicial proceeding related to the same property.

Because the VAB Clerk has the duty to preserve ALL evidence presented at the hearing, it shall be the duty of the Special Magistrates to retain all documentary evidence presented by the Petitioner and the Property Appraiser's Office and deliver it to the VAB Clerk. The Special Magistrate is responsible for all evidence until it is physically delivered to the VAB Clerk.

The Special Magistrate is responsible for gathering and maintaining the record to support the findings of fact. A verbatim record shall be kept by electronic digital recording. After each hearing, the Special Magistrate shall submit the record to the VAB Clerk for filing. The VAB Clerk shall maintain the electronic verbatim record and the preserved evidence and listings for a period of not less than four (4) years.

The Special Magistrate shall not turn off the digital recorder during a hearing without first having recessed the hearing on the record. The digital recorder should be recording as soon as the hearing has reconvened. As a general rule, the digital recorder should be recording as soon as the Petitioner enters the room and not be turned off unless the hearing is in recess. It is the Special Magistrate's duty to make sure the digital recorder is working and that the record is preserved. If the digital recorder is not functioning properly, the VAB Clerk should be notified immediately and the hearing suspended. The Special Magistrate may **NOT** conduct a hearing without the digital recorder activated.

XII. RECOMMENDED ORDERS OF THE SPECIAL MAGISTRATE

For each petition not withdrawn or settled, the Special Magistrate 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. After producing a recommended decision, the Special Magistrate shall provide it to the VAB Attorney to confirm that the recommended decision complies with the requirements of law. Upon approval, the Special Magistrate will provide the recommended order to the VAB Clerk who shall provide a copy of the recommended decision to the Petitioner and the Property Appraiser as soon as practicable. At the time the recommended decision is provided to the Parties, the VAB Clerk will also notify the Parties of the date, time, and place for the VAB meeting at which the recommended decision will be considered by the VAB.

All recommended decisions of the Special Magistrates 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. Each 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.

XIII. VALUE ADJUSTMENT BOARD ADOPTION OF RECOMMENDED ORDERS

For each petition not withdrawn or settled, the VAB shall produce a written final decision. In Sarasota County, the VAB typically adopts the recommended decision of the Special Magistrate if it contains the required elements and provides notice that it has done so to the Parties.

XIV. PARTIAL PAYMENT OF TAXES; PROCEEDINGS BEFORE THE VALUE ADJUSTMENT BOARD

Pursuant to Section 194.014, Florida Statutes, for all petitions challenging assessed value of property filed after July 1, 2011, a Petitioner must pay all of the non-ad valorem assessments and make a partial payment of at least 75 percent of the ad valorem taxes, less the applicable discount for early payment, before the taxes become delinquent on April 1, pursuant to Section 197.333.

Pursuant to Section 194.014, Florida Statutes, for all petitions challenging the denial of a classification or exemption, or the assessment based on an argument that the property was not substantially complete as of January 1, must pay all of the non-ad valorem assessments and the amount of the tax which the Taxpayer admits in good faith to be owing, less the applicable discount for early payment, before the taxes become delinquent on April 1, pursuant to Section 197.333. If the VAB determines that the amount of the tax that the Taxpayer has admitted to be owing is grossly disproportionate to the amount of the tax found to be due and that the Taxpayer's admission was not made in good faith, the Tax Collector must collect a penalty at the rate of 10 percent of the deficiency per year from the date the taxes became delinquent, pursuant to Section 197.333.

If the appropriate partial payment of taxes is not made as required by Section 194.014, the VAB must deny the petition by written decision by April 20.