

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:

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- 12D-9.038 Public Notice of Findings and Results of Value Adjustment Board

## NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules listed above, as published in the September 4, 2009, issue of the Florida Administrative Weekly (Vol. 35, No. 35, pp. 4249 – 4280). These changes are in accordance with subparagraph 120.54(3)(d)1., F.S.

The Department has made two technical changes to phrases that are used throughout the proposed new rules in Rule Chapter 12D-9, as published in the Notice of Proposed Rule on September 4, 2009. One technical change is to change the phrase “clerk of the board” or the word “clerk”, wherever this phrase or word appeared in the September 4 notice, to instead read “board clerk”. The other technical change is to change the phrase “legal counsel to the board”, wherever this phrase appeared in the September 4 notice, to instead read “board legal counsel”. A revised redline version of the proposed new rules in Rule Chapter 12D-9 will be available at <http://dor.myflorida.com/dor/property/vab/rules>. This redline version shows each addition and deletion to the text that was originally published in the Notice of Proposed Rule on September 4, 2009.

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

Subsection (1) through (2)(h) – No change.

When adopted, subsections (2)(i), (j), and (k) of Rule 12D-9.001 will read as follows:

(i) The right to have evidence presented and considered at a public hearing or at a time when the petitioner has been given reasonable notice;

(j) The right to have witnesses sworn and cross-examined;

(k) The right to be issued a timely written decision within 20 calendar days of the last day the board is in session pursuant to Section 194.032, Florida Statutes by the value adjustment board

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determination of the property appraiser or tax collector.

Subsections (2)(l) through (2)(o) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 192.0105, 193.074, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.301, 195.002, 195.027, 195.084, 195.096, 196.011, 196.151, 196.193, 196.194, 197.122, 213.05 FS.

History—New \_\_\_\_\_.

#### 12D-9.002 Informal Conference Procedures.

Subsections (1) through (3) – No change.

When adopted, subsection (4) of Rule 12D-9.002, will read as follows:

(4) The request for an informal conference is not a prerequisite to administrative or judicial review of property assessments. Requesting or participating in an informal conference does not extend the petition filing deadline. A taxpayer may file a petition while seeking an informal conference in order to preserve his or her right to an administrative hearing.

#### 12D-9.003 Definitions

Subsections (1) through (7) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 192.001, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.171, 195.022, 213.05, AGO 2002-058 FS. History-New \_\_\_\_\_.

#### 12D-9.004 Composition of the Value Adjustment Board.

When adopted, subsection (1)(a) of Rule 12D-9.004, will read as follows:

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

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

Subsections (1)(b) through (c)2. – No change.

When adopted, paragraph (1)(c)3. of Rule 12D-9.004, will read as follows:

3. Citizen members must not be:

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

b. A person who represents property owners, property appraisers, tax collectors, or taxing authorities in any administrative or judicial review of property taxes.

Subsections (1)(c)4. through (4)(b) – No change.

When adopted, subsection (5) of Rule 12D-9.004, will read as follows:

(5) The value adjustment board cannot hold its organizational meeting until all members of the board are appointed even if the number and type of members appointed are sufficient to constitute a quorum. If board legal counsel has not been previously appointed for that year, such appointment must be the first order of business.

#### 12D-9.005 Duties of the Board.

When adopted, subsection (1)(a) of Rule 12D-9.005, will read as follows:

(1)(a) The value adjustment board shall begin hearings on petitions not earlier than 30 days and not later than 60 days after the mailing of the notice provided in Section 194.011(1), Florida Statutes; however, no board hearing shall be held before approval of all or any part of the

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purposes:

Subsections (1)(a)1. through (1)(b) – No change.

When adopted, subsection (1)(c) of Rule 12D-9.005, will read as follows:

(1)(c) The board shall remain in session until its duties are completed concerning all assessment rolls or parts of assessment rolls. The board may temporarily recess but shall reconvene when necessary to hear petitions, complaints, or appeals and disputes filed upon the roll or portion of the roll when approved. The board shall make its decisions timely so that the board clerk may observe the requirement that such decisions shall be issued within 20 calendar days of the last day the board is in session pursuant to Section 194.032, Florida Statutes.

