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STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CREATING RULE CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE
REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE
VALUE ADJUSTMENT BOARDS

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23

1 **Part I**

2 **Taxpayer Rights; Informal Conference Procedures; Composition of the Value Adjustment**
3 **Board; Appointment of the Clerk; Appointment of Legal Counsel to the Board;**
4 **Appointment of Special Magistrates**

5
6 **12D-9.001 Taxpayer Rights in Value Adjustment Board Proceedings.**

7 (1) Taxpayers are granted specific rights by Florida law concerning value adjustment
8 board procedures.

9 (2) These rights include:

10 (a) the right to be notified of the assessment of each taxable item of property in
11 accordance with the notice provisions set out in Florida Statutes for notices of proposed property
12 taxes ~~and non-ad valorem assessments~~;

13 (b) the right to request an informal conference with the property appraiser regarding the
14 correctness of the assessment or to petition for administrative or judicial review of property
15 assessments. An informal conference with the property appraiser is not a prerequisite to filing a
16 petition for administrative review or an action for judicial review;

17 (c) the right to file a petition on a form provided by the county that is substantially the
18 same as the form prescribed by the department or to file a petition on the form provided by the
19 department for this purpose;

20 (d) the right to state on the petition the approximate time anticipated by the taxpayer to
21 present and argue his or her petition before the board;

1 (e) the right to be sent prior notice of the date for the hearing of the taxpayer's petition by
2 the value adjustment board and the right to the hearing within a reasonable time of the scheduled
3 hearing;

4 (f) the right to request and be granted a change in the hearing date as described in this
5 chapter;

6 (g) the right to be notified of the date of certification of the county's tax rolls and to be
7 sent a property record card if requested;

8 (h) the right to represent himself or herself or to be represented by an attorney or an
9 agent;

10 (i) the right to have evidence presented and considered at a public hearing;

11 (j) the right to have witnesses sworn and cross-examined and to examine individuals
12 ~~property appraisers or evaluators~~ employed by the board who present testimony;

13 (k) the right to be sent a timely written decision by the value adjustment board containing
14 findings of fact and conclusions of law and reasons for upholding or overturning the
15 determination of the property appraiser or tax collector;

16 (l) the right to advertised notice of all board actions, including appropriate narrative and
17 column descriptions, in brief and nontechnical language;

18 (m) the right to bring an action in circuit court to appeal a value adjustment board
19 valuation decision or decision to disapprove a classification, exemption, portability assessment
20 difference transfer, or to deny a tax deferral or to impose a tax penalty;

21 ~~(n) the right as the prevailing party in a judicial or administrative action brought or~~
22 ~~maintained without the support of a justiciable issue of fact or law, to recover by action in court~~

1 ~~all costs of the administrative or judicial action including reasonable attorney fees and the right~~
2 ~~to settle such claims;~~

3 ~~(n)(e)~~the right to have federal tax information, ad valorem tax returns, social security
4 numbers, all financial records produced by the taxpayer and other confidential taxpayer
5 information, kept confidential;

6 ~~(o) (p)~~ the right to limiting the property appraiser's access to a taxpayer's records to only
7 those instances in which it is determined that such records are necessary to determine either the
8 classification or the value of taxable nonhomestead property;

9 ~~(q) the right to not have confidential records divulged except upon court order or order of~~
10 ~~the value adjustment board or special magistrate. Such records are exempt from the provisions of~~
11 ~~s. 119.07(1), Florida Statutes. *removed temporarily while the department seeks an attorney~~
12 ~~general opinion*~~

13 ~~Rulemaking Specific~~ Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
14 Implemented 192.0105, 193.074, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035,
15 194.036, 194.301, 195.002, 195.027, 195.096, 196.011, 196.151, 196.193, 196.194, 197.122,
16 213.05 FS. History—New xx-xx-09.

17

18 **12D-9.002 Informal Conference Procedures.**

19 (1) Any taxpayer who objects to the assessment placed on his or her property, including
20 the assessment of homestead property at less than just value, shall have the right to request an
21 informal conference with the property appraiser.

22 (2) The property appraiser or a member of his or her staff shall confer with the taxpayer
23 regarding the correctness of the assessment.

1 (3) At the conference the taxpayer shall present facts that he or she considers supportive
2 of changing the assessment and the property appraiser or his or her representative shall present
3 facts that the property appraiser considers to be supportive of the assessment.

4 (4) The request for an informal conference is not a prerequisite to administrative or
5 judicial review of property assessments. The petitioner should file a petition, while requesting an
6 informal conference, to preserve his or her right to an administrative hearing. Requesting or
7 participating in an informal conference does not extend the petition filing deadline.

8 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
9 Implemented 194.011, 213.05 FS. History—New xx-xx-09.

10
11 **12D-9.003 Definitions.**

12 (1) “Agent” means any person, including a family member of the taxpayer, who is
13 authorized to represent the taxpayer before the board.

14 (2) “Board” means the local value adjustment board.

15 (3) “Clerk” means the clerk of the local value adjustment board.

16 (4) “Department,” unless otherwise designated, means the Department of Revenue.

17 (5) “Hearing” means any hearing relating to a petition before a value adjustment board or
18 special magistrate, regardless of whether the parties are physically present or telephonic or other
19 electronic media is used to conduct the hearing, but shall not include a proceeding to act upon,
20 consider or adopt special magistrates’ recommended decisions at which no testimony or
21 comment is taken or heard from a party.

22 (6) “Petitioner” means the taxpayer or the taxpayer as represented by an agent or
23 attorney.

1 (7) “Taxpayer” means the person or other legal entity in whose name property is
2 assessed, including an agent of a timeshare period titleholder, and includes exempt owners of
3 property, for purposes of this chapter.

4 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
5 Implemented 192.001, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036,
6 194.171, 195.022, AGO 2002-058 FS. History-New xx-xx-09.

7
8 **12D-9.004 Composition of the Value Adjustment Board.**

9 (1) Every county shall have a value adjustment board which consists of:

10 (a) Two members of the governing body of the county, elected by the governing body
11 from among its members, one of whom shall be designated ~~by the governing body~~ as the
12 chairperson of the value adjustment board;

13 (b) One member of the school board of the county, elected by the school board from
14 among its members;

15 (c) Two citizen members;

16 1. One who owns homestead property in the county appointed by the county’s governing
17 body;

18 2. One who owns a business that occupies commercial space located within the school
19 district appointed by the school board of the county. This person must, during the entire course
20 of service, own a commercial enterprise, occupation, profession, or trade conducted from a
21 commercial space located within the school district and need not be the sole owner.

22 3. Citizen members must not be:

23 a. A member or employee of any taxing authority in this state; or,

1 b. A person who represents property owners, property appraisers, tax collectors, or taxing
2 authorities in any administrative or judicial review of property taxes imposed on real or tangible
3 personal property in this state.

4 4. Citizen members shall be appointed in a manner to avoid conflicts of interest or the
5 appearance of conflicts of interest.

6 (2)(a) Each elected member of the value adjustment board shall serve on the board until
7 he or she is replaced by a successor elected by his or her respective governing body or school
8 board or is no longer a member of the governing body or school board of the county.

9 (b) When an elected member of the value adjustment board ceases being a member
10 of the governing body or school board whom he or she represents, that governing body or school
11 board must elect a replacement.

12 (c) When the citizen member of the value adjustment board appointed by the governing
13 body of the county is no longer an owner of homestead property within the county, the governing
14 body must appoint a replacement.

15 (d) When the citizen member appointed by the school board is no longer an owner of a
16 business occupying commercial space located within the school district. the school board must
17 appoint a replacement.

18 (3)(a)~~1~~. At the same time that it selects a primary member of the value adjustment
19 board, the governing body or school board may select an alternate to serve in place of the
20 primary member as needed. The method for selecting alternates is the same as that for selecting
21 the primary members.

22 **(b) 2**~~2~~. At any time during the value adjustment board process the chair of the county
23 governing body or the chair of the school board may appoint a temporary replacement for its

1 elected member of the value adjustment board or for a citizen member it has appointed to serve
2 on the value adjustment board.

3 (4)(a) To have a quorum of the value adjustment board, the members of the board who
4 are present must include at least:

- 5 1. One member of the governing body of the county; and,
- 6 2. One member of the school board; and,
- 7 3. One of the two citizen members.

8 (b) The quorum requirements of Section 194.015, Florida Statutes, may not be waived by
9 anyone, including the petitioner.

10 (5) The value adjustment board cannot hold its organizational meeting until all members
11 of the board are appointed even if the number and type of members appointed are sufficient to
12 constitute a quorum.

13 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
14 Implemented 194.011, 194.015, 213.05 FS. AGO 2008-056 History--New xx-xx-09.

15

16 **12D-9.005 Duties of the Board.**

17 (1)(a) The value adjustment board shall meet not earlier than 30 days and not later than
18 60 days after the mailing of the notice provided in s. 194.011(1); however, no board hearing shall
19 be held before approval of all or any part of the county's assessment rolls by the Department of
20 Revenue. The board shall meet for the following purposes:

- 21 1. Hearing petitions relating to assessments filed pursuant to s. 194.011(3).
- 22 2. Hearing complaints relating to homestead exemptions as provided for under s.
23 196.151.

1 3. Hearing appeals from exemptions denied, or disputes arising from exemptions granted,
2 upon the filing of exemption applications under s. 196.011.

3 4. Hearing appeals concerning ad valorem tax deferrals and classifications.

4 (b) The board may not meet earlier than July 1 to hear appeals pertaining to the denial of
5 exemptions, agricultural and high-water recharge classifications, classifications as historic
6 property used for commercial or certain nonprofit purposes, and deferrals.

7 (c) The board shall remain in session until its duties are completed concerning all
8 assessment rolls or parts of assessment rolls. The board may temporarily recess from time to time
9 but shall reconvene when necessary in the normal course of business or to hear petitions,
10 complaints, or appeals and disputes filed upon that roll or portion of the roll finally approved
11 which had been disapproved pursuant to Section 193.1142(2), Florida Statutes. ~~The board shall
12 not adjourn except in accordance with Section 200.011(2), Florida Statutes.~~

13 (2)(a) Value adjustment boards may have additional internal operating procedures, not
14 rules, that do not conflict with, change, expand, suspend, or negate the rules adopted in this rule
15 chapter or other provisions of law, and only to the extent indispensable for the efficient operation
16 of the value adjustment board process. The board may publish fee schedules adopted by the
17 board.

18 (b) These internal operating procedures may include methods for creating the verbatim
19 record, provisions for parking by participants, assignment of hearing rooms, compliance with the
20 Americans with Disabilities Act, and other ministerial type procedures.

21 (c) The board shall not provide notices or establish a local procedure instructing
22 petitioners to contact the property appraiser's or tax collector's office or any other agency with
23 questions about board hearings or procedures. The board, legal counsel to the board, board clerk,

1 special magistrate or other board representative shall not otherwise enlist the property appraiser's
2 or tax collector's office to perform administrative functions for the board. Personnel performing
3 any of the board's functions shall be independent of the property appraiser's and tax collector's
4 office. This section shall not prevent the property appraiser from providing data to assist the
5 clerk with the notice of tax impact.

6 (3) The board must ensure that all board meetings are duly noticed under Section
7 286.011, Florida Statutes, and are held in accordance with the law.

8 (4) Other duties of value adjustment boards are set forth in other areas of Florida law.
9 Value adjustment boards shall perform all duties required by law and shall abide by all
10 limitations on their authority as provided by law.

11 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
12 Implemented 192.0105, 194.011, 194.015, 194.032, 194.034, 194.035, 194.037 FS. History-New
13 xx-xx-09.

14

15 **12D-9.006 ~~Appointment of~~ Clerk of the Value Adjustment Board.**

16 (1) The clerk of the governing body of the county shall be the clerk of the value
17 adjustment board.

18 (2) The clerk may delegate the day to day responsibilities for the board to a member of
19 his or her staff but is ultimately responsible for the operation of the board.

20 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
21 Implemented 28.12, 192.001, 194.011, 194.015, 194.032, 213.05 FS. History--New xx-xx-09.

22

23 **12D-9.007 Role of the Clerk of the Value Adjustment Board.**

1 (1) It is the clerk's responsibility to verify through board legal counsel ~~ensure~~ that the
2 value adjustment board meets all of the requirements for the organizational meeting before ~~to~~ the
3 ~~holding of hearings before the~~ board or special magistrates hold hearings. If the clerk determines
4 that any of the requirements were not met he or she shall contact the legal counsel to the board or
5 the chair of the board regarding such deficiencies and cancel any scheduled hearings until such
6 time as the requirements are met.

7 (2) The clerk shall make petition forms available to the public upon request.

8 (3) The clerk shall receive and acknowledge completed petitions and promptly furnish a
9 copy of all completed and timely filed petitions to the property appraiser or tax collector.

10 (4) The clerk shall prepare a schedule of appearances before the board based on petitions
11 timely filed with him or her. If the petitioner has indicated on the petition an estimate of the
12 amount of time he or she will need to present and argue the petition, the clerk must take this
13 estimate into consideration when scheduling the hearing. ~~If the clerk schedules the hearing for~~
14 ~~less time than indicated by the petitioner, the clerk must inform the board or special magistrate~~
15 ~~hearing the petition for their consideration in extending or continuing the hearing.~~

16 (5) No less than 25 calendar days prior to the day of the petitioner's scheduled
17 appearance before the board, the clerk must notify the petitioner of the date and time scheduled
18 for the appearance. The clerk shall simultaneously notify the property appraiser or tax collector.
19 If, on the taxpayer's petition, he or she requests a copy of the property record card, the clerk shall
20 obtain a copy of the property record card from the property appraiser and provide it to the
21 petitioner no later than ~~along~~ with the notice of the scheduled time of his or her appearance.

22 (6) If an incomplete petition, which includes a petition not accompanied by the required
23 filing fee, is received within the time required, the clerk shall notify the petitioner and give the

1 petitioner an opportunity to complete the petition within 10 calendar days. Such petition shall be
2 timely if completed and filed including payment of the fee if previously unpaid within the time
3 frame provided in the clerk's notice of incomplete petition.

4 (7) In counties with a population of more than 75,000, the clerk shall provide notification
5 annually to qualified individuals or their professional associations of opportunities to serve as
6 special magistrates.

7 (8) The clerk shall ensure public notice of and access to all hearings. Hearings must be
8 conducted in facilities that are clearly identified for such purpose and are freely accessible to the
9 public while hearings are being conducted.

10 (9) The clerk shall schedule hearings to allow sufficient time for evidence to be presented
11 and considered and to allow for hearings to begin at their scheduled time. The clerk shall advise
12 the chair of the board if the board's tentative schedule for holding hearings is insufficient to
13 allow for proper scheduling.

14 (10) The clerk shall timely notify the petitioner by first class mail ~~the petitioner, and the~~
15 ~~property appraiser or tax collector~~ of the decisions of the board and shall otherwise notify the
16 property appraiser or tax collector of such mailing. In counties using special magistrates the clerk
17 shall also make available to both parties as soon as practicable a copy of the recommended
18 decision of the special magistrate by mail or electronic means. No party shall have access to
19 decisions prior to any other party.

20 (11) After the value adjustment board has decided all petitions, complaints, appeals and
21 disputes, the clerk shall make public notice of the findings and results of the board in the manner
22 prescribed in Section 194.037, Florida Statutes and by the department.

