

Florida Department of Revenue

Rule Development Hearing
October 9, 2009



Taxworld
Building C-1, Training Room D
5050 W. Tennessee St.
Tallahassee, Florida

**WRITTEN PUBLIC COMMENTS
RECEIVED DURING HEARING**

VAB - RE:12D-9.020 Exchange of Evidence

From: "Robin Platt" <rplatt@sjccoc.us>
To: <VAB@dor.state.fl.us>
Date: 10/9/2009 9:35 AM
Subject: RE:12D-9.020 Exchange of Evidence

10/09/09 DOR Public Hearing:

In 12D-9.020, Exchange of Evidence, paragraph 1, states that a petitioner can still present evidence at his or her hearing even if he or she did not participate in the evidence exchange, unless "this evidence" was requested in writing by the property appraiser.

Does this mean that if a property appraiser sends out a form letter to all petitioners requesting all evidence that a petitioner cannot present any evidence, or is this section intended to mean specific evidence?

Could you please clarify this section (and Section 12D-9.025(4)(a)...Presentation of Evidence).

**Thank you:
Robin L. Platt, Deputy Clerk
Value Adjustment Board Coordinator
500 San Sebastian View
St. Augustine, FL 32084
(904) 819-3644, Ext. 3
rplatt@sjccoc.us**

VAB - RE:12D-9.019 Scheduling and Notice of a Hearing

From: "Robin Platt" <rplatt@sjccoc.us>
To: <VAB@dor.state.fl.us>
Date: 10/9/2009 10:05 AM
Subject: RE:12D-9.019 Scheduling and Notice of a Hearing

10/09/09 DOR Public Hearing comment:

Section 12D-9.019(3)(a)1. (Scheduling a Notice of a Hearing) requires that a hearing notice contain the parcel number, account number or legal address, but the current form DR-481, Value Adjustment Board Notice of Hearing (N.8/09), does not have a field for that information.

**Thank you:
Robin L. Platt, Deputy Clerk
Value Adjustment Board Coordinator
500 San Sebastian View
St. Augustine, FL 32084
(904) 819-3644, Ext. 3
rplatt@sjccoc.us**

VAB - 10/9 PH

From: "Judy Korbus" <jkorbus@co.hernando.fl.us>
To: <VAB@dor.state.fl.us>
Date: 10/9/2009 10:14 AM
Subject: 10/9 PH 12B-9.013

(1) (b) - Clerk to VAB or designee should be introduced, but not approved or ratified. This is not required for any other Clerk functions such as clerking court sessions or attending BCC meetings.

Judy S. Korbus Administrative Services Manager
Hernando County Clerk of Circuit Court
20 N Main St, Rm 131
Brooksville, FL 34601
(352) 540-6207 Fax (352) 754-4239 www.clerk.co.hernando.fl.us

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VAB - DR-486 Form

From: "Patricia L. Morgan" <patricia.morgan@collierclerk.com>
To: "VAB" <VAB@dor.state.fl.us>
Date: 10/09/2009 10:45 AM
Subject: DR-486 Form

There isn't a section for the VAB clerk to sign/seal. No place for filing date.

Trish Morgan, BMR Manager

Clerk to the Board and VAB

Minutes and Records Department

(239)252-8399 Phone

(239)252-8408 Fax

patricia.morgan@collierclerk.com

Under Florida Law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by telephone or in writing.

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VAB - Petition Filing

From: "Madison, Gloria" <GMADISON@mypalmbeachclerk.com>
To: "VAB@dor.state.fl.us" <VAB@dor.state.fl.us>
Date: 10/09/2009 11:23 AM
Subject: Petition Filing 12D-9019

In Palm Beach County we will not be able to monitor who sign a petition with the volume of online filing. I would hope we could do away with the agent and owner signing a petition.

Gloria Madison

Supervisor - Board Services
GMadison@mypalmbeachclerk.com

Clerk & Comptroller Palm Beach County
301 N. Olive Ave.
West Palm Beach, FL 33401
561 355-4299 Direct
561 355-1653 Fax

www.mypalmbeachclerk.com

Sign up to receive the latest news from the Clerk & Comptroller's office by e-mail.

Please be advised that Florida has a broad public records law, and all correspondence to me may be subject to disclosure. Under Florida public records laws email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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VAB - 12D-9.019

From: "Patricia L. Morgan" <patricia.morgan@collierclerk.com>
To: "VAB" <VAB@dor.state.fl.us>
Date: 10/09/2009 11:25 AM
Subject: 12D-9.019

Concur with Mr. Schultz; a clerk would not be able to determine some of these factors listed in section 1b

Trish Morgan, BMR Manager

Clerk to the Board and VAB

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VAB - 12D9.019(1)

From: "Foglesong, Carol" <Carol.Foglesong@occompt.com>
To: <VAB@dor.state.fl.us>
Date: 10/9/2009 11:25 AM
Subject: 12D9.019(1)

12D9.019(1)

(c) **Upon request.** The clerk shall should consult with the petitioner and the property appraiser or tax collector to ensure that an adequate amount of time is provided for presenting and considering evidence.