Subsections (2)(a) and (2)(b) – No change.

When adopted, subsection (2)(c) of Rule 12D-9.005, will read as follows:

(2)(c) The board shall not provide notices or establish a local procedure instructing petitioners to contact the property appraiser's or tax collector's office or any other agency with questions about board hearings or procedures. The board, board legal counsel, board clerk, special magistrate or other board representative shall not otherwise enlist the property appraiser's or tax collector's office to perform administrative duties for the board. Personnel performing any of the board's duties shall be independent of the property appraiser's and tax collector's office. This section shall not prevent the board clerk or personnel performing board duties from referring petitioners to the property appraiser or tax collector for issues within the responsibility of the property appraiser or tax collector. This section shall not prevent the property appraiser from providing data to assist the board clerk with the notice of tax impact.

Subsections (3) and (4) – No change.

When adopted, subsection (5) of Rule 12D-9.005, will read as follows:

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

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 192.0105, 194.011, 194.015, 194.032, 194.034, 194.035, 194.037, 213.05 FS. History-New

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12D-9.006 Clerk of the Value Adjustment Board. – No change.

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

Subsections (1) through (2) – No change.

When adopted, subsection (3) of Rule 12D-9.007, will read as follows:

(3) The board clerk shall receive and acknowledge completed petitions and promptly furnish a copy of all completed and timely filed petitions to the property appraiser or tax collector. Alternatively, the property appraiser or the tax collector may obtain the relevant information from the board clerk electronically.

Subsections (4) through (5) – No change.

When adopted, subsection (6) of Rule 12D-9.007, will read as follows:

(6) If an incomplete petition, which includes a petition not accompanied by the required filing fee, is received within the time required, the board clerk shall notify the petitioner and give the petitioner an opportunity to complete the petition within 10 calendar days from the date notification is mailed. Such petition shall be timely if completed and filed including payment of

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incomplete petition.

Subsection (7) – No change.

When adopted, subsection (8) of Rule 12D-9.007, will read as follows:

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

Subsection (9) – No change.

When adopted, subsection (10) of Rule 12D-9.007, will read as follows:

(10) The board clerk shall timely notify the petitioner by first class mail of the decisions of the board so that such decisions shall be issued within 20 calendar days of the last day the board is in session pursuant to Section 194.032, Florida Statutes, and shall otherwise notify the property appraiser or tax collector of such decision. In counties using special magistrates the board clerk shall also make available to both parties as soon as practicable a copy of the recommended decision of the special magistrate by mail or electronic means. No party shall have access to decisions prior to any other party.

Subsections (11) through (12) – No change.

When adopted, subsections (13) through (14) of Rule 12D-9.007, will read as follows:

(13) The board clerk shall make available to the public copies of all additional internal operating procedures and forms of the board or special magistrates described in Section 12D-9.005, F.A.C. and shall post any such procedures and forms on the board clerk's website, if any. Making materials available on a website is sufficient; however, provisions shall be made for

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(14) The board clerk shall provide notification of appeals or value adjustment board petitions taken with respect to property located within a municipality to the chief executive officer of each municipality as provided in Section 193.116, Florida Statutes. The board clerk shall also publish any notice required by Section 196.194, Florida Statutes.

Subsection (15) – No change.

12D-9.008 Appointment of Legal Counsel to the Value Adjustment Board. – No change.

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

Subsections (1)(a) through (1)(e) – No change.

When adopted, subsection (1)(f) of Rule 12D-9.009, will read as follows:

(f) Board legal counsel shall review and respond to written complaints alleging noncompliance with the law by the board, special magistrates, board clerk, and the parties. The legal counsel shall send a copy of the complaint along with the response to the department. This section does not refer to routine requests for reconsideration, requests for rescheduling, and pleadings and argument in petitions.

Subsection (2) – No change.

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

Subsections (1) through (5)(a) – No change.