1 (12) The clerk is the official record keeper for the board and shall maintain a record of
2 the proceedings which shall consist of:

3 (a) all filed documents;

4 (b) a verbatim record of any hearing;

5 (c) all tangible exhibits and documentary evidence presented;

6 (d) any meeting minutes; and

7 (e) any other documents or materials presented on the record by the parties or by the
8 board or special magistrate.

9 The record shall be maintained for four years after the final decision has been rendered by the
10 board if no appeal is filed in circuit court or for five years if an appeal is filed or if requested by
11 one of the parties, until the final disposition of any subsequent judicial proceeding relating to the
12 property.

13 (13) The clerk shall make available to the public copies of all additional internal
14 operating procedures and forms of the board or special magistrates described in Section 12D-
15 9.005, F.A.C. and shall post any such procedures and forms on the clerk's website, if any.

16 (14) The clerk shall provide notification of appeals taken with respect to property located
17 within a municipality to the chief executive officer of each municipality as provided in Section
18 193.116, Florida Statutes.

19 (15) The clerk shall have such other duties as set forth elsewhere in these rules and Rule
20 Chapter 12D-10, F.A.C., and in the Florida Statutes and as assigned by the board not inconsistent
21 with law.

1 ~~Rulemaking Specific~~ Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
2 Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05
3 FS. History-New xx-xx-09.

4

5 **12D-9.008 Appointment of Legal Counsel to the Value Adjustment Board.**

6 (1) Each value adjustment board must appoint private legal counsel to assist the board.

7 (2) This legal counsel must ~~meet the following qualifications:~~

8 ~~(a) Counsel must~~ be an attorney in private practice. The use of an attorney employed by
9 government is prohibited.

10 ~~(b) Counsel must have practiced law for over five years~~ and meet the requirements of
11 Section 194.015, Florida Statutes.

12 ~~(c) Counsel must not represent any of the following parties:~~

13 ~~1. the property appraiser of the county;~~

14 ~~2. the tax collector of the county;~~

15 ~~3. any taxing authority including cities or counties; or~~

16 ~~4. any property owner in any administrative or judicial review of property taxes.~~

17 ~~*removed temporarily while the department seeks an attorney general opinion*~~

18 (3) An attorney may represent more than one value adjustment board.

19 ~~(4) An attorney who represents any of the enumerated parties in subsection (2)(c) must~~
20 ~~discontinue any such representation before accepting appointment as a value adjustment board's~~
21 ~~legal counsel.~~ ~~*removed temporarily while the department seeks an attorney general opinion*~~

22 ~~(4)(5)~~ An attorney may represent a value adjustment board even if another member of the
23 attorney's law firm represents one of the enumerated parties so long as the representation is not

1 before the value adjustment board.

2 (5) Legal counsel should avoid conflicts of interest or the appearance of a conflict of
3 interest in their representation.

4 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
5 Implemented 194.011, 194.015, 213.05 FS. AGO 2008-055, History--New xx-xx-09.

6

7 **12D-9.009 Role of Legal Counsel to the Board.**

8 (1) The legal counsel to the board shall have the responsibilities listed below consistent
9 with the provisions of law.

10 (a) The primary role of the legal counsel to the board shall be to advise the board on all
11 aspects of the value adjustment board review process to ensure that all actions taken by the board
12 and its appointees meet the requirements of law.

13 (b) Legal counsel to the board shall advise the board in a manner that will promote and
14 maintain a high level of public trust and confidence in the administrative review process.

15 (c) The legal counsel to the board is not an advocate for either party in a value adjustment
16 board proceeding but instead ensures that the proceedings are fair and consistent with the law.

17 (d) Legal counsel to the board shall advise the board of the actions necessary for
18 compliance with the law. ~~The board may delegate to the legal counsel the authority to take such~~
19 ~~action on behalf of the board.~~

20 (e) Legal counsel to the board shall advise the board regarding:

21 1. composition and quorum requirements;

22 2. ~~parliamentary procedure;~~

1 3. statutory training and qualification requirements for special magistrates and members
2 of the board;
3 ~~3. 4.~~ legal requirements for recommended decisions and final decisions;
4 ~~5. actions of special magistrates;~~
5 ~~4. 6.~~ public meeting and open government laws; and
6 ~~5. 7.~~ any other duties, responsibilities, actions or requirements of the board consistent
7 with the laws of this state.

8 (f) Legal counsel to the board shall review and respond to written complaints alleging
9 noncompliance with the law by the board, special magistrates, clerk, and the parties. The legal
10 counsel shall send a copy of the complaint along with the response to the department.

11 (2) The legal counsel to the board shall, upon appointment, send his or her contact
12 information, which shall include his or her name, mailing address, telephone number, fax
13 number, and e-mail address, to the department by mail, fax, or e-mail to:

14 Department of Revenue
15 Property Tax Oversight Program
16 Attn: Director
17 P O Box 3000
18 Tallahassee, FL 32315-3000.
19 Fax Number: 850-922-7957
20 Email Address: VAB@dor.state.fl.us

21 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
22 Implemented 194.011, 194.015, 213.05 FS. History--New xx-xx-09.

23

1 **12D-9.010 Appointment of Special Magistrates to the Value Adjustment Board.**

2 (1) In counties with populations of more than 75,000, the value adjustment board shall
3 appoint special magistrates to take testimony and make recommendations on petitions filed with
4 the value adjustment board. Special magistrates shall be selected from a list maintained by the
5 clerk of qualified individuals who are willing to serve.

6 (2) In counties with populations of 75,000 or less, the value adjustment board shall have
7 the option of using special magistrates. The department shall make available to such counties a
8 list of qualified special magistrates.

9 (3) A person does not have to be a resident of the county in which he or she serves as a
10 special magistrate.

11 (4) The special magistrate must meet the following qualifications:

12 (a) A special magistrate must not be an elected or appointed official or employee of the
13 county.

14 (b) A special magistrate must not be an elected or appointed official or employee of a
15 taxing jurisdiction or of the State.

16 (c) During a tax year in which a special magistrate serves, he or she must not represent
17 any party before the board in any administrative review of property taxes.

18 (d) All special magistrates must meet the qualifications specified in Section 194.035,
19 Florida Statutes.

20 1. A special magistrate appointed to hear issues of exemptions, ~~and~~-classifications, ~~and~~
21 portability assessment difference transfers shall be a member of The Florida Bar with no less
22 than five ~~years~~² experience in the area of ad valorem taxation and having received training

1 provided by the department, or with no less than three years of such experience and having
2 completed ~~received~~ training provided by the department.

3 2. A special magistrate appointed to hear issues regarding the valuation of real estate
4 shall be a state certified real estate appraiser with not less than five years² experience in real
5 property valuation and having received training provided by the department, or with no less than
6 three years of such experience and having completed training provided by the department. A real
7 property valuation special magistrate must be certified under Chapter 475, Part II, Florida
8 Statutes.

9 a. A Florida certified residential appraiser appointed by the value adjustment board shall
10 only hear petitions on the just valuation of residential real property of one to four residential
11 units and shall not hear petitions on other types of real property.

12 b. A Florida certified general appraiser appointed by the value adjustment board may hear
13 petitions on the just valuation of any type of real property.

14 3. A special magistrate appointed to hear issues regarding the valuation of tangible
15 personal property shall be a designated member of a nationally recognized appraiser's
16 organization with not less than five years² experience in tangible personal property valuation and
17 having received training provided by the department, or with no less than three years of such
18 experience and having completed training provided by the department.

19 4. All special magistrates shall attend or receive an annual training program provided by
20 the department. Special magistrates substituting two years of experience must show that they
21 have completed the training by taking a written examination provided by the department. A
22 special magistrate must receive or complete any required training prior to holding hearings.

1 (5)(a) The value adjustment board or board legal counsel must verify a special
2 magistrate's qualifications before appointing the special magistrate.

3 (b) The selection of a special magistrate must be based solely on the experience and
4 qualification of such magistrate, and must not be influenced by any party, or prospective party, to
5 a board proceeding or by any such party with an interest in the outcome of such proceeding.

6 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
7 Implemented 194.011, 194.032, 194.034, 194.035, 195.022, 213.05 Chapter 475, Part II FS.
8 History-New xx-xx-09.

9
10 **12D-9.011 Role of Special Magistrates to the Value Adjustment Board.**

11 (1) The purpose of the special magistrate is to conduct hearings, take testimony and make
12 recommendations to the board regarding petitions filed before the board. In carrying out these
13 duties the special magistrate shall:

14 (a) accurately and completely preserve all testimony, documents received, and evidence
15 admitted for consideration;

16 ~~(b) accept for consideration only testimony or evidentiary materials that are properly~~
17 ~~presented in accordance with the applicable provisions for exchange of evidence;~~

18 ~~(b)(e)~~ at the request of either party, administer the oath upon the property appraiser or tax
19 collector, each petitioner and all witnesses testifying at a hearing;

20 ~~(c)(d)~~ conduct all hearings in accordance with the rules prescribed by the department and
21 the laws of the state;

22 ~~(e) order, only when deemed necessary to the proceedings, the disclosure of confidential~~
23 ~~taxpayer records maintained by the property appraiser or tax collector, and protect such records~~

1 ~~as exempt from the provisions of s. 119.07(1), Florida Statutes~~ *removed temporarily while the
2 department seeks an attorney general opinion* ; and

3 ~~(d)(f)~~ make recommendations to the board which shall include proposed findings of fact,
4 proposed conclusions of law, and the reasons for upholding or overturning the determination of
5 the property appraiser or tax collector;

6 (2) The special magistrate shall perform other duties as set out in the rules of the
7 department or Florida law.

8 (3) When an assessment is determined to be incorrect and the record contains competent
9 substantial evidence for establishing value, an appraiser special magistrate is required to
10 establish a revised value for the petitioned property. In establishing the revised value when
11 authorized by law, the board or special magistrate is not restricted to any specific value offered
12 by the parties.

13 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
14 Implemented 194.011, 194.032, 194.034, 194.035, 195.022, 213.05, Chapter 475, Part II FS.
15 History-New xx-xx-09.

16

17 **12D-9.012 Training of Special Magistrates, Value Adjustment Board Members and**

18 **Legal Counsel.**

19 (1) The department shall provide and conduct training for special magistrates at least
20 once each state fiscal year available in at least five locations throughout the state. Such training
21 shall emphasize:

22 (a) the law that applies to the administrative review of assessments;

23 (b) taxpayer rights in the administrative review process;

1 (c) the composition and operation of the value adjustment board;

2 (d) the roles of the board clerk, the board attorney, and special magistrates

3 (e) procedures for conducting hearings;

4 (f) administrative reviews of just valuations, classified use valuations, property
5 classifications, exemptions, and portability assessment differences;

6 (g) the review, admissibility, and consideration of evidence;

7 (h) requirements for written decisions; and

8 (i) the department's standard measures of value, including the guidelines for real and
9 tangible personal property.

10 (2) The training shall be open to the public.

11 (3) Before any hearings are conducted, in those counties that do not use special
12 magistrates, all members of the board or the board's legal counsel must receive the training,
13 including any updated modules, before conducting hearings, but need not complete the training
14 examinations, and shall provide a statement acknowledging receipt of the training to the clerk.

15 (4)(a) Each special magistrate that has five years of experience and each board member
16 or the legal counsel to the board must receive the training, including any updated modules,
17 before conducting hearings, but need not complete the training examinations, and shall provide a
18 statement acknowledging receipt of the training to the clerk.

19 (b) Each special magistrate that has three years of experience must complete the training
20 including any updated modules and examinations, and receive from the department a certificate
21 of completion, before conducting hearings and shall provide a copy of the certificate of
22 completion of the training and examinations, including any updated modules, to the clerk.

1 (5) The department's training is the official training for special magistrates regarding
2 administrative reviews. Clerks and legal counsel to the boards may provide orientation training
3 to the special magistrates relating to local operating or ministerial procedures only. Such
4 orientation training shall be open to the public for observation.

5 (6) Meetings or orientations for special magistrates, for any instructional purposes
6 relating to procedures for hearings, handling or consideration of petitions, evidence, worksheets,
7 forms, decisions or related computer files, must be open to the public for observation. Such
8 meetings or orientations must be reasonably noticed to the public in the same manner as an
9 organizational meeting of the board. .

10 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
11 Implemented 194.011, 194.032, 194.034, 194.035, 195.022, 213.05, Chapter 475, Part II FS.
12 History-New xx-xx-09.

13
14 **~~12D-9.013 Employment and Role of Board Appraisers or Evaluators.~~**

15 ~~(1) The value adjustment board of each county may employ qualified board appraisers or~~
16 ~~evaluators to appear before the value adjustment board at meetings of the board held for the~~
17 ~~purpose of hearing complaints.~~

18 ~~(2) Such board appraisers or evaluators shall present testimony as to the value of any~~
19 ~~property the value of which is contested before the board.~~

20 ~~(3) Such board appraisers or evaluators shall submit to examination by the board, the~~
21 ~~petitioner and the property appraiser.~~

1 ~~(4) Such board appraisers or evaluators must be independent, impartial, and not represent~~
2 ~~the interests of either party to the hearing but instead provide unbiased, expert opinion to the~~
3 ~~board.~~

4 ~~Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented~~
5 ~~194.035, 213.05 FS. History New xx-xx-09.~~

6
7 **12D-9.013 4 Organizational Meeting of the Value Adjustment Board.**

8 (1) The board shall annually hold one or more organizational meetings, at least one of
9 which shall meet the requirements of this section. The board shall hold this an organizational
10 meetings prior to the holding of value adjustment board hearings. The board shall provide
11 reasonable notice of each the organizational meeting and such notice shall include the date, time,
12 location, purpose of the meeting, and information required by Section 286.0105, Florida Statutes.
13 At one the organizational meeting the board shall:

14 (a) introduce the members of the board and provide contact information;

15 (b) introduce the clerk of the board, approve or ratify any designee of the clerk and
16 provide the clerks contact information;

17 (c) appoint or ratify the private legal counsel to the board and provide the legal counsel's
18 contact information;

19 (d) appoint or ratify special magistrates, if the board will be using them for that year;

20 (e) make available to the public, special magistrates and board members, ~~copies of~~ Rule
21 Chapter 12D-9, F.A.C., containing the uniform rules of procedure for hearings before value
22 adjustment boards and special magistrates (if applicable), and the associated forms that have
23 been adopted by the department;

1 (f) make available to the public, special magistrates and board members, ~~copies of~~ Rule
2 Chapter 12D-10, F.A.C., containing the rules applicable to the requirements for hearings and
3 decisions;

4 (g) make available to the public, special magistrates and board members the requirements
5 of Florida's Government in the Sunshine / open government laws including information on
6 where to obtain ~~copies of the a~~ current ~~copy of the~~ Government-In-The-Sunshine manual; and

7 (h) discuss, take testimony on and adopt or ratify with any required revision or
8 amendment any local administrative procedures and forms of the board. Such procedures must
9 be ministerial in nature and not be inconsistent with governing statutes, case law, attorney
10 general opinions or rules of the department. All Copies of all local administrative procedures and
11 forms of the board or special magistrates shall be made available to the public and shall be
12 accessible on the clerk's website, if any.

13 (i) discuss general information on Florida's property tax system, respective roles within
14 this system, taxpayer opportunities to participate in the system, and property taxpayer rights ~~and~~
15 responsibilities.