Upon the request of whom?

cf

Carol Foglesong
Assistant Comptroller, Records Administration Division
Orange County Comptroller's Office
PO Box 38
Orlando, FL 32802
407.251.2486 ext 223 (office phone until approx 12/1/09)
carol.foglesong@occompt.com (email)

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VAB - 10/9 PH

From: "Judy Korbus" <jkorbus@co.hernando.fl.us>
To: <VAB@dor.state.fl.us>
Date: 10/09/2009 11:25 AM
Subject: 10/9 PH

9.019 (1)(b) 2.3.

I agree that this will be very difficult to determine. In most hearings in Hernando County conducted for commercial parcels, the evidence is not submitted until just prior to the hearing so we don't even have it to consider the complexity of it.

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VAB - 12D9-019(4)(b)

From: "Foglesong, Carol" <Carol.Foglesong@occompt.com>
To: <VAB@dor.state.fl.us>
Date: 10/9/2009 11:29 AM
Subject: 12D9-019(4)(b)

A petitioner may request a rescheduling of a hearing for **good cause**

Please change the words "good cause" in this section in order to avoid confusion with the "good cause" consideration of filing the VAB petition after the 25 day clock has ended.

cf

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PO Box 38
Orlando, FL 32802
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VAB - Failure of VAB to meet 3 times

From: "Foglesong, Carol" <Carol.Foglesong@occompt.com>
To: <VAB@dor.state.fl.us>
Date: 10/09/2009 11:42 AM
Subject: Failure of VAB to meet 3 times

12D9.019 is entitled Scheduling and Notice of a Hearing. Subs (1) – (7) specifically deal with the petitioner's hearings. Would not sub (8) be more logical under 12D-9.004?

cf

Carol Foglesong
407.251.2486 ext 223 (office phone until approx 12/1/09)
carol.foglesong@occompt.com (office email)

VAB - 12D-9.020 Evidence Exchange

From: "Nick Nikkinen" <NickN@co.hernando.fl.us>
To: "VAB" <VAB@dor.state.fl.us>
Date: 10/9/2009 11:48 AM
Subject: 12D-9.020 Evidence Exchange

Is Higgs v. Good (2002, 3D01-2675) still applicable law?

This case held that a taxpayer cannot withhold income and expense information when requested by the Property Appraiser in the formulation of the assessment and then provide it a VAB hearing.

Thanks.

Nick

Neil "Nick" Nikkinen, AAS, CFE

Director of Special Projects
Hernando County Property Appraiser's Office
20 N. Main St., Rm. 463
Brooksville, FL 34601-2893
(352) 540-6675 Phone
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www.hernandocounty.us/pa

VAB - Public Comments

From: "Cathy Mills" <camills@leoncountyfl.gov>
To: <VAB@dor.state.fl.us>
Date: 10/09/2009 1:43 PM
Subject: Public Comments

p. 50, line 15 (going back to p. 45, line 10)

Reiterating again what I believe Mr. Schultz has commented on already, allowing either party the ability to reschedule because they don't show up for a scheduled hearing will cause problems all over the state.

We are still small enough in Leon County to actually make reminder phone calls a few days in advance of the hearing. To afford the parties the chance to just not show up and get that proverbial "double bite at the apple" is awfully, awfully unnecessary.

Cathy A. Mills, Deputy Clerk
Leon County Value Adjustment Board

camills@leoncountyfl.gov
Phone 850-577-4005|Fax 850-577-4013

MAIL CORRESPONDENCE TO

Leon County Clerk of Courts
Clerk Administration Division
P. O. Box 726
Tallahassee, FL 32302-0726

Physical Location

Leon County Clerk of Courts
Clerk Administration Division
301 S. Monroe Street, #100
Tallahassee, FL 32301

Please refer to our website for detailed information on the VAB process in Leon County.

NOTICE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

VAB - 12D-9.028

From: "Ron Gunzburger" <ron@bcpa.net>
To: "VAB" <VAB@dor.state.fl.us>
Date: 10/9/2009 2:05 PM
Subject: 12D-9.028

Comments for review as to the 8/09 draft rule (but no need to read out loud):

12D-9.028(d) states: "The board or special magistrate shall consider deeds, property appraiser records that do not violate confidentiality requirements, and other documents that are admissible evidence." Some confidential records (DR-501, some of the supporting items like federal tax returns required to qualify for homestead per 196.031, etc.) must be considered in many of these exemption-related hearings. Further, how is a magistrate to interpret "document at are admissible evidence"?

Ron Gunzburger, CFE
General Counsel & Director of Administration
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Please consider the environment before printing this e-mail

VAB - Comment on Rule 12D-9.037 and Form DR-488

From: "Sheryl Edwards" <sedwards@edwards-lawfirm.com>
To: <VAB@dor.state.fl.us>
Date: 10/9/2009 2:23 PM
Subject: Comment on Rule 12D-9.037 and Form DR-488

Counsel for Sarasota VAB –

Situation has come up in our county relating to request by Property Appraiser and Tax Collector for certification of the assessment roll prior to completion of all VAB hearings. Pursuant to Section 193.122, the VAB shall certify the assessment roll upon request of the board of county commissioners. However, there is no rule section addressing this issue.