When adopted, subsection (5)(b) of Rule 12D-9.010, will read as follows:

(5)(b) The selection of a special magistrate must be based solely on the experience and qualification of such magistrate, and must not be influenced by any party, or prospective party, to a board proceeding or by any such party with an interest in the outcome of such proceeding. Special magistrates must adhere to Section 12D-9.022, F.A.C. relating to disqualification or recusal.

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

When adopted, the introductory sentence of subsection (1) of Rule 12D-9.011 will read as follows:

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

Subsections (1)(a) through (1)(c) – No change.

When adopted, subsections (1)(d) through (3) of Rule 12D-9.011, will read as follows:

(1)(d) Make recommendations to the board which shall include proposed findings of fact, proposed conclusions of law, and the reasons for upholding or overturning the determination of the property appraiser or tax collector, also see Section 12D-9.030, F.A.C.

(2) The special magistrate shall perform other duties as set out in the rules of the department and other areas of Florida law, and shall abide by all limitations on the special magistrate's authority as provided by law.

(3) When the special magistrate determines that the property appraiser did not establish a presumption of correctness, or determines that the property appraiser established a presumption of correctness that is overcome, as provided in Section 12D-9.027, F.A.C., and the record

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required to establish a revised value for the petitioned property. In establishing the revised value when authorized by law, the board or special magistrate is not restricted to any specific value offered by the parties.

12D-9.012 Training of Special Magistrates, Value Adjustment Board Members and Legal Counsel.

Subsections (1)(a) through (1)(c) – No change.

When adopted, subsection (1)(d) of Rule 12D-9.012, will read as follows:

(1)(d) The roles of the board, board clerk, board legal counsel, special magistrates, and the property appraiser or tax collector and their staff;

Subsections (1)(e) through (3) – No change.

When adopted, subsection (4)(a) of Rule 12D-9.012, will read as follows:

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

Subsection (4)(b) – No change.

When adopted, subsection (5) of Rule 12D-9.012, will read as follows:

(5) The department’s training is the official training for special magistrates regarding administrative reviews. The board clerk and board legal counsel may provide orientation to the special magistrates relating to local operating or ministerial procedures only. Such orientation

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from giving legal advice; however, to the fullest extent practicable, such legal advice should be in writing and public record. For requirements for decisions specifically based on legal advice see Sections 12D-9.030(6), and 12D-9.032(1)(b), F.A.C.

Subsection (6) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 194.035, 195.022, 195.084, 213.05, Chapter 475, Part II FS. History- New \_\_\_\_\_.

12D-9.013 Organizational Meeting of the Value Adjustment Board.

Subsection (1)(a) – No change.

When adopted, subsections (1)(b) and (c) of Rule 12D-9.013, will read as follows:

(1)(b) Introduce the board clerk, or any designee of the board clerk and provide the board clerk’s contact information;

(c) Appoint or ratify the private board legal counsel. At the meeting at which board counsel is appointed, this item shall be the first order of business.

Subsection (1)(d) through (1)(i) – No change.

When adopted, subsections (1)(j), (k), and (l) and subsection (2) of Rule 12D-9.013, will read as follows:

(j) Make available to the public, special magistrates and board members, Rule Sections 12D-51.001, 51.002, 51.003, Florida Administrative Code, and Chapters 192 through 195, Florida Statutes, as reference information containing the guidelines and statutes applicable to assessments and assessment administration.

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

(1) For purposes of this rule, making available to the public means, in addition to having copies at the meeting, the board may refer to a website containing copies of such documents.

(2) The board shall announce the tentative schedule for the value adjustment board taking into consideration the number of petitions filed, the possibility of the need to reschedule and the requirement that the board stay in session until all petitions have been heard.

Subsection (3) – No change.

12D-9.014 Prehearing Checklist.

Subsections (1)(a) through (1)(c) – No change.

When adopted, subsection (1)(d) of Rule 12D-9.014, will read as follows:

(d) No board members represent other government entities or taxpayers in any administrative or judicial review of property taxes, and citizen members are not members or employees of a taxing authority, during their membership on the board;

Subsections (1)(e) through (2) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 195.084, 213.05 FS. History-New \_\_\_\_\_.