16 (j) adopt or ratify by resolution any filing fee for petitions for that year, in an amount not
17 to exceed \$15.

18 (2) The board shall announce the tentative schedule for the value adjustment board taking
19 into consideration the number of petitions filed, the possibility of the need to reschedule and the
20 requirement that the board stay in session until all petitions have been heard. The board is not
21 authorized to set and publish a deadline for late filed petitions.

22 (3) The board may hold additional meetings for the purpose of addressing administrative
23 matters.

1 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
2 Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 213.05, 286.011, 286.0105 FS.
3 History-New xx-xx-09.

4

5 **12D-9.014 5 Prehearing Checklist.**

6 (1) The clerk shall not allow the holding of scheduled hearings until the board legal
7 counsel he or she has verified that all requirements in Chapter 194, Florida Statutes, and
8 department rules, were met as follows:

9 (a) The composition of the board is as provided by law;

10 (b) Legal counsel to the board has been appointed as provided by law;

11 (c) Legal counsel to the board meets the requirements of Section 194.015, Florida

12 Statutes; does not represent the property appraiser of the county, the tax collector of the county,
13 any taxing authority including cities or counties, or any taxpayer in any administrative or judicial
14 review of property taxes;

15 (d) No board members represent other government entities or taxpayers in any
16 administrative or judicial review of property taxes, and citizen members are not members or
17 employees of a taxing authority;

18 (e) In a county that does not use special magistrates, either all board members have
19 received the department's training or legal counsel to the board has received the department's
20 training;

21 (f) The organizational meeting, as well as any other board meetings, will be or were
22 noticed in accordance with Section 286.011, Florida Statutes, and will be or were held in
23 accordance with law;

1 (g) The department's uniform value adjustment board procedures, consisting of this rule
2 chapter, were made available at the organizational meeting and copies were provided to special
3 magistrates and board members;

4 (h) The department's uniform policies and procedures manual is available on the existing
5 website of the clerk, if the clerk has a website;

6 (i) The qualifications of special magistrates were verified, including that special
7 magistrates received the department's training, and that special magistrates with less than five
8 years of required experience successfully completed the department's training including any
9 updated modules and an examination, and were certified;

10 (j) The selection of special magistrates was based solely on proper experience and
11 qualifications and neither the property appraiser nor any petitioners influenced the selection of
12 special magistrates. ; This provision does not prohibit the board from considering any written
13 complaint filed with respect to a special magistrate by any party or citizen;

14 (k) All procedures and forms of the board or special magistrate are in compliance with
15 Chapter 194, Florida Statutes, and this rule chapter;

16 (l) The board is otherwise in compliance with Chapter 194, Florida Statutes and this rule
17 chapter; and

18 (m) Notice has been given to the chief executive officer of each municipality as provided
19 in Section 193.116, Florida Statutes.

20 (2) The clerk shall notify the counsel to the board and the board chair of any action
21 needed to comply with subsection (1).

22 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
23 Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 213.05 FS. History-New xx-xx-09.

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Part II

~~Definitions~~; Petitions; Representation of the Taxpayer; Scheduling and Notice of a Hearing; Exchange of Evidence; Withdrawn or Settled Petitions; Hearing Procedures; Disqualification or Recusal; Ex Parte Communication Prohibition; Record of the Proceeding; Petitions on Transfer of “Portability” Assessment Difference; Remanding Assessments; Recommended Decisions; Consideration and Adoption of Recommended Decisions; Final Decisions; Further Judicial Proceedings.

12D-9.015 6 Petition; Form and Filing Fee.

(1)(a) For the purpose of requesting a hearing before the value adjustment board, the department prescribes Form DR-486, hereby incorporated by reference.

(b) In accordance with Section 194.011(3), Florida Statutes, the department is required to prescribe petition forms. The department will not approve any local version of this form that contains substantive content that varies from the department’s prescribed form. Any requests under Section 195.022, Florida Statutes, for approval from the department to use forms for petitions that are not identical to the department’s form shall be by written board action or by written and signed request from the board chair or legal counsel to the board.

(2) Content of Petition. Petition forms as adopted or approved by the department shall contain the following elements so that when filed with the clerk they shall:

- (a) describe the property by parcel number;
- (b) be sworn by the petitioner;

1 (c) state the approximate time anticipated by the petitioner for presenting and arguing his
2 or her petition before the board or special magistrate and may provide dates of nonavailability
3 for scheduling purposes if applicable;

4 (d) contain a space for the petitioner to indicate on the petition form that he or she does
5 not wish to be present and argue the petition before the board or special magistrate but would
6 like to have their evidence considered without an appearance;

7 (e) provide a check box for the petitioner to request a copy of the property record card;

8 ~~and~~

9 (f)1. contain a signature field to be signed by the taxpayer, or if the taxpayer is a legal
10 entity, the employee of the legal entity with authority to file such petitions; -

11 2. contain a signature field to be signed by an authorized agent. If the authorized agent is
12 subject to licensure, a space to provide identification of the licensing body and license number. If
13 the authorized agent is not subject to licensure, for example a family member, a space to indicate
14 the petition is accompanied by a written authorization of the taxpayer if not otherwise signed by
15 the taxpayer;-

16 (g) a space for the petitioner to indicate if the property is four or less residential units; or
17 other property type; provided the clerk shall accept the petition even if this space is not filled in;-

18 and

19 (h) a statement that a tangible personal property assessment may not be contested until a
20 return required by Section 193.052, Florida Statutes, is filed.

21 (3) The petition form shall provide notice to the petitioner that the person signing the
22 petition becomes the agent of the taxpayer for the purpose of serving process to obtain personal

1 jurisdiction over the taxpayer for the entire value adjustment board proceeding, including any
2 appeals of a board decision by the property appraiser or tax collector.

3 (4) The petition form shall provide notice to the petitioner of his or her right to an
4 informal conference with the property appraiser and that such conference is not a prerequisite to
5 filing a petition nor does it alter the time frame for filing a timely petition.

6 (5) The department, the clerk, and the property appraiser or tax collector shall make
7 available to petitioners ~~copies of~~ the blank petition form adopted or approved by the department.
8 The department prescribes the Form DR-486 series, for this purpose, incorporated in Section
9 12D-16.002, F.A.C. by reference.

10 (6) If the taxpayer or agent's name, address, telephone, or similar contact information on
11 the petition changes after filing the petition and before the hearing, the taxpayer or agent shall
12 notify the clerk in writing.

13 (7) Filing Fees. By resolution of the value adjustment board, a petition shall be
14 accompanied by a filing fee to be paid to the clerk of the value adjustment board in an amount
15 determined by the board not to exceed \$15 for each separate parcel of property, real or personal
16 covered by the petition and subject to appeal.

17 (a) Only a single filing fee shall be charged to any particular parcel of property despite
18 the existence of multiple issues or hearings pertaining to such parcels.

19 (b) No filing fee shall be required with respect to ~~an An~~ appeal from the disapproval of a
20 timely filed application for homestead exemption or from the denial of a homestead tax deferral.

21 (c) For joint petitions filed pursuant to s. 194.011(3)(e) or (f), a single filing fee shall be
22 charged. Such fee shall be calculated as the cost of the time required for the special magistrate in

1 hearing the joint petition and shall not exceed \$5 per parcel. Said fee is to be proportionately paid
2 by affected parcel owners.

3 (d) The value adjustment board or its designee shall waive the filing fee with respect to a
4 petition filed by a taxpayer who demonstrates at the time of the filing by submitting with the
5 petition documentation issued by the Department of Children and Family Services that the
6 petitioner is currently an eligible recipient of temporary assistance under Chapter 414, Florida
7 Statutes.

8 (e) All filing fees shall be paid to the clerk at the time of filing. Any petition not
9 accompanied by the required filing fee will be deemed incomplete.

10 (8) An owner of contiguous, undeveloped parcels may file a single joint petition if the
11 property appraiser determines such parcels are substantially similar in nature. A condominium
12 association, cooperative association, or any homeowners' association as defined in Section
13 723.075, Florida Statutes with approval of its board of administration or directors, may file with
14 the value adjustment board a single joint petition on behalf of any association members who own
15 parcels of property which the property appraiser determines are substantially similar with respect
16 to location, proximity to amenities, number of rooms, living area, and condition. The property
17 appraiser shall provide the petitioner with such determination upon request by the petitioner. The
18 petitioner must obtain the determination from the property appraiser prior to filing the petition
19 and must file the determination special forms provided and completed by the property appraiser
20 with the petition.

21 (9)(a) The clerk shall accept for filing any completed petition that is timely submitted on
22 a form approved by the department, with payment if required. If an incomplete petition is
23 received, the clerk shall notify the petitioner and give the petitioner an opportunity to complete

1 the petition within 10 calendar days. Such completed petition shall be timely if completed and
2 filed within the time frame provided in the clerk's notice.

3 (b) A "completed" petition is one that provides information for all the required elements
4 that are displayed on the department's form, and is accompanied by the appropriate filing fee if
5 required.

6 (c) The clerk may rely on the licensure information provided by a licensed agent, or
7 written authorization provided by an unlicensed agent, in accepting the petition.

8 (10) Timely Filing of Petitions. Petitions related to valuation issues may be filed at any
9 time during the taxable year on or before the 25th day following the mailing of the notice of
10 proposed property taxes. Other petitions may be filed as follows:

11 (a) with respect to issues involving the denial of an exemption on or before the 30th day
12 following the mailing of the written notification of the denial of the exemption on or before July
13 1 of the year for which the application was filed;

14 (b) with respect to issues involving the denial of an agricultural classification application,
15 on or before the 30th day following the mailing of the notification in writing of the denial of the
16 agricultural classification on or before July 1 of the year for which the application was filed;

17 (c) with respect to issues involving the denial of a high-water recharge classification
18 application on or before the 30th day following the mailing of the notification in writing of the
19 denial of the high-water recharge classification on or before July 1 of the year for which the
20 application was filed;

21 (d) with respect to issues involving the denial of a historic property used for commercial
22 or certain nonprofit purposes classification application, on or before the 30th day following the

1 mailing of the notification in writing of the denial of the ~~agricultural~~ classification on or before
2 July 1 of the year for which the application was filed;

3 (e) with respect to issues involving the denial of a homestead tax deferral, on or before
4 the 30th day following the mailing of the notification in writing of the denial of the deferral
5 application or on or before the 20th day following receipt of the notification, whichever date is
6 later.

7 (f) with respect to exemption claims relating to an exemption that is not reflected on the
8 notice of property taxes, including late filed exemption claims, on or before the 25th day
9 following the mailing of the notice of proposed property taxes, or on or before the 30th day
10 following the mailing of the written notification of the denial of the exemption, whichever date is
11 later.

12 (g) with respect to penalties imposed for filing incorrect information relating to tax
13 deferrals for homestead, for recreational and commercial working waterfronts or for affordable
14 rental housing properties, within 30 days after the penalties are imposed.

15 (11)(a) Late Filed Petitions. The board may not extend the time for filing a petition.

16 (b) The clerk shall accept but not schedule for hearing a petition submitted to the board
17 after the statutory deadline has expired, and shall submit the petition to the board for good cause
18 consideration if the petition is accompanied by a written explanation for the delay in filing.
19 Unless scheduled together or by the same notice, the ~~The~~ decision regarding good cause for late
20 filing of the petition must be made before a hearing is scheduled, and the parties shall be notified
21 of such decision. The board is authorized to require good cause hearings before good cause
22 determinations are made.

1 (c) The clerk shall forward a copy of completed but untimely filed petitions to the
2 property appraiser or tax collector at the time they are received or upon the determination of
3 good cause.

4 (d) The board or a board designee, which includes the board legal counsel or a special
5 magistrate, shall determine whether the petitioner has demonstrated, in writing, good cause
6 justifying consideration of the petition. If the board or a board designee determines that the
7 petitioner has demonstrated good cause, the clerk shall accept the petition for filing and so notify
8 the petitioner and the property appraiser or the tax collector.

9 (e) If the board or a board designee determines that the petitioner has not demonstrated
10 good cause, the clerk shall notify the petitioner and the property appraiser or tax collector.

11 (12) Acknowledgement of Timely Filed Petitions. The clerk shall accept all completed
12 petitions, as defined by statute and subsection (2) of this rule. Upon receipt of a completed and
13 filed petition, the board clerk shall provide to the petitioner an acknowledgment of receipt of
14 such petition and shall provide to the property appraiser or tax collector a copy of the petition. If,
15 in the petition, the petitioner requested a copy of the property record card, the property appraiser
16 shall forward a copy of the property record card to the clerk. The clerk shall then provide to the
17 petitioner a copy of the property record card, along with the notice of hearing.

18 (13) The clerk shall send the notice of hearing such that it will be received by the
19 petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled
20 appearance. The clerk will have prima facie complied with the requirements of this section if the
21 notice was deposited in the U.S. mail thirty (30) days prior to the day of such scheduled
22 appearance.

1 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
2 Implemented 194.011, 194.013, 194.032, 194.034, 195.022, 197.253, 197.301, 197.3041,
3 197.3047, 197.3073, 197.3079, 200.069, 213.05 FS. History-New xx-xx-09.

4

5 **12D-9.016 7 Filing and Service.**

6 (1) In construing these rules or any order of the board, special magistrate, or a board
7 designee, filing shall mean received by the clerk during open hours or by the board, special
8 magistrate, or a board designee during a meeting or hearing.

9 (2)(a) Any hand-delivered or mailed document received by the office of the clerk after
10 close of business as determined by the clerk shall be filed the next regular business day.

11 (b) If the clerk accepts documents filed by FAX or other electronic transmission,
12 documents received on or after 11:59:59 P.M. of the day they are due shall be filed the next
13 regular business day.

14 (c) Any document that is required to be filed, served, provided or made available may be
15 filed, served, provided or made available electronically, if the board and the board clerk make
16 such resources available, the parties agree and no party is prejudiced. Local procedure may
17 dispense with, or use less than 3 copies if technology is available.

18 (3) When a party files a document with the board, other than the petition, that party shall
19 serve copies of the document to all parties in the proceeding. ~~A signed statement or other~~
20 ~~indication that a copy has been served to all parties must accompany the document filed with the~~
21 ~~board.~~ When a document is filed that does not clearly indicate it has been provided to the other
22 party, the clerk, board legal counsel, board members and special magistrates shall exercise care
23 to ensure that a copy is provided to every party, and that no ex parte communication occurs.

1 (4) Any party who elects to file any document by FAX or other electronic transmission
2 shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts
3 the full risk that the document may not be properly filed with the clerk as a result.

4 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
5 Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 195.022 FS. History-New
6 xx-xx-09.

7
8 **12D-9.017 8 Ex Parte Communication Prohibition.**

9 (1)(a) No participant, including the petitioner, the property appraiser, the clerk, the
10 special magistrate, a member of a value adjustment board, or other person directly or indirectly
11 interested in the proceeding, nor anyone authorized to act on behalf of any party shall
12 communicate with a member of the board or the special magistrate regarding the issues in the
13 case without the other party being present or without providing a copy of any written
14 communication to the other party.

15 (b) This rule shall not prohibit internal communications among the clerk, board, special
16 magistrates, and legal counsel to the board, regarding internal operations of the board and other
17 administrative matters. The special magistrate is specifically authorized to communicate with the
18 board's legal counsel or clerk on legal matters or other issues regarding a petition.