Furthermore, the DOR has provided no form for this purpose. The DR-488 clearly contemplates use only for the final certification of the assessment roll after all hearings have been completed.

Understanding that it is fairly common in the counties throughout Florida for the assessment roll to be certified by the VAB before hearings have been completed, and understanding that after the formal rule making process has been completed, no forms can be used other than those in Chapter 12D-16, we either need a form and rule addressing the "first certification of the assessment roll by the VAB" or a statutory modification to Section 193.22 that eliminates the VAB from the process of the "First Certification"



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VAB - 10/9 PH

From: "Judy Korbus" <jkorbus@co.hernando.fl.us>
To: <VAB@dor.state.fl.us>
Date: 10/09/2009 2:30 PM
Subject: 10/9 PH

12D-9.032(4) -

Upon issuance of a final decision by the board, the board shall provide it to the clerk and the clerk shall promptly provide notice of the final decision to the parties. Notice of the final decision may be made by providing a copy of the decision.

Since the word "promptly" can be interpreted in many different ways, I would recommend that this be changed to "within 20 days of the rendering of the decision by the VAB" .

Judy S. Korbus
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Brooksville, FL 34601
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VAB - 12D-9.038 (Don't need to read into the record)

From: "Nick Nikkinen" <NickN@co.hernando.fl.us>
To: "VAB" <VAB@dor.state.fl.us>
Date: 10/9/2009 2:44 PM
Subject: 12D-9.038 (Don't need to read into the record)

It appears that there may be a typo in the following section. I think it not should be deleted.

(2) The size of the notice shall be at least a quarter page size advertisement of a standard or tabloid size newspaper. The newspaper notice shall include all of the above information and no change shall be made in the format or content without department approval. The notice shall be published in a part of the paper where legal notices and classified ads are ~~not~~ published.

Neil "Nick" Nikkinen, AAS, CFE

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VAB - DR571A (Does not need to be read into record)

From: "Nick Nikkinen" <NickN@co.hernando.fl.us>
To: "VAB" <VAB@dor.state.fl.us>
Date: 10/09/2009 2:51 PM
Subject: DR571A (Does not need to be read into record)

Not being tremendously familiar with Tax Collector issues, is the filing deadline correct? 30 days from mailing or 20 days from receipt?

Thanks.

Neil "Nick" Nikkinen, AAS, CFE

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VAB - VAB Forms DR-486 r. 8/09

From: "Kimberly Wilkins" <wilkimberly@co.walton.fl.us>
To: <VAB@dor.state.fl.us>
Date: 10/09/2009 2:52 PM
Subject: VAB Forms DR-486 r. 8/09

This form has no area for the clerk to acknowledge receipt.

Kimberly Wilkins
Administrative Clerk to the Board
P. O. Box 1260
DeFuniak Springs, FL 32435
(850) 892-8115 Ext. 2248

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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VAB - 10/9 PH

From: "Judy Korbus" <jkorbus@co.hernando.fl.us>
To: <VAB@dor.state.fl.us>
Date: 10/09/2009 2:55 PM
Subject: 10/9 PH

Petition Form - Need place for Clerk to acknowledge receipt and date.

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VAB - DR-485WCN

From: "Patricia L. Morgan" <patricia.morgan@collierclerk.com>
To: "VAB" <VAB@dor.state.fl.us>
Date: 10/9/2009 3:19 PM
Subject: DR-485WCN

Spelling of receive on box : We received duplicate petitions for this property. 2nd row ...
recieve

Trish Morgan, BMR Manager

Clerk to the Board and VAB

Minutes and Records Department

(239)252-8399 Phone

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patricia.morgan@collierclerk.com

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VAB - Proposed DR-481 Hearing Notice

From: "Ron Gunzburger" <ron@bcpa.net>
To: "VAB" <VAB@dor.state.fl.us>
Date: 10/9/2009 3:19 PM
Subject: Proposed DR-481 Hearing Notice

I would suggest alternative language, where applicable, in counties which use electronic technology informing a petitioner s/he does not need to bring 3 sets of copies if the information was provided to the PAO and VAB (Axia system, etc.) prior to hearing. This would merely reflect the use of technology to save the needless waste of paper.

Ron Gunzburger, CFE
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Please consider the environment before printing this e-mail

DR-486; DR-481

(52)

- DR-486, above 'Certification'
- DR-481, above Clerk's signature

Tax payers are not familiar with the Rules or the Statute. When filing a petition, some will not opt for the evidence exchange. Some will not understand it. Some will appear at the VAB hearing and may not be allowed to submit the evidence, for whatever reason. It would seem prudent to place a small ~~advising~~ comment ~~in the petition~~ advising the petitioner of this possibility ~~of~~ under certain circumstances

[This has been my experience with a number of clients over the last 3 years]

Redgie Tedder
Forestry & Drumbelt Consulting