12D-9.015 Petition; Form and Filing Fee.

When adopted, subsection (1)(a) of Rule 12D-9.015, will read as follows:

(1)(a) For the purpose of requesting a hearing before the value adjustment board, the department prescribes Form DR-486. The Form DR-486 series is adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code.

Subsections (1)(b) through (2)(b) – No change.

When adopted, subsection (2)(c) of Rule 12D-9.015, will read as follows:

(c) State the approximate time anticipated by the petitioner for presenting and arguing his or her petition before the board or special magistrate to be considered by the board clerk as provided in Section 12D-9.019(1), F.A.C. and may provide dates of nonavailability for scheduling purposes if applicable;

Subsections (2)(d) through (2)(f)1. – No change.

When adopted, subsection (2)(f)2. of Rule 12D-9.015, will read as follows:

2. Contain a signature field to be signed by an authorized agent. If the authorized agent is subject to licensure as described in Section 12D-9.018, F.A.C., a space to provide identification of the licensing body and license number. If the authorized agent is not subject to licensure, for example a family member, a space to indicate the petition is accompanied by a written authorization of the taxpayer if not otherwise signed by the taxpayer;

Subsection (2)(g) through (2)(h) – No change.

When adopted, subsection (3) of Rule 12D-9.015, will read as follows:

(3) The petition form shall provide notice to the petitioner that the person signing the petition becomes the agent of the taxpayer for the purpose of serving process to obtain personal jurisdiction over the taxpayer for the entire value adjustment board proceeding, including any appeals to circuit court of a board decision by the property appraiser or tax collector.

Subsections (4) through the introductory sentence of subsection (7) – No change.

When adopted, subsection (7)(a) of Rule 12D-9.015, will read as follows:

(7)(a) Other than fees required for late filed applications under Sections 193.155(8)(i) and 196.011(8), Florida Statutes, only a single filing fee shall be charged to any particular parcel of property despite the existence of multiple issues or hearings pertaining to such parcels.

Subsection (7)(b) – No change.

When adopted, subsection (7)(c) of Rule 12D-9.015, will read as follows:

(7)(c) For joint petitions filed pursuant to Section 194.011(3)(e) or (f), Florida Statutes, a single filing fee shall be charged. Such fee shall be calculated as the cost of the time required for the special magistrate in hearing the joint petition and shall not exceed \$5 per parcel, for each additional parcel included in the petition, in addition to any filing fee for the petition. Said fee is to be proportionately paid by affected parcel owners.

Subsections (7)(d) through (7)(e)– No change.

When adopted, subsection (8) of Rule 12D-9.015, will read as follows:

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

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indication on the petition form showing a joint petition, shall be sufficient to signify a joint petition.

Subsections (9)(a) through (9)(b) – No change.

When adopted, subsection (9)(c) of Rule 12D-9.015, will read as follows:

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

Subsections (10) through (10)(e) – No change.

When adopted, subsection (10)(f) of Rule 12D-9.015, will read as follows:

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

Subsection (10)(g) – No change.

When adopted, subsections (11)(a) through (11)(b) of Rule 12D-9.015, will read as follows:

(11) Late Filed Petitions.

(a) The board may not extend the time for filing a petition. The board is not authorized to set and publish a deadline for late filed petitions. However, the failure to meet the statutory deadline for filing a petition to the board does not prevent consideration of such a petition by the board or special magistrate when the board or board designee determines that the petitioner has demonstrated good cause justifying consideration and that the delay will not, in fact, be harmful

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showing of extraordinary circumstances, as follows:

1. Personal, family, or business crisis or emergency at a critical time or for an extended period of time that would cause a reasonable person's attention to be diverted from filing;

2. Physical or mental illness, infirmity, or disability that would reasonably affect the petitioner's ability to timely file; or,

3. Miscommunication with, or misinformation received from, the clerk, property appraiser, or their staff regarding the necessity or the proper procedure for filing that would cause a reasonable person's attention to be diverted from timely filing; or,

4. Any other cause beyond the control of the petitioner that would prevent a reasonably prudent petitioner from timely filing.