19 (2) Any attempt by the property appraiser, tax collector, taxpayer or taxpayer's agent to
20 provide information or discuss issues regarding a petition without the presence of the opposing
21 party before or after the hearing, with a member of the board or the special magistrate shall be
22 immediately placed on the record by the board member or special magistrate.

1 (3) The ex parte communication shall not be considered by the board or the special
2 magistrate unless all parties have been notified about the ex parte communication, and no party
3 objects, and all parties have an opportunity during the hearing to cross-examine, object, or
4 otherwise address the communication.

5 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
6 Implemented 194.011, 194.015, 194.032, 194.034, 194.035 FS. History-New xx-xx-09.

7
8 **12D-9.01§ 9 Representation of the Taxpayer.**

9 (1) A taxpayer has the right, at the taxpayer's own expense, to be represented by an
10 attorney or by an agent.

11 (2) The individual, agent, or legal entity that signs the petition becomes the agent of the
12 taxpayer for the purpose of serving process to obtain jurisdiction over the taxpayer for the entire
13 value adjustment board proceedings, including any appeals of a board decision by the property
14 appraiser or tax collector.

15 (3) The agent need not be a licensed individual or person with specific qualifications and
16 may be any person, including a family member, authorized by the taxpayer to represent them
17 before the value adjustment board.

18 (4) A petition filed by an unlicensed agent must also be signed by the taxpayer or
19 accompanied by a written authorization from the taxpayer.

20 (5) As used in this rule chapter, the term "licensed" refers to holding a license or
21 certification under chapter 475, Part I or Part II, Florida Statutes, or membership in the Florida
22 Bar.

23 (6) When duplicate petitions are filed on the same property, the clerk shall contact all

1 petitioners to resolve the issue.
2 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
3 Implemented 194.011, 194.013, 194.032, 194.034, 195.022, 213.05, Chapter 475, Part I and II
4 FS. History-New xx-xx-09.

5

6 **12D-9.019 ~~20~~ Scheduling and Notice of a Hearing.**

7 (1)(a) The clerk shall prepare a schedule of appearances before the board or special
8 magistrates based on timely filed petitions, and shall notify each petitioner of the scheduled time
9 of appearance. The clerk shall simultaneously notify the property appraiser or tax collector. The
10 clerk may electronically send this notification to the petitioner, if the petitioner indicates on his
11 or her petition this means of communication for receiving notices, materials, and
12 communications.

13 (b) When scheduling hearings, the clerk shall consider:

- 14 1. the anticipated amount of time if indicated on the petition;
15 2. the experience of the petitioner;
16 3. the complexity of the issues or the evidence to be presented;
17 4. the number of petitions/parcels to be heard at a single hearing;
18 5. the efficiency or difficulty for the petitioner of grouping multiple hearings for a single
19 petitioner on the same day; and
20 6. the likelihood of withdrawals, cancellations of hearings or failure to appear.

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

1 (2) No hearing shall be scheduled related to valuation issues prior to completion by the
2 governing body of each taxing authority of the public hearing on the tentative budget and
3 proposed millage rate.

4 (3)(a) The notice of hearing before the value adjustment board shall be in writing, and
5 shall be delivered by regular or certified U.S. mail or personal delivery, or in the manner
6 requested by the petitioner on Form DR-486, so that the notice shall be received by the petitioner
7 no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The
8 notice of hearing form shall meet the requirements of this section and shall be subject to approval
9 by the department. The department provides Form DR-481 as a format for the form of such
10 notice. The notice shall include these elements:

11 1. the parcel number, account folio number or legal address of all properties being heard
12 at the scheduled hearing;

13 2. the type of hearing scheduled;

14 3. the date and time of the scheduled hearing;

15 4. the time reserved, or instructions on how to obtain this information;

16 5. the location of the hearing, including the hearing room number if known, together with
17 clerk contact information including office address and telephone number, for petitioners to
18 request assistance in finding hearing rooms;

19 6. instructions on how to obtain a list of the potential special magistrates for the type of
20 petition in question;

21 7. a statement of the petitioner's right to participate in the exchange of evidence with the
22 property appraiser;

23 8. a statement that the petitioner has the right to reschedule the hearing one time by

1 making a written request to the clerk at least five calendar days before the hearing;

2 9. ~~a statement that a personal property assessment may not be contested until a return~~
3 ~~required by Section 193.052, Florida Statutes, is filed;~~

4 ~~10. instructions on bringing copies of evidence;~~

5 ~~10. 11.~~ any information necessary to comply with federal or state disability or
6 accessibility acts; and

7 ~~11. 12.~~ information regarding where the petitioner may obtain a copy of the uniform rules
8 of procedure.

9 (b) If the petitioner has requested a copy of the property record card, it shall be sent no
10 later than the time at which the notice of hearing is sent. The clerk shall also publish any notice
11 required by Section 196.194, Florida Statutes.

12 (4)(a) The petitioner may reschedule the hearing without good cause one time by
13 submitting a written request to the clerk of the board no fewer than five (5) calendar days before
14 the scheduled appearance. To calculate the five (5) days, the petitioner shall use calendar days
15 and shall not include the day of the hearing in the calculation, and shall count backwards from
16 the day of the hearing. ~~This is mathematically the same as subtracting five (5) from the date of~~
17 ~~the hearing to calculate the due date.~~ The last day of the period so computed shall be included
18 unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end
19 of the next previous day which is neither a Saturday, Sunday, or legal holiday.

20 (b) A petitioner may request a rescheduling of a hearing for good cause by submitting a
21 written request to the clerk of the board before the scheduled appearance or as soon as
22 practicable. A rescheduling for good cause shall not be treated as the one time rescheduling to
23 which a petitioner has a right upon timely request under Section 194.032(2), Florida Statutes.

1 Reasons for “good cause” that a clerk or board designee may consider in providing for a
2 rescheduling are:

3 1. petitioner is scheduled for a value adjustment board hearing for the same time in
4 another jurisdiction;

5 2. illness of the petitioner or a family member;

6 3. death of a family member;

7 4. the taxpayer’s hearing does not begin within a reasonable time of their scheduled
8 hearing time; or

9 5. other reasons beyond the control of the petitioner.

10 (c) The property appraiser or tax collector may submit a written request to the clerk to
11 reschedule the hearing, and must provide a copy of the request to the petitioner. If there is a
12 conflict, such as the attorney or staff needs to attend two different hearings which are scheduled
13 at the same time, the property appraiser or tax collector may request a reschedule.

14 ~~(5)~~(4) A request to reschedule the hearing made by the petitioner fewer than five calendar
15 days before the scheduled hearing may be made only for an emergency when good cause is
16 shown. Such a request shall be made to the clerk who shall forward the request to the board or a
17 board designee, which includes the clerk, board legal counsel or a special magistrate.

18 (a) If the board or a board designee determines that the request does not show good
19 cause, the request will be denied and the board may proceed with the hearing as scheduled.

20 (b) If the board or a board designee determines that the request demonstrates good cause,
21 the request will be granted. In that event, the clerk will issue a notice of hearing with the new
22 hearing date, which shall be the earliest date that is convenient for all parties.

23 (c) The clerk shall give appropriate notice to the petitioner of the determination as to

1 good cause. Form DR-485WCN is designated and may be used for this purpose. The clerk shall
2 also appropriately notify the property appraiser or tax collector.

3 ~~(d)(e)~~ When rescheduling hearings under this rule subsection or subsection ~~(4)(3)~~ above,
4 if the parties are unable to agree on an earlier date, the clerk is authorized to schedule the hearing
5 and send a notice of such hearing by regular or certified U.S. mail or personal delivery, or in the
6 manner requested by the petitioner on the petition Form DR-486, so that the notice shall be
7 received by the petitioner no less than twenty-five (25) calendar days prior to the day of such
8 scheduled appearance.

9 ~~(6)(5)~~ If a hearing is rescheduled, the deadlines for the exchange of evidence shall be
10 computed from the new hearing date, if time permits.

11 ~~(7)(6)~~(a) If a petitioner's hearing does not commence as scheduled, the clerk is authorized
12 to determine good cause exists to reschedule a petition.

13 (b) In no event shall a petitioner be required to wait more than a reasonable time from the
14 scheduled time to be heard. The clerk is authorized to find that a reasonable time has elapsed
15 based on other commitments, appointments or hearings of the petitioner, lateness in the day, and
16 other hearings waiting to be heard earlier than the petitioner's hearing with the board or special
17 magistrate. If his or her petition has not been heard within a reasonable time, the petitioner may
18 request to be heard immediately. If the clerk finds a reasonable time has elapsed and petitioner is
19 not heard, the clerk shall find good cause is present and shall reschedule the petitioner's hearing.

20 (c) A petitioner is not required to wait any length of time as a prerequisite to filing an
21 action in circuit court.

1 ~~(8)(7)~~ Failure on three occasions with respect to any single tax year for the board to
2 convene at the scheduled time of meetings of the board shall constitute grounds for removal from
3 office by the Governor for neglect of duties.

4 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
5 Implemented 194.011, 194.015, 194.032, 194.034, 195.022, 213.05 FS. History-New xx-xx-09.

6
7 **12D-9.020 ~~1~~ Exchange of Evidence.**

8 (1) The petitioner has the option of participating in an exchange of evidence with the
9 property appraiser. If the petitioner chooses not to participate in the evidence exchange, the
10 petitioner may still present evidence for consideration by the board or the special magistrate.
11 However, as described in this section, if the property appraiser asks in writing for evidence
12 before the hearing in connection with a filed petition, and the petitioner has this evidence and
13 knowingly refuses to provide it to the property appraiser a reasonable time before the hearing,
14 the evidence cannot be presented by the petitioner or accepted for consideration by the board or
15 special magistrate.

16 (2)(a) If the petitioner chooses to participate in an exchange of evidence with the property
17 appraiser, at least fifteen (15) days before the hearing the petitioner shall provide the property
18 appraiser with a list and summary of evidence to be presented at the hearing accompanied by
19 copies of documentation to be presented at the hearing. To calculate the fifteen (15) days, the
20 petitioner shall use calendar days and shall not include the day of the hearing in the calculation,
21 and shall count backwards from the day of the hearing. ~~This is mathematically the same as~~
22 ~~subtracting 15 from the date of the hearing to calculate the due date.~~

1 (b) If the petitioner chooses to participate in an exchange of evidence with the property
2 appraiser and he or she shows good cause to the clerk for not being able to meet the fifteen (15)
3 day requirement and the property appraiser is unwilling to agree to a different timing of the
4 exchange, the clerk is authorized to reschedule the hearing to allow for the exchange of evidence
5 to occur.

6 (c) No later than seven (7) days before the hearing, if the property appraiser receives the
7 petitioner's documentation and if requested in writing by the petitioner, the property appraiser
8 shall provide the petitioner with a list and summary of evidence to be presented at the hearing
9 accompanied by copies of documentation to be presented by the property appraiser at the
10 hearing. The evidence list must contain the property record card if provided by the clerk. To
11 calculate the seven (7) days, the property appraiser shall use calendar days and shall not include
12 the day of the hearing in the calculation, and shall count backwards from the day of the hearing.
13 ~~This is mathematically the same as subtracting 715 from the date of the hearing to calculate the~~
14 ~~due date.~~

15 (d) The last day of the period so computed shall be included unless it is a Saturday,
16 Sunday, or legal holiday, in which event the period shall run until the end of the next previous
17 day which is neither a Saturday, Sunday, or legal holiday.

18 (3)(a) If the petitioner does not provide the information to the property appraiser at least
19 fifteen (15) days prior to the hearing pursuant to subsection (2)(a), the property appraiser need
20 not provide the information to the petitioner pursuant to subsection (2)(c).

21 (b) If the property appraiser does not provide the information within the time required by
22 subsection (2)(c), the hearing shall be rescheduled to allow the petitioner additional time to
23 review the property appraiser's evidence.

1 (4) By agreement of the parties the evidence exchanged in subsection (2) shall be
2 delivered by regular or certified U.S. mail, personal delivery, overnight mail, FAX or email. The
3 petitioner and property appraiser may agree to a different timing and method of exchange.
4 "Provided" means received by the party not later than the time frame provided in this rule
5 section. If either party does not designate a desired manner for receiving information in the
6 evidence exchange, the information shall be provided by U.S. mail. The property appraiser shall
7 provide the information at the address listed on the petition form for the petitioner.

8 (5) Level of detail on evidence summary: The summary pursuant to subsection (2) shall
9 be sufficiently detailed as to reasonably inform a party of the general subject matter of the
10 witness' testimony, and the name and address of the witness.

11 (6) Hearing procedures: Neither the board nor the special magistrate shall take any
12 general action regarding compliance with this section, but any action on each petition shall be
13 considered on a case by case basis. Any action shall be based on a consideration of whether there
14 has been a substantial noncompliance with this section, and shall be taken at a scheduled hearing
15 and based on evidence presented at such hearing. "General action" means a prearranged course
16 of conduct not based on evidence received in a specific case at a scheduled hearing on a petition.

17 (7) A property appraiser shall not use at a hearing evidence that was not supplied to the
18 petitioner as required. The normal remedy for such noncompliance shall be a rescheduling of the
19 hearing to allow the petitioner an opportunity to review the information of the property appraiser.

20 (8) No petitioner may present for consideration, nor may a board or special magistrate
21 accept for consideration, testimony or other evidentiary materials that were requested of the
22 petitioner in connection with a filed petition in writing by the property appraiser, of which the

1 petitioner had knowledge and denied to the property appraiser. This provision does not preclude
2 rebuttal evidence that was not specifically requested of the petitioner by the property appraiser.

3 ~~(9) The property appraiser or tax collector may not present as evidence records of the~~
4 ~~taxpayer which are confidential in the hands of the property appraiser or tax collector, except~~
5 ~~upon order of the board or special magistrate. Before issuing such order the board or special~~
6 ~~magistrate must determine that such records are necessary to the proceedings. The clerk shall~~
7 ~~maintain such evidence as exempt from the provisions of s. 119.07(1), F.S. *removed~~
8 ~~temporarily while the department seeks an attorney general opinion*~~

9 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
10 Implemented 193.074, 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 200.069, 213.05
11 FS. History–New 4-4-04, Amended 12-30-04, Formerly 12D-10.0044.

12
13 **12D-9.021 ~~2~~ Withdrawn or Settled Petitions; Petitions Acknowledged as Correct.**

14 (1) A petitioner may withdraw a petition prior to the scheduled hearing. Form DR-485WI
15 is prescribed by the department for such purpose; however, other written or electronic means
16 may be used. Form DR-485WI shall indicate the reason for the withdrawal as one of the
17 following:

18 (a) petitioner agrees with the determination of the property appraiser or tax collector;

19 (b) petitioner and property appraiser or tax collector have reached a settlement of the
20 issues;

21 (c) petitioner does not agree with the decision or assessment of the property appraiser or
22 tax collector but no longer wishes to pursue a remedy through the value adjustment board
23 process; or

1 (d) other specified reason.

2 (2) The clerk shall cancel the hearing upon receiving a notice of withdrawal from the
3 petitioner and there shall be no further proceeding on the matter.

4 (3) If a property appraiser or tax collector agrees with a petition challenging a decision to
5 deny an exemption, classification, portability assessment difference transfer, or deferral, the
6 property appraiser or tax collector shall issue the petitioner a notice granting said exemption,
7 classification, portability assessment difference transfer, or deferral and shall file with the clerk a
8 notice that the petition was acknowledged as correct.

9 (4) The clerk shall cancel the hearing upon receiving the notice of acknowledgement and
10 there shall be no further proceeding on the matter.

11 (5) If parties do not file a notice of withdrawal or notice of acknowledgement but indicate
12 the same at the hearing, the board or special magistrate shall so state on the hearing record and
13 shall not proceed with the hearing and shall not issue a decision. The clerk shall list and report all
14 ~~include such~~ withdrawals, settlements, acknowledgements of correctness, ~~and shall list and~~
15 ~~report all such petitions~~ as withdrawn or settled petitions. Settled petitions shall include those
16 acknowledged as correct by the property appraiser or tax collector.

17 (6) For all withdrawn or settled petitions, a special magistrate shall not produce a
18 recommended decision and the board shall not produce a final decision.

19 (7) When a petitioner does not appear by the commencement of a scheduled hearing and
20 the petitioner has not indicated a desire to have their petition heard without their attendance and a
21 good cause request is not pending, the board or the special magistrate shall allow at least three
22 business days for the petitioner to provide good cause before issuing a decision or recommended
23 decision. If the petitioner makes a good cause request within this time period, the board or board

1 designee shall rule on the good cause request before determining that the hearing should be
2 rescheduled or that the board or special magistrate should issue a decision or recommended
3 decision.

4 (8) When a petitioner does not appear by the commencement of a scheduled hearing and
5 a good cause request is pending, the board or board designee shall rule on the good cause request
6 before determining that the hearing should be rescheduled or that the board or special magistrate
7 should issue a decision or recommended decision.

8 (a) If the board or board designee finds good cause for the petitioner's failure to appear,
9 the clerk shall reschedule the hearing.

10 (b) If the board or board's designee does not find good cause for the petitioner's failure to
11 appear, the board or special magistrate shall issue a decision or recommended decision.

12 (9) Decisions issued under subsection (7) or subsection (8) shall contain:

13 (a) a finding of fact that the petitioner did not appear at the hearing and did not state good
14 cause; and

15 (b) a conclusion of law that the decision is being issued in order that any right ~~the~~
16 petitioner may have to ~~bring bringing~~ an action in circuit court is not impaired.

17 ~~Rulemaking Specific~~ Authority 194.011(5), 194.034(1), 194.034, 195.027(1) FS. Law

18 Implemented 193.155, 194.011, 194.032, 194.037, 213.05 FS. History--New xx-xx-09.

19

20 **12D-9.022 ~~3~~ Disqualification or Recusal of Special Magistrates or Board Members.**

21 (1) If either the petitioner or the property appraiser communicates a reasonable belief that

22 ~~a the~~ special magistrate does not possess the statutory qualifications in accordance with Sections

1 194.035 and 475.611(1)(h) and (i), Florida Statutes, to conduct a particular proceeding, the basis
2 for that belief shall be included in the record of the proceeding.

3 (2)(a) Upon review, if the board or its legal counsel determines ~~they are not satisfied~~ that
4 the original special magistrate ~~does not meet~~ ~~meets~~ the statutory requirements and qualifications,
5 the board or legal counsel shall enter into the record an instruction to instruct the clerk to
6 reschedule the petition before ~~shall appoint~~ a different special magistrate to hear or rehear the
7 petition without considering actions that may have occurred during any previous hearing.

8 (b) Upon review, if the board or its legal counsel determines that the special magistrate
9 does meet the statutory requirements and qualifications, such determination shall be issued in
10 writing and placed in the record, and the special magistrate will conduct the hearing, or, if a
11 hearing was already held, the recommended decision will be forwarded to the board in
12 accordance with these rules.

13 (3) Board members and special magistrates shall recuse themselves from hearing a
14 petition when they have a conflict of interest or an appearance of a conflict of interest.

15 (4)(a) If either the petitioner or the property appraiser communicates a reasonable belief
16 that ~~a the~~ board member or special magistrate has a conflict of interest, the basis for that belief
17 shall be stated in the record of the proceeding.

18 (b) If the board member or special magistrate agrees with the basis stated in the record,
19 the board member or special magistrate shall recuse himself or herself on the record. A special
20 magistrate who recuses himself or herself shall close the hearing on the record and notify the
21 clerk of the recusal. Upon a board member's recusal, the hearing shall go forward if there is a
22 quorum. Upon a special magistrate's recusal, or ~~a~~ board member's recusal that results in a
23 quorum not being present, the clerk shall reschedule the hearing.

1 (c) If the board member or special magistrate questions the need for recusal, the board
2 member or special magistrate shall do one of the following:

3 1. if time permits, request an immediate determination on the matter from the board's
4 legal counsel; or

5 2. state for the record that he or she questions the need for recusal and state the basis for
6 the question, proceed with the hearing, and promptly present the matter to the board's legal
7 counsel for review.

8 (d) Upon review, if the board legal counsel:

9 1. determines that a recusal is necessary, the board member or special magistrate shall
10 recuse himself or herself and the clerk shall reschedule the hearing; or

11 2. is uncertain whether the board member or special magistrate has a conflict of interest,
12 the board member or special magistrate shall recuse himself or herself and the clerk shall
13 reschedule the hearing.

14 (e) In a rescheduled hearing, the board or special magistrate shall not consider any
15 actions that may have occurred during any previous hearing on the same petition.

16 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
17 Implemented 194.011, 194.032, 194.034, 194.035, 475.611, FS. History-New xx-xx-09.

18

19 **12D-9.023 4 Hearings Before Board or Special Magistrates.**

20 (1) Hearing rooms, office space, computer systems, personnel, and other resources used
21 for any of the board's functions shall be controlled by the board through the clerk of the value
22 adjustment board. The clerk shall perform his or her duties in a manner to avoid the appearance
23 of a conflict of interest. The clerk shall not use the resources of the property appraiser's or tax

1 collector's office and shall not allow the property appraiser or tax collector to control or
2 influence any part of the value adjustment board process.

3 (2) Boards and special magistrates shall adhere as closely as possible to the schedule of
4 hearings established by the clerk but must ensure that adequate time is allowed for parties to
5 present evidence and for the board or special magistrate to consider the admitted evidence. If the
6 board or special magistrate determines from the petition form that ~~The clerk shall inform the~~
7 ~~board or special magistrate immediately before or at the hearing if~~ the hearing has been
8 scheduled for less time than the petitioner requested on the petition. ~~If the clerk indicates that~~
9 ~~the time scheduled for the petitioner's hearing was less than requested by the petitioner,~~ the
10 board or special magistrate must consider whether the hearing should be extended or continued
11 to provide additional time.

12 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
13 Implemented 194.011, 194.032, 194.034, 195.022, 213.05 FS. History-New xx-xx-09.

14

15 **12D-9.024 5 Procedures for Commencement of a Hearing.**

16 (1) If all parties are present and the petition is not withdrawn or settled, a hearing on the
17 petition shall commence.

18 (2) The hearing shall be open to the public.

19 (3) Upon the request of either party, a special magistrate shall swear in all witnesses in
20 that proceeding on the record. Upon such request and if the witness has been sworn in during an
21 earlier hearing, it shall be sufficient for the special magistrate to remind the witness that he or she
22 is still under oath.

1 (4) Before or at the start of the hearing, the board, the board’s designee or the special
2 magistrate shall give a short overview verbally or in writing of the rules of procedure and any
3 administrative issues necessary to conduct the hearing.

4 (5) Before or at ~~At~~ the start of the hearing, unless waived by the parties, the board or
5 special magistrate shall make an opening statement or provide a brochure or taxpayer
6 information sheet that:

7 (a) states the board or special magistrate is an independent, impartial, and unbiased
8 hearing body or officer, as applicable;

9 (b) states the board or special magistrate does not work for the property appraiser or tax
10 collector, is independent of the property appraiser or tax collector, and is not influenced by the
11 property appraiser or tax collector;

12 (c) states the hearing will be conducted in an orderly, fair, and unbiased manner;

13 (d) states that the law does not allow the board or special magistrate to review any
14 evidence unless it is presented on the record at the hearing or presented upon agreement of the
15 parties while the record is open; and

16 (e) states that the law requires the board or special magistrate to evaluate the relevance
17 and credibility of the evidence in deciding the results of the petition. ~~;~~ and

18 ~~(6)(f)~~ The board or special magistrate shall ask ~~asks~~ the parties if they have any
19 questions regarding the verbal or written overview of the procedures for the hearing.

20 ~~(7)(6)~~ After the opening statement, and clarification of any questions with the parties, the
21 board or special magistrate shall proceed with the hearing. ~~;~~

1 ~~(a) request the property appraiser or tax collector, as applicable, to state on the record his~~
2 ~~or her determination of just value, classified use value, tax exemption, property classification, or~~
3 ~~“portability” assessment difference transfer, or deferral or penalties, and~~

4 ~~(b) request the petitioner to state on the record whether he or she agrees or disagrees with~~
5 ~~the property appraiser’s or tax collector’s determination as stated on the hearing record.~~

6 ~~(7)(a) If the petitioner states on the record that he or she disagrees with the property~~
7 ~~appraiser’s or tax collector’s determination, the board or special magistrate shall proceed with~~
8 ~~the hearing.~~

9 ~~(b) In a hearing on value, if the petitioner has indicated that the property appraiser’s~~
10 ~~determination is contested, the board or special magistrate shall inform the petitioner that he or~~
11 ~~she is not required to provide an opinion or estimate of value. The board or special magistrate~~
12 ~~shall not request or encourage the petitioner to provide an opinion or estimate of value.~~

13 (8) If at any point in a hearing or proceeding the petitioner withdraws the petition or the
14 parties agree to settlement, the petition becomes a withdrawn or settled petition and the hearing
15 or proceeding shall end. The board or special magistrate shall state or note for the record that the
16 petition is withdrawn or settled, shall not proceed with the hearing, shall not consider the
17 petition, and shall not produce a decision or recommended decision.

18 (9)(a) If the petitioner does not appear by the commencement of a scheduled hearing, the
19 board or special magistrate shall not commence the hearing and shall proceed under the
20 requirements set forth in Section 12D-9.021 22 (7), F.A.C., unless:

21 1. the petition is on a “portability” assessment difference transfer in which the previous
22 homestead is the subject of the petition and is located in a county other than the county where the

1 new homestead is located. Requirements specific to hearings on such petitions are set forth in
2 Section 12D-9.028(6) ~~29 (9)~~, F.A.C.; or

3 2. the petitioner has indicated that he or she does not wish to appear at the hearing but
4 would like for the board or special magistrate to consider evidence submitted by the petitioner.

5 (b) A petitioner who has indicated that he or she does not wish to appear at the hearing,
6 but would like for the board or special magistrate to consider his or her evidence, shall submit his
7 or her evidence to the board clerk and property appraiser before the hearing. The board clerk
8 shall:

9 1. keep the petitioner's evidence as part of the petition file;

10 2. notify the board or special magistrate before or at the hearing that the petitioner has
11 indicated he or she will not appear at the hearing, but would like for the board or special
12 magistrate to consider his or her evidence at the hearing; and

13 3. give the evidence to the board or special magistrate at the beginning of the hearing.

14 (10) If the property appraiser or tax collector does not appear by the commencement of a
15 scheduled hearing, the board or special magistrate shall state on the record that the property
16 appraiser or tax collector did not appear at the hearing. Then, the board or special magistrate
17 shall request the petitioner to state for the record whether he or she wants to have the hearing
18 rescheduled or wants to proceed with the hearing without the property appraiser or tax collector.
19 If the petitioner elects to have the hearing rescheduled, the clerk shall reschedule the hearing. If
20 the petitioner elects to proceed with the hearing without the property appraiser or tax collector,
21 the board or special magistrate shall proceed with the hearing and shall produce a decision or
22 recommended decision.

23 (11) In any hearing conducted without one of the parties present, the board or special

1 magistrate must take into consideration the inability of the opposing party to cross-examine the
2 non-appearing party in determining the sufficiency of the evidence of the non-appearing party.

3 ~~(12) The board or special magistrate shall request the property appraiser or tax collector~~
4 ~~state on the record whether the property appraiser or tax collector intends to present confidential~~
5 ~~taxpayer information. In any hearing where confidential taxpayer information is involved and~~
6 ~~before proceeding with the hearing, the board or special magistrate shall follow the procedures~~
7 ~~set forth in rule Section 12D-9.021, F.A.C. *removed temporarily while the department seeks~~
8 ~~an attorney general opinion*~~

9 [Rulemaking Specific](#) Authority 194.011(5), [194.034\(1\)](#), 195.027(1), 213.06(1) FS. Law
10 Implemented 194.011, 194.032, 194.034, 195.022, 213.05 FS. History-New xx-xx-09.

11

12 **12D-9.025 6 Procedures for Conducting a Hearing; Presentation of Evidence;**
13 **Testimony of Witnesses.**

14 (1) As part of administrative reviews, the board or special magistrate must:

15 (a) review the evidence presented by the parties;

16 (b) determine whether the evidence presented is admissible;

17 (c) admit the evidence that is admissible, and identify mark the evidence presented to

18 indicate that it is admitted or not admitted; and

19 (d) consider the admitted evidence.

20 (2)(a) In these rules, the term “admitted evidence” means evidence that has been admitted
21 into the record for consideration by the board or special magistrate. Board and special magistrate
22 proceedings are not controlled by strict rules of evidence and procedure. Formal rules of
23 evidence shall not apply, but fundamental due process shall be observed and shall govern the

1 proceedings.

2 (b) For administrative reviews, “relevant evidence” is evidence that is reasonably related,
3 directly or indirectly, to the statutory criteria that apply to the issue under review. This
4 description means the evidence meets or exceeds a minimum level of relevance necessary to be
5 admitted for consideration, but does not necessarily mean that the evidence has sufficient
6 relevance to legally justify a particular conclusion.

7 (c) Rebuttal evidence is relevant evidence used solely to disprove or contradict the
8 original evidence presented by an opposing party.

9 ~~(e) The board or special magistrate may exclude from consideration evidence that is not~~
10 ~~reasonably related, directly or indirectly, to the statutory criteria that apply to the issue under~~
11 ~~administrative review.~~

12 ~~(d) Hearsay evidence may be used for the purpose of supplementing or explaining~~
13 ~~admissible evidence. However, hearsay evidence shall not be sufficient by itself to support a~~
14 ~~finding of fact unless it would be admissible in civil actions.~~

15 ~~(d)(e)~~ If the board or special magistrate has a question relating to the admissibility or use
16 of evidence, the board or special magistrate shall consult with board legal counsel. The special
17 magistrate may ~~delay postpone~~ ruling on the question during the hearing and consult with board
18 legal counsel after the hearing.

19 (3)(a) In a board or special magistrate hearing, the petitioner is responsible for presenting
20 relevant and credible evidence in support of his or her belief that the property appraiser’s
21 determination is incorrect. The property appraiser is responsible for presenting relevant and
22 credible evidence in support of his or her determination.

23 (b) Under Section 194.301, Florida Statutes (2009), starting with 2009 assessments,

1 “preponderance of the evidence” is the standard of proof that applies in assessment challenges.
2 The “clear and convincing evidence” standard of proof no longer applies, starting with 2009
3 assessments. A taxpayer shall never have the burden of proving that the property appraiser’s
4 assessment is not supported by any reasonable hypothesis of a legal assessment.

5 (4)(a) No evidence shall be considered by the board or special magistrate except when
6 presented and admitted during the time scheduled for the petitioner’s hearing, or at a time when
7 the petitioner has been given reasonable notice. The petitioner may still present evidence if he or
8 she does not participate in the evidence exchange. However, if the property appraiser asks in
9 writing for evidence before the hearing in connection with a filed petition, and the petitioner has
10 this evidence and refuses to provide it to the property appraiser, the evidence cannot be presented
11 by the petitioner or accepted for consideration by the board or special magistrate.

12 (b) If a party submits evidence to the clerk prior to the hearing, the board or special
13 magistrate shall not review or consider such evidence prior to the hearing.

14 (c) In order to be reviewed by the board or special magistrate, any evidence filed with the
15 clerk shall be brought to the hearing by the party. These requirements shall not apply where:

16 1. a ~~petitioner~~ ~~petitioners~~ does not appear at a hearing ~~where the petitioner has indicated~~
17 ~~that he or she will not appear on the petition or on a~~ “portability” assessment difference ~~transfer~~
18 ~~petitions~~ in which the previous homestead is the subject of the petition and is located in a county
19 other than the county where the new homestead is located. Requirements specific to hearings on
20 such petitions are set forth in Section 12D-9.028(6) ~~29(9)~~, F.A.C.; or

21 2. a petitioner has indicated that he or she does not wish to appear at the hearing but
22 would like for the board or special magistrate to consider evidence submitted by the petitioner.

1 (d) A petitioner who has indicated that he or she does not wish to appear at the hearing,
2 but would like for the board or special magistrate to consider his or her evidence, shall submit his
3 or her evidence to the board clerk before the hearing. The board clerk shall:

4 1. keep the petitioner's evidence as part of the petition file;

5 2. notify the board or special magistrate before or at the hearing that the petitioner has
6 indicated he or she will not appear at the hearing, but would like for the board or special
7 magistrate to consider his or her evidence at the hearing; and

8 3. give the evidence to the board or special magistrate at the beginning of the hearing.

9 (e) The clerk may provide an electronic system for the filing and retrieval of evidence for
10 the convenience of the parties, but such evidence shall not be considered part of the record and
11 shall not be reviewed by the board or special magistrate until presented at a hearing. Any
12 exchange of evidence should occur between the parties and such evidence is not part of the
13 record until presented by the offering party and deemed admissible at the hearing.

14 ~~(f) Evidence is not made admissible only because it has been exchanged; evidence must~~
15 ~~be reviewed and determined to be admissible by the board or special magistrate.~~

16 ~~(f)(g)~~1. No petitioner shall present, nor shall the board or special magistrate accept for
17 consideration, testimony or other evidentiary materials that were requested of the petitioner in
18 writing by the property appraiser in connection with a filed petition, of which the petitioner had
19 knowledge and denied to the property appraiser. Such evidentiary materials shall be considered
20 timely if provided to the property appraiser no later than fifteen (15) days before the hearing in
21 accordance with the exchange of evidence rules in Section 12D-9.020 ~~21~~, F.A.C. and, if provided
22 to the property appraiser less than fifteen (15) days before the hearing, shall be considered timely
23 if the board or special magistrate determines they were provided a reasonable time before the

1 hearing. A petitioner's ability to introduce the evidence, requested of the petitioner in writing by
2 the property appraiser, is lost if not provided to the property appraiser as described in this
3 paragraph. This provision does not preclude rebuttal evidence that was not specifically requested
4 of the petitioner by the property appraiser.

5 2. A property appraiser shall not present undisclosed evidence that was not supplied to
6 the petitioner as required under the evidence exchange rule, Section 12D-9.0~~20~~ 24, F.A.C. The
7 normal remedy for such noncompliance shall be a rescheduling of the hearing to allow the
8 petitioner an opportunity to review the information of the property appraiser.

9 (5) When testimony is presented at a hearing, each party shall have the right to cross-
10 examine any witness.

11 (6)(a) By agreement of the parties entered in the record, the board or special magistrate
12 may leave the record open and postpone completion of the hearing to a date certain to allow a
13 party to collect and provide additional relevant and credible evidence. Such postponements shall
14 be limited to instances where, after completing original presentations of evidence, the parties
15 agree to the collection and submittal of additional, specific factual evidence for consideration by
16 the board or special magistrate.

17 (b) If additional hearing time is necessary, the hearing must be completed at the date,
18 place, and time agreed upon for presenting the additional evidence to the board or special
19 magistrate for consideration.

20 (c) The following limitations shall apply if the property appraiser seeks to present
21 additional evidence that was unexpectedly discovered and that would increase the assessment.

22 1. The board or special magistrate shall ensure that such additional evidence is limited to
23 a correction of a factual error discovered in the physical attributes of the petitioned property; a

1 change in the property appraiser's judgment is not such a correction and shall not justify an
2 increase in the assessment.

3 2. A notice of revised proposed assessment shall be made and provided to the petitioner
4 in accordance with the notice provisions set out in Florida Statutes for notices of proposed
5 property taxes.

6 3. A new hearing shall be scheduled and notice of the hearing shall be sent to the
7 petitioner along with a copy of the revised property record card, if requested.

8 4. The evidence exchange ~~procedures provisions~~ in Section 12D-9.020 ~~21~~, F.A.C., shall
9 be available apply where necessary.

10 5. The back assessment procedure in Section 193.092, Florida Statutes, shall be used for
11 any assessment already certified.

12 (7)(a) The board or special magistrate shall receive, identify for the record, and retain all
13 exhibits presented during the hearing and send them to the clerk along with the recommended
14 decision or final decision. Upon agreement of the parties, the clerk is authorized to make an
15 electronic representation of evidence that is difficult to store or maintain.

16 (b) The board or special magistrate shall have the authority, at a hearing, to ask questions
17 at any time of either party, the witnesses, or board staff. When asking questions, the board or
18 special magistrate shall not show bias for or against any party or witness. The board or special
19 magistrate shall limit the content of any question asked of a party or witness to matters
20 reasonably related, directly or indirectly, to matters already in the record.

21 (c) Representatives of interested municipalities may be heard as provided in Section
22 193.116, Florida Statutes.

1 (8) Unless a board or special magistrate determines that additional time is necessary, the
2 board or special magistrate shall conclude all hearings at the end of the time scheduled for the
3 hearing. If a hearing is not concluded by the end of the time scheduled, the board or special
4 magistrate shall determine the amount of additional time needed to conclude the hearing.

5 (a) If the board or special magistrate determines that the amount of additional time
6 needed to conclude the hearing would not unreasonably disrupt other hearings, the board or
7 special magistrate is authorized to proceed with conclusion of the hearing.

8 (b) If the board or special magistrate determines that the amount of additional time
9 needed to conclude the hearing would unreasonably disrupt other hearings, the board or special
10 magistrate shall so state on the record and shall notify the clerk to reschedule the conclusion of
11 the hearing to a time as scheduled and noticed by the clerk. ~~mutually agreeable to the parties.~~

12 (9) The board or special magistrate shall not be not required to make, at any time during a
13 hearing, any oral or written finding, conclusion, decision, or reason for decision. The board or
14 special magistrate has the discretion to determine whether to make such determinations during a
15 hearing or to consider the petition and evidence further after the hearing and then make such
16 determinations.

17 Rulemaking Specific Authority ~~193.092~~, 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
18 Implemented 193.092, 194.011, 194.032, 194.034, 195.022, 213.05 FS. History-New xx-xx-09.

19
20 **12D-9.026 7 Procedures for Conducting a Hearing by Electronic Media.**

21 (1) Hearings conducted by electronic media shall occur only under the conditions set
22 forth in this rule section.

23 (a) The board must approve and have available the necessary equipment and procedures.

1 (b) The special magistrate, if one is used, must agree in each case to the electronic
2 hearing.

3 (c) The board must accommodate parties that have hardship or lack necessary equipment
4 or ability to access equipment. ~~Both parties must agree to the electronic hearing.~~

5 (2) For any hearing conducted by electronic media, the board shall ensure that all
6 equipment is adequate and functional for allowing clear communication among the participants
7 and for creating the hearing records required by law. The board procedures shall specify the time
8 period within which a party must request to appear at a hearing by electronic media.

9 (3) Consistent with board equipment and procedures:

10 (a) Any party may request to appear at a hearing before a board or special magistrate,
11 using telephonic or other electronic media. If the board or special magistrate allows a party to
12 appear by telephone, all members of the board in the hearing or the special magistrate must be
13 physically present in the hearing room. Unless required by other provisions of state or federal
14 law, the clerk need not comply with such a request if such telephonic or electronic media are not
15 reasonably available.

16 (b) The parties must also all agree on the methods for swearing witnesses, presenting
17 evidence, and placing testimony on the record. Such methods must comply with the provisions of
18 this rule chapter. The agreement of the parties must include which parties must appear by
19 telephonic or other electronic media, and which parties will be present in the hearing room.

20 (4) Such hearings must be open to the public either by providing the ability for interested
21 members of the public to join the hearing electronically or to monitor the hearing at the location
22 of the board or special magistrate.

1 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
2 Implemented 194.011, 194.032, 194.034, 195.035, 195.022 FS. History-New xx-xx-09.

3

4 **12D-9.027 8 Process of Administrative Review.**

5 (1) This section sets forth the sequence of general procedural steps for administrative
6 reviews. This order of steps applies to ~~the following activities~~: the consideration of evidence
7 during or after a hearing, the development of conclusions during or after a hearing, and the
8 production of written decisions. The board or special magistrate shall follow this general
9 sequence in order to fulfill the procedural requirements of section 194.301, Florida Statutes
10 (2009), starting with 2009 assessments. The following subsections set forth the steps for
11 administrative reviews of:

12 (a) ~~for administrative reviews of~~ just valuations in subsection (2);

13 (b) ~~for administrative reviews of~~ classified use valuations in subsection (3);

14 (c) ~~for administrative reviews of~~ assessed valuations of limited increase property in
15 subsection (4); and

16 (d) ~~for administrative reviews of~~ exemptions, classifications, and portability assessment
17 transfers in subsection (5).

18 (2) In administrative reviews of the just valuation of property, the board or special
19 magistrate shall follow this ~~the~~ sequence of general procedural steps: ~~presented below in this rule~~
20 ~~subsection.~~

21 (a) Consider the admitted evidence presented by the parties.

1 (b) Identify and consider the essential characteristics of the petitioned property based on
2 the factors in section 193.011, Florida Statutes. ~~using at a minimum the following factors:~~

3 ~~present use, location, size, and condition of the petitioned property~~

4 (c) Identify and consider the appraisal methodology used by the property appraiser in
5 developing his or her just valuation of the petitioned property.

6 (d) Determine whether the admitted evidence proves by a preponderance of the evidence
7 that the property appraiser's methodology complies with section 193.011, Florida Statutes, and
8 professionally accepted appraisal practices, including mass appraisal standards, if appropriate.

9 (e) Determine whether the property appraiser's appraisal methodology is appropriate.

10 (f) Determine whether the admitted evidence proves by a preponderance of the evidence
11 that:

12 1. The property appraiser's just valuation does not represent just value; or

13 2. The property appraiser's just valuation is arbitrarily based on appraisal practices that
14 are different from the appraisal practices generally applied by the property appraiser to
15 comparable property within the same county.

16 (g) If one or both of the preceding conditions are determined to exist, the board or special
17 magistrate shall determine whether the hearing record contains competent, substantial evidence
18 of just value which cumulatively meets the criteria of section 193.011, Florida Statutes, and
19 professionally accepted appraisal practices.

20 1. If the hearing record contains competent, substantial evidence for establishing just
21 value, the board or an appraiser special magistrate shall establish the just value based only upon
22 such evidence. When the prerequisite conditions exist, the board or an appraiser special
23 magistrate is required to establish a revised just value for the petitioned property. In establishing

1 a revised just value when required by law, the board or special magistrate is not restricted to any
2 specific value offered by the parties.

3 2. If the hearing record lacks competent, substantial evidence for establishing just value,
4 the board or special magistrate shall remand the assessment to the property appraiser with
5 appropriate directions.

6 (3) In administrative reviews of the classified use valuation of property, the board or
7 special magistrate shall follow this the sequence of general procedural steps: ~~presented below.~~

8 (a) Consider the admitted evidence presented by the parties.

9 (b) Identify the property classification applied to the petitioned property and identify the
10 statutory criteria that apply to the classified use valuation of the property.

11 (c) Identify the essential characteristics of the petitioned property based on the statutory
12 criteria that apply to the classified use valuation of the property.

13 (d) Identify the appraisal methodology used by the property appraiser in developing his
14 or her classified use valuation of the petitioned property.

15 (e) Determine whether the admitted evidence proves by a preponderance of the evidence
16 that the property appraiser's methodology complies with the statutory criteria that apply to the
17 classified use valuation of the petitioned property.

18 (f) Determine whether the property appraiser's appraisal methodology is appropriate.

19 (g) Determine whether the admitted evidence proves by a preponderance of the evidence
20 that:

21 1. The property appraiser's classified use valuation does not represent classified use
22 value; or

1 2. The property appraiser’s classified use valuation is arbitrarily based on classified use
2 appraisal practices that are different from the classified use appraisal practices generally applied
3 by the property appraiser to comparable property of the same property classification within the
4 same county.

5 (h) If one or both of the preceding conditions are determined to exist, the board or special
6 magistrate shall determine whether the hearing record contains competent, substantial evidence
7 of classified use value which cumulatively meets the statutory criteria that apply to the classified
8 use valuation of the petitioned property.

9 1. If the hearing record contains competent, substantial evidence for establishing
10 classified use value, the board or an appraiser special magistrate shall establish the classified use
11 value based only upon such evidence. When the prerequisite conditions exist, the board or an
12 appraiser special magistrate is required to establish a revised classified use value for the
13 petitioned property. In establishing a revised classified use value when required by law, the
14 board or special magistrate is not restricted to any specific value offered by the parties.

15 2. If the hearing record lacks competent, substantial evidence for establishing classified
16 use value, the board or special magistrate shall remand the assessment to the property appraiser
17 with appropriate directions.

18 (4) In administrative reviews of the assessed valuation of limited increase property, the
19 board or special magistrate shall follow this the sequence of general procedural steps: presented
20 below in this rule subsection.

21 (a) Consider the admitted evidence presented by the parties.

22 (b) Identify and consider the essential characteristics of the petitioned property based on
23 the statutory criteria that apply to the assessed valuation of the petitioned property.

1 (c) Identify and consider the methodology used by the property appraiser in developing
2 his or her assessed valuation of the petitioned property.

3 (d) Determine whether the admitted evidence proves by a preponderance of the evidence
4 that the property appraiser's methodology complies with the applicable statutory criteria.

5 (e) Determine whether the property appraiser's methodology is appropriate.

6 (f) Determine whether the admitted evidence proves by a preponderance of the evidence
7 that the property appraiser's assessed value is incorrect.

8 (g) If the property appraiser's assessed value is determined to be incorrect, the board or
9 special magistrate shall determine whether the hearing record contains competent, substantial
10 evidence of assessed value which cumulatively meets the statutory criteria that apply to the
11 assessed valuation of the petitioned property.

12 1. If the hearing record contains competent, substantial evidence for establishing assessed
13 value, the board or an appraiser special magistrate shall establish the assessed value based only
14 upon such evidence.

15 2. If the hearing record lacks competent, substantial evidence for establishing assessed
16 value, the board or special magistrate shall remand the assessment to the property appraiser with
17 appropriate directions.

18 (5) In administrative reviews of exemptions, classifications, and portability assessment
19 transfers, the board or special magistrate shall follow ~~this the~~ sequence of general procedural
20 steps: ~~presented below in this rule subsection.~~

21 (a) Consider the admitted evidence presented by the parties.

22 (b) ~~Identify whether the petition is on the denial of an exemption, property classification,~~
23 ~~or portability assessment transfer;~~

1 ~~(e)~~ Identify the particular exemption, property classification, or portability assessment
2 transfer issue that is the subject of the petition.~~;~~

3 ~~(c)~~~~(d)~~ Identify the statutory criteria that apply to the particular exemption, property
4 classification, or portability assessment difference transfer that was identified as the issue under
5 administrative review.~~;~~

6 ~~(d)~~~~(e)~~ Identify and consider the essential characteristics of the petitioned property or the
7 property owner, as applicable, based on the statutory criteria that apply to the issue under
8 administrative review.

9 ~~(e)~~~~(f)~~ Identify and consider the basis used by the property appraiser in issuing the denial
10 for the petitioned property. Additionally, in the case of an exemption, the board or special
11 magistrate shall consider whether the denial was valid or invalid in determining whether to
12 uphold or overturn the property appraiser’s determination and shall:

13 1. review the exemption denial, and compare it to the applicable statutory criteria in
14 Section 196.193(5), Florida Statutes;

15 2. determine whether the denial was valid under Section 196.193, Florida Statutes; and

16 3. not give weight to any exemption denial found to be invalid but shall instead proceed
17 as provided in Section 194.301, Florida Statutes (2009).

18 ~~(f)~~~~(g)~~ Determine whether the admitted evidence proves by a preponderance of the
19 evidence that the property appraiser’s denial is incorrect and the exemption, classification, or
20 portability assessment transfer should be granted because all of the applicable statutory criteria
21 are satisfied.

22 (6) “Standard of proof” means the level of proof needed by the board or special
23 magistrate to reach a particular conclusion. The standard of proof that applies in administrative

1 reviews is called “preponderance of the evidence,” which means “greater weight of the
2 evidence.”

3 (7) When applied to evidence, the term “sufficient” is a test of adequacy. Sufficient
4 evidence is admitted evidence that has enough overall weight, in terms of relevance and
5 credibility, to legally justify a particular conclusion. A particular conclusion is justified when the
6 overall weight of the admitted evidence meets the standard of proof that applies to the issue
7 under consideration. The board or special magistrate must determine whether the admitted
8 evidence is sufficiently relevant and credible to reach the standard of proof that applies to the
9 issue under consideration. In determining whether the admitted evidence is sufficient for a
10 particular issue under consideration, the board or special magistrate shall:

11 (a) consider the relevance and credibility of the admitted evidence as a whole, regardless
12 of which party presented the evidence;

13 (b) determine the relevance and credibility, or overall weight, of the evidence;

14 (c) compare the overall weight of the evidence to the standard of proof;

15 (d) determine whether the overall weight of the evidence is sufficient to reach the
16 standard of proof; and

17 (e) produce a conclusion of law based on the determination of whether the overall weight
18 of the evidence has reached the standard of proof.

19 [Rulemaking Specific](#) Authority [194.011\(5\)](#), 194.034(1), 195.027(1), 213.06(1) FS. Law
20 Implemented 193.122, 194.011, 194.015, 194.032, 194.034, 194.036, 194.037, 194.301,
21 195.002, 195.096, 196.011, 197.122, 213.05 FS. History--New, xx-xx-09.

22

23 **12D-9.028 9 Petitions on Transfer of “Portability” Assessment Difference.**

1 (1) This rule section applies to the review of denials of assessment limitation difference
2 transfers or of the amount of an assessment limitation difference transfer. No adjustment to the
3 just, assessed or taxable value of the previous homestead parcel may be made pursuant to a
4 petition under this rule.

5 (2) A petitioner may file a petition with the value adjustment board, in the county where
6 the new homestead is located, to petition either a denial of a transfer or the amount of the
7 transfer, on Form DR-486PORT (Petition to Value Adjustment Board, Transfer of Homestead
8 Assessment Difference – Request for Hearing; N. 07/08), which the Department of Revenue
9 hereby adopts and incorporates in this rule by reference. Such petition must be filed within 25
10 days following the mailing of the notice of proposed property taxes as provided in Section
11 194.011, Florida Statutes. If only a part of a transfer of assessment increase differential is
12 granted, the notice of proposed property taxes shall function as notice of the taxpayer’s right to
13 appeal to the board.

14 (3) The petitioner may petition to the board the decision of the property appraiser
15 refusing to allow the transfer of an assessment difference, and the board shall review the
16 application and evidence presented to the property appraiser upon which the petitioner based the
17 claim and shall hear the petitioner on behalf of his or her right to such assessment. Such petition
18 shall be heard by an attorney special magistrate if the board uses special magistrates.

19 (4) This subsection will apply to value adjustment board proceedings in a county in
20 which the previous homestead is located. Any petitioner desiring to appeal the action of a
21 property appraiser in a county in which the previous homestead is located must so designate on
22 Form DR-486PORT.

1 (5) If the petitioner does not agree with the amount of the assessment limitation
2 difference for which the petitioner qualifies as stated by the property appraiser in the county
3 where the previous homestead property was located, or if the property appraiser in that county
4 has not stated that the petitioner qualifies to transfer any assessment limitation difference, upon
5 the petitioner filing a petition to the value adjustment board in the county where the new
6 homestead property is located, the board clerk in that county shall, upon receiving the petition,
7 send a notice using Form DR-486XCO, (Cross-County Notice of Appeal and Petition, Transfer
8 of Homestead Assessment Difference; N. 07/08) which the Department of Revenue hereby
9 adopts and incorporates in this rule by reference, to the board clerk in the county where the
10 previous homestead was located, which shall reconvene if it has already adjourned.

11 (6)(a) If a cross county petition is filed as described in subsection (5), such ~~Such~~ notice
12 operates as a timely petition ~~in~~, and creates an appeal to, the value adjustment board in the
13 county where the previous homestead was located on ~~of~~ all issues surrounding the previous
14 assessment differential for the taxpayer involved. However, the petitioner may not petition to
15 have the just, assessed, or taxable value of the previous homestead changed.

16 (b)(7) The board clerk in the county where the previous homestead was located shall set
17 the petition for hearing and notify the petitioner, the property appraiser in the county where the
18 previous homestead was located, the property appraiser in the county where the new homestead
19 is located, and the value adjustment board in that county, and shall hear the petition.

20 (c)(8) The board clerk in the county in which the previous homestead was located must
21 note and file the petition from the county in which the new homestead is located. No filing fee is
22 required. The board clerk shall notify each petitioner of the scheduled time of appearance. The
23 notice shall be in writing and delivered by regular or certified U.S. mail or personal delivery or

1 delivered in the manner requested by the petitioner on Form DR-486PORT, so that the notice
2 shall be received by the petitioner no less than twenty-five (25) calendar days prior to the day of
3 such scheduled appearance. The board clerk will have prima facie complied with the
4 requirements of this section if the notice was deposited in the U.S. mail thirty (30) days prior to
5 the day of such scheduled appearance.

6 ~~(d)(9)~~ Such petition shall be heard by an attorney special magistrate if the value
7 adjustment board in the county where the previous homestead was located uses special
8 magistrates. The petitioner may attend such hearing and present evidence, but need not do so. If
9 the petitioner does not appear at the hearing, the hearing shall go forward. The board or special
10 magistrate shall obtain the petition file from the board clerk. The board or special magistrate
11 shall consider deeds, property appraiser records that do not violate confidentiality requirements,
12 and other documents that are admissible evidence. The petitioner may submit a written statement
13 for review and consideration by the board or special magistrate explaining why the “portability”
14 assessment difference should be granted based on applications and other documents and records
15 submitted by the petitioner.

16 ~~(e)(10)~~ The value adjustment board in the county where the previous homestead was
17 located shall issue a decision and the board clerk shall send a copy of the decision to the board
18 clerk in the county where the new homestead is located.

19 ~~(f)(11)~~ In hearing the petition in the county where the new homestead is located, that
20 value adjustment board shall consider the decision of the value adjustment board in the county
21 where the previous homestead was located on the issues pertaining to the previous homestead
22 and on the amount of any assessment reduction for which the petitioner qualifies. The value
23 adjustment board in the county where the new homestead is located may not hold its hearing

1 until it has received the decision from the value adjustment board in the county where the
2 previous homestead was located.

3 (7)(12) This rule does not authorize the consideration or adjustment of the just, assessed,
4 or taxable value of the previous homestead property.

5 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1) FS. Law Implemented
6 193.155, 194.011, FS. History--New xx-xx-09.

7

8 **12D-9.029 ~~30~~ Procedures for Remanding Just Value or Classified Use Value**
9 **Assessments.**

10 (1) The board or appraiser special magistrate shall remand an assessment to the property
11 appraiser when the board or special magistrate:

12 (a) has concluded that the property appraiser's assessment does not represent just value or
13 classified use value, as applicable; and

14 (b) has concluded that the record does not contain the competent substantial evidence
15 necessary for the board or special magistrate to establish just value or classified use value, as
16 applicable.

17 (2) An attorney special magistrate shall remand an assessment to the property appraiser
18 for a classified use valuation when the special magistrate has concluded that a property
19 classification will be granted.

20 (3) The board shall remand an assessment to the property appraiser for a classified use
21 valuation when the board:

22 (a) has concluded that a property classification will be granted; and

23 (b) has concluded that the record does not contain the competent substantial evidence

1 necessary for the board to establish classified use value.

2 (4) The board or special magistrate shall, on the appropriate decision form from the Form
3 DR-485 series, produce written findings of fact and conclusions of law necessary to determine
4 that a remand is required, but shall not render a recommended or final decision unless a
5 continuation hearing is held as provided in subsection (9).

6 (5) When an attorney special magistrate remands an assessment to the property appraiser
7 for classified use valuation, an appraiser special magistrate retains authority to produce a
8 recommended decision in accordance with law. When an appraiser special magistrate remands
9 an assessment to the property appraiser, the special magistrate retains authority to produce a
10 recommended decision in accordance with law. When the value adjustment board remands an
11 assessment to the property appraiser, the board retains authority to make a final decision on the
12 petition in accordance with law.

13 (6) For remanding an assessment to the property appraiser, the board or special
14 magistrate shall produce a written remand decision which shall include appropriate directions to
15 the property appraiser.

16 (7) The board clerk shall concurrently provide, to the petitioner and the property
17 appraiser, a copy of the written remand decision from the board or special magistrate. The
18 petitioner's copy of the written remand decision shall be sent by regular or certified U.S. mail or
19 by personal delivery, or in the manner requested by the taxpayer on Form DR-486 ~~or DR-486A~~.

20 (8)(a) After receiving a board or special magistrate's remand decision from the board
21 clerk, the property appraiser shall follow the appropriate directions from the board or special
22 magistrate and shall produce a written remand review.

23 (b) The property appraiser or his or her staff shall not have, directly or indirectly, any ex

1 parte communication with the board or special magistrate regarding the remanded assessment.

2 (9)(a) Immediately after receipt of the written remand review from the property appraiser,
3 the board clerk shall send a copy of the written remand review to the petitioner by regular or
4 certified U.S. mail or by personal delivery, or in the manner requested by the taxpayer on Form
5 DR-486 ~~or DR-486A~~, and shall send a copy to the board or special magistrate. The board clerk
6 shall retain, as part of the petition file, the property appraiser's written remand review. Together
7 with the petitioner's copy of the written remand review, the clerk shall send to the petitioner a
8 copy of this rule subsection.

9 (b) The clerk shall schedule a continuation hearing unless the petitioner notifies the clerk
10 that the results of the property appraiser's written remand review are acceptable to the petitioner
11 and that the petitioner waives the right to a further hearing on the petition. The clerk shall send
12 the notice of hearing so that it will be received by the petitioner no less than twenty-five (25)
13 calendar days prior to the day of such scheduled appearance, as described in Section 12D-9.019
14 ~~20~~ (3), F.A.C. If the petitioner agrees with the remand value, the board or special magistrate shall
15 not produce a written decision; however, the petition shall be treated and listed as board action
16 for purposes of the notice required by Section 12D-9.038, F.A.C. ~~withdrawn or settled.~~

17 (c) At a continuation hearing, the board or special magistrate shall receive and consider
18 the property appraiser's written remand review and additional relevant and credible evidence, if
19 any, from the parties. Also, the board or special magistrate may consider evidence admitted at
20 the original hearing.

21 (10) In those counties that use special magistrates, if an attorney special magistrate has
22 granted a property classification before the remand decision and the property appraiser has
23 produced a remand classified use value, a real property valuation special magistrate shall conduct

1 the continuation hearing.

2 (11) In no case shall a board or special magistrate remand to the property appraiser an
3 exemption, “portability” assessment difference transfer, or property classification determination.

4 (12) Copies of all evidence shall remain with the clerk and be available during the
5 remand process.

6 (13) In lieu of remand, the board or special magistrate may postpone conclusion of the
7 hearing upon agreement of the parties if the requirements of Section 12D-9.025 26 (6), F.A.C.
8 are met.

9 (14) To the extent possible where the context will permit, remands of assessed valuations
10 shall be handled procedurally under this rule chapter in the same manner as remands of just
11 valuations.

12 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
13 Implemented 194.011, 194.032, 194.034, 194.035, 194.301, 213.05 FS. History-New xx-xx-09.

14

15 **12D-9.030 † Recommended Decisions.**

16 (1) For each petition not withdrawn or settled, special magistrates shall produce a written
17 recommended decision that contains findings of fact, conclusions of law, and reasons for
18 upholding or overturning the property appraiser’s determination. Each recommended decision
19 shall contain sufficient factual and legal information and reasoning to enable the parties to
20 understand the basis for the decision, and shall otherwise meet the requirements of law. The
21 special magistrate and clerk shall observe the petitioner’s right to be sent a timely written
22 recommended decision containing proposed findings of fact and proposed conclusions of law

1 and reasons for upholding or overturning the determination of the property appraiser. After
2 producing a recommended decision, the special magistrate shall provide it to the clerk.

3 (2) The clerk shall provide copies of the special magistrate's recommended decision to
4 the petitioner and the property appraiser as soon as practicable after receiving the recommended
5 decision, and if the clerk:

6 (a) knows the date, time, and place at which the recommended decision will be
7 considered by the board, the clerk shall include such information when he or she sends the
8 recommended decision to the petitioner and the property appraiser; or

9 (b) does not yet know the date, time, and place at which the recommended decision will
10 be considered by the board, the clerk shall include information on how to find the date, time, and
11 place of the meeting at which the recommended decision will be considered by the board.

12 (3) Any board or special magistrate workpapers, worksheets, notes, or other materials
13 that are made available to a party shall immediately be sent to the other party. Any workpapers,
14 worksheets, notes, or other materials created by the board or special magistrates during the
15 course of hearings or during consideration of petitions and evidence, that contain any material
16 prepared in connection with official business, shall be transferred to the clerk and retained as
17 public records. Value adjustment boards or special magistrates using standardized workpapers,
18 worksheets, or notes, whether in electronic format or otherwise, must receive prior department
19 approval to ensure that such standardized documents ~~The content of all worksheets used in~~
20 ~~documenting decisions must~~ comply with the law.

21 (4) For the purpose of producing the recommended decisions of special magistrates, the
22 department prescribes the Form DR-485 series, and any electronic equivalent forms approved by
23 the department under Section 195.022, Florida Statutes. The Form DR-485 series is adopted and

1 incorporated by reference in Rule 12D-16.002, Florida Administrative Code. All recommended
2 decisions of special magistrates, and all forms used for the recommended decisions, must contain
3 the following required elements:

- 4 (a) findings of fact;
- 5 (b) conclusions of law; and
- 6 (c) reasons for upholding or overturning the determination of the property appraiser.
- 7 ~~(5) In counties that use special magistrates, the clerk shall provide copies of the special~~
8 ~~magistrate's recommended decision to both parties as soon as practicable after receiving the~~
9 ~~recommended decision.~~

10 ~~(6)~~ As used in this section, the terms “findings of fact” and “conclusions of law” include
11 proposed findings of fact and proposed conclusions of law produced by special magistrates in
12 their recommended decisions.

13 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1) FS. Law Implemented
14 193.155, 194.011, 195.022, 213.05 FS. History--New xx-xx-09.

15

16 **12D-9.031 2 Consideration and Adoption of Recommended Decisions of Special**
17 **Magistrates by Value Adjustment Boards in Administrative Reviews.**

18 (1) All recommended decisions shall comply with Sections 194.301, 194.034(2) and
19 194.035(1), Florida Statutes. A special magistrate shall not submit to the board, and the board
20 shall not adopt, any recommended decision that is not in compliance with Sections 194.301,
21 194.034(2) and 194.035(1), Florida Statutes.

22 (2) As provided in Sections 194.034(2) and 194.035(1), Florida Statutes, the board shall
23 consider the recommended decisions of special magistrates and may act upon the recommended

1 decisions without further hearing. If the board holds further hearing for such consideration, the
2 clerk shall send notice of the hearing to petitioners. The notice of hearing shall be in the same
3 form as specified in Section 12D-9.019 20(3)(a), F.A.C., but need not include items specified in
4 subparagraphs 6. through 10. of that subsection. The board shall consider whether the
5 recommended decisions meet the requirements of subsection (1), and may rely on board legal
6 counsel for such determination.

7 (3) If the board determines that a recommended decision meets the requirements of
8 subsection (1), the board shall adopt the recommended decision. When a recommended decision
9 is adopted and rendered by the board, it becomes final.

10 (4) If the board determines that a recommended decision does not comply with the
11 requirements of subsection (1), the board shall proceed as follows:

12 (a) The board shall request the advice of board legal counsel to ~~confirm the~~
13 ~~noncompliance and~~ evaluate further action and shall take the steps necessary for producing a
14 final decision in compliance with subsection (1).

15 (b)~~1.~~ The board may direct a special magistrate to produce a recommended decision that
16 complies with subsection (1) based on, if necessary, a review of the entire record.

17 ~~2. Alternatively, the board may review the entire record and take the steps necessary for~~
18 ~~producing a final decision in compliance with subsection (1).~~

19 (c) The board shall retain any recommended decisions and all other records of actions
20 under this rule section.

21 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
22 Implemented 193.122, 194.011, 194.015, 194.032, 194.034, 194.035, 194.036, 194.037,

1 194.301, 195.002, 195.096, 196.011, 197.122, 213.05 FS. History--New 10-12-76, Formerly
2 12D-10.03, Amended 11-10-77, 9-30-82, 12-31-98, xx-xx-09.

3

4 **12D-9.032 3 Final Decisions.**

5 (1) For each petition not withdrawn or settled, the board shall produce a written final
6 decision that contains findings of fact, conclusions of law, and reasons for upholding or
7 overturning the property appraiser's determination. Each final decision shall contain sufficient
8 factual and legal information and reasoning to enable the parties to understand the basis for the
9 decision, and shall otherwise meet the requirements of law.

10 (2) A final decision of the board shall state the just, assessed, taxable, and exempt value,
11 both before and after board action. Board action shall not include changes made as a result of
12 action by the property appraiser. If the property appraiser has reduced his or her value or granted
13 an exemption, property classification, or "portability" assessment difference transfer, whether
14 before or during the hearing but before board action, the values in the "before" column shall
15 reflect the adjusted figure before board action.

16 (3) The board's final decision shall advise the taxpayer and property appraiser that further
17 proceedings in circuit court shall be as provided in Section 194.036, Florida Statutes.

18 (4) Upon issuance of a final decision by the board, the board shall provide it to the clerk
19 and the clerk shall promptly immediately provide notice of the final decision to the parties.

20 Notice of the final decision may be made by providing a copy of the decision.

21 (5) For the purpose of producing the final decisions of the board, the department
22 prescribes the Form DR-485 series, and any electronic equivalent forms approved by the
23 department under Section 195.022, Florida Statutes. The Form DR-485 series is adopted and

1 incorporated by reference in Rule 12D-16.002, Florida Administrative Code. The Form DR-485
2 series, or approved electronic equivalent forms, are the only forms that shall be used for
3 producing a final decision of the board. Before using any form to notify petitioners of the final
4 decision, the board shall submit the proposed form to the department for approval. The board
5 shall not use a form to notify the petitioner unless the department has approved the form.

6 (6)(a) If, prior to a final decision, any communication is received from a party concerning
7 a board process on a petition or concerning a recommended decision, a copy of the
8 communication shall ~~promptly~~ immediately be furnished to all parties, the clerk, and the board
9 legal counsel. No such communication shall be furnished to the board or a special magistrate
10 unless a copy is immediately furnished to all parties.

11 (b) The board legal counsel shall respond to such communication and may advise the
12 board concerning any action the board should take concerning the communication.

13 (c) No reconsideration of a recommended decision shall take place until all parties have
14 been furnished all communications, and have been afforded adequate opportunity to respond.

15 (d) The clerk shall provide to the parties:

- 16 1. notification before the presentation of the matter to the board; and
- 17 2. notification of any action taken by the board.

18 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
19 Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022 FS. History-New
20 xx-xx-09.

21

22 **12D-9.033 4 Further Judicial Proceedings.**

1 After the board issues its final decision, further proceedings and the timing thereof are as
2 provided in Sections 194.036 and 194.171, Florida Statutes.

3 ~~Rulemaking Specific~~ Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
4 Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022 FS.
5 History-New xx-xx-09.

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7 **12D-9.034 5 Record of the Proceeding.**

8 (1) The clerk shall maintain a record of the proceeding. The record shall consist of:

9 (a) the petition;

10 (b) all filed documents, including; all tangible exhibits and documentary evidence
11 presented, whether or not admitted into evidence; ~~;~~ and ~~meeting minutes~~

12 (c) meeting minutes and a verbatim record of the hearing.

13 (2) The verbatim record of the hearing may be kept by any electronic means which is
14 easily retrieved and copied. In counties that use special magistrates, the special magistrate shall
15 accurately and completely preserve the verbatim record during the hearing, and may be assisted
16 by the clerk. In counties that do not use special magistrates, the clerk shall accurately and
17 completely preserve the verbatim record during the hearing. At the conclusion of each hearing,
18 the clerk shall retain the verbatim record as part of the petition file.

19 (3) The record shall be maintained for four years after the final decision has been
20 rendered by the board if no appeal is filed in circuit court, or for five years if an appeal is filed.

21 (4) If requested by the taxpayer, the taxpayer's agent, or the property appraiser, the clerk
22 shall retain these records until the final disposition of any subsequent judicial proceeding related
23 to the same property.

1 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
2 Implemented 194.011, 194.032, 194.034, 194.035, 213.05 FS. History-New xx-xx-09.

3

4 **12D-9.035 6 Duty of Clerk to Prepare and Transmit Record.**

5 (1) To the extent not inconsistent with the Florida Rules of Appellate Procedure, when
6 applicable, when a change in the tax roll made by the board becomes subject to review by the
7 Circuit Court pursuant to Section 194.036(1)(c), Florida Statutes, it shall be the duty of the clerk,
8 when requested, to prepare the record for review. The record shall consist of a copy of each
9 paper, including the petition and each exhibit in the proceeding together with a copy of the
10 board's decision and written findings of fact and conclusions of law. The clerk shall transmit to
11 the Court this record, and the clerk's certification of the record which shall be in the following
12 form:

13 Certification of Record

14 I hereby certify that the attached record, consisting of sequentially numbered pages one
15 through _____, consists of true copies of all papers, exhibits, and the Board's findings of fact and
16 conclusions of law, in the proceeding before the _____ County Value Adjustment
17 Board upon petition numbered _____ filed by _____.

18 _____

19 Clerk of Value Adjustment Board

20 By: _____

21 Deputy Clerk

22 Should the verbatim transcript be prepared other than by a court reporter, the clerk shall also
23 make the following certification:

1 CERTIFICATION OF VERBATIM TRANSCRIPT

2 I hereby certify that the attached verbatim transcript consisting of sequentially numbered
3 pages _____ through _____ is an accurate and true transcript of the hearing held on _____ in
4 the proceeding before the County Value Adjustment Board petition numbered _____ filed
5 by:

6 _____
7 Clerk of Value Adjustment Board

8 By: _____
9 Deputy Clerk

10 (2) The clerk shall provide the petitioner and property appraiser, upon their request, a
11 copy of the record at no more than actual cost.

12 Rulemaking Specific Authority [194.011\(5\)](#), [194.034\(1\)](#), 195.027(1), 213.06(1) FS. Law
13 Implemented 194.032, 194.036, 213.05 FS. History--New xx-xx-09.

14

15 **12D-9.036 7 Procedures for Petitions on Denials of Tax Deferrals.**

16 (1) The references in these rules to the tax collector are for the handling of petitions of
17 denials of tax deferrals under Sections 197.253, 197.3041 and 197.3073, Florida Statutes, and
18 petitions of penalties imposed under Sections 197.301, 197.3047, and 197.3079, Florida Statutes.

19 (2) To the extent possible where the context will permit, such petitions shall be handled
20 procedurally under this rule chapter in the same manner as denials of exemptions.

21 Rulemaking Specific Authority [194.011\(5\)](#), [194.034\(1\)](#), 195.027(1), 213.06(1) FS. Law
22 Implemented 194.032, 194.036, 197.253, 197.301, 197.3041, 197.3047, 197.3073, 197.3079,

23 213.05 FS. History--New xx-xx-09.

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Part III

Uniform Certification of Assessment Rolls

12D-9.0378 Certification of Assessment Rolls.

(1) After all hearings have been held, the board shall certify an assessment roll or part of an assessment roll that has been finally approved pursuant to Section 193.1142, Florida Statutes. The certification shall be on the form prescribed by the department in this rule. A sufficient number of copies of the board’s certification shall be delivered to the property appraiser who shall attach the same to each copy of each assessment roll prepared by the property appraiser.

(2) The form shall include a certification signed by the board chair, on behalf of the entire board, on Form DR-488, designated for this purpose, that all requirements in Chapter 194, Florida Statutes, and department rules, were met as follows:

(a) the prehearing checklist pursuant to Section 12D-9.0145, F.A.C. was followed and all necessary actions reported by the clerk were taken to comply with Section 12D-9.0145, F.A.C.;

(b) the qualifications of special magistrates were verified, including whether special magistrates completed the department’s training;

(c) the selection of special magistrates was based solely on proper qualifications and the property appraiser and parties did not influence the selection of special magistrates;

(d) all petitions considered were either timely filed, or good cause was found for late filing after proper review by the board or its designee;

(e) all board meetings were duly noticed pursuant to Section 286.011, Florida Statutes, and were held in accordance with law;

1 (f) no ex parte communications were considered unless all parties were notified and
2 allowed to rebut;

3 ~~(g) no hearings involving confidential information were held unless the information was~~
4 ~~necessary to the proceedings, the board or special magistrate followed all provisions necessary to~~
5 ~~protect confidential information, a proper order was entered on the record by the board or special~~
6 ~~magistrate, and the clerk maintained the records as exempt from Section 119.07(1), Florida~~
7 ~~Statutes; *removed temporarily while the department seeks an attorney general opinion*~~

8 ~~(g)(h)~~ all petitions were reviewed and considered as required by law unless withdrawn or
9 settled as defined in this rule chapter;

10 ~~(h)(i)~~ all decisions contain required findings of fact and conclusions of law in compliance
11 with Chapter 194, Florida Statutes, and this rule chapter;

12 ~~(i)(j)~~ the board allowed opportunity for public comment at the meeting at which special
13 magistrate recommended decisions were considered and adopted;

14 ~~(j)(k)~~ all board members and the board's legal counsel have read this certification and a
15 copy of the statement in subsection (1) is attached; and

16 ~~(k)(l)~~ all complaints of noncompliance with Part I, Chapter 194, Florida Statutes, or this
17 rule chapter called to the board's attention have been appropriately addressed to conform with
18 the provisions of Part I, Chapter 194, Florida Statutes, and this rule chapter.

19 (3) The board shall provide a signed original of the certification required under this rule
20 section to the department before publication of the notice of the findings and results of the board
21 required by Section 194.037, Florida Statutes. See Form DR-529, Notice Tax Impact of Value
22 Adjustment Board.

1 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
2 Implemented 193.122, 194.011, 195.022, 213.05 FS. History--New xx-xx-09.

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4 **12D-9.038 9 Public Notice of Findings and Results of Value Adjustment Board.**

5 (1) After all hearings have been completed, the clerk of the value adjustment board shall
6 publish a public notice advising all taxpayers of the findings and results of the board decisions,
7 which shall include changes made by the board to the property appraiser's initial roll. For
8 petitioned parcels, the property appraiser's initial roll shall be the property appraiser's
9 determinations as presented at the commencement of the hearing or as settled by the property
10 appraiser during the hearing but before a decision by the board or a recommended decision by a
11 special magistrate. The public notice shall be in the form of a newspaper advertisement and shall
12 be referred to as the "tax impact notice". The format of the tax impact notice shall be
13 substantially as prescribed in Form DR-529, Notice Tax Impact of Value Adjustment Board,
14 incorporated by reference in rule 12D-16.002.

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

19 (3) The notice of the findings and results of the value adjustment board shall be published
20 in a newspaper of paid general circulation within the county. It shall be the specific intent of the
21 publication of notice to reach the largest segment of the total county population. Any newspaper
22 of less than general circulation in the county shall not be considered for publication except to
23 supplement notices published in a paper of general circulation.

1 (4) The headline of the notice shall be set in a type no smaller than 18 point and shall
2 read "TAX IMPACT OF VALUE ADJUSTMENT BOARD."

3 (5) It shall be the duty of the board clerk to insure publication of the notice after the board
4 has heard all petitions, complaints, appeals, and disputes.

5 Rulemaking Specific Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law
6 Implemented 50, 194.032, 194.034, 194.037, 213.05 FS. History--New xx-xx-09.

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