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

Subsection (11)(c) – No change.

When adopted, subsections (11)(d) through (11)(f) of Rule 12D-9.015, will read as follows:

(d) The board is authorized to, but need not, require good cause hearings before good cause determinations are made. The board or a board designee, which includes the board legal counsel or a special magistrate, shall determine whether the petitioner has demonstrated, in writing, good cause justifying consideration of the petition. If the board or a board designee determines that the

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notify the petitioner and the property appraiser or the tax collector.

(e) If the board or a board designee determines that the petitioner has not demonstrated good cause, or if the petition is not accompanied by a written explanation for the delay in filing, the board clerk shall notify the petitioner and the property appraiser or tax collector.

(f) A person who files a petition may timely file an action in circuit court to preserve the right to proceed in circuit court. (Sections 193.155(8)(k), 194.036, 194.171(2), and 196.151, Florida Statutes).

Subsections (12) through (13) – No change.

When adopted, subsection (14) of Rule 12D-9.015, will read as follows:

(14) Copies of the forms incorporated in Section 12D-16.002, F.A.C. may be obtained at the Department’s Internet site:<http://dor.myflorida.com/dor/property/forms/>.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.155, 194.011, 194.013, 194.032, 194.034, 194.036, 194.171, 195.022, 195.084, 196.151, 197.253, 197.301, 197.3041, 197.3047, 197.3073, 197.3079, 200.069, 213.05 FS. History-New

12D-9.016 Filing and Service.

Subsections (1) through (2)(b) – No change.

When adopted, subsections (2)(c) through (3) of Rule 12D-9.016, will read as follows:

(2)(c) Any document that is required to be filed, served, provided or made available may be filed, served, provided or made available electronically, if the board and the board clerk make such resources available, and no party is prejudiced.

(d) Local procedure may supersede provisions regarding the number of copies that must be provided.

(3) When a party files a document with the board, other than the petition, that party shall serve copies of the document to all parties in the proceeding. When a document is filed that does not clearly indicate it has been provided to the other party, the board clerk, board legal counsel, board members and special magistrates shall inform the party of the requirement to provide to every party or shall exercise care to ensure that a copy is provided to every party, and that no ex parte communication occurs.

Subsection (4) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 213.05 FS. History-New \_\_\_\_\_.

12D-9.017 Ex Parte Communication Prohibition.

Subsections (1) through (3) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 213.05 FS. History-New \_\_\_\_\_.

12D-9.018 Representation of the Taxpayer.

Subsections (1) through (5) – No change.

When adopted, subsections (6) and (7) of Rule 12D-9.018, will read as follows:

(6) When duplicate petitions are filed on the same property, the board clerk shall contact the owner and all petitioners to resolve the issue.

(7) The board clerk may require the use of an agent number to facilitate scheduling of hearings as long as such use is not inconsistent with this rule.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.032, 194.034, 195.022, 195.084, 213.05, Chapter 475, Part I and II FS.

History-New \_\_\_\_\_.

12D-9.019 Scheduling and Notice of a Hearing.

Subsections (1)(a) through (1)(b) – No change.

When adopted, subsection (1)(c) of Rule 12D-19.019, will read as follows:

(c) Upon request of a party, the board clerk shall consult with the petitioner and the property appraiser or tax collector to ensure that, within the board clerk’s judgment, an adequate amount of time is provided for presenting and considering evidence.

Subsection (2) – No change.

When adopted, subsection (3)(a) of Rule 12D-9.019, will read as follows:

(3)(a) The notice of hearing before the value adjustment board shall be in writing, and shall be delivered by regular or certified U.S. mail or personal delivery, or in the manner requested by the petitioner on Form DR-486, so that the notice shall be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The Form DR-486 series is adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code. The notice of hearing form shall meet the requirements of this section and shall be subject to approval by the department. The department provides Form DR-481 as a format for the form of such notice. Form DR-481 is adopted and incorporated by reference in Section 12D-16.002, Florida Administration Code. The notice shall include these elements:

Subsections (3)(a)1. through (3)(a)11. – No change.

When adopted, subsection (3)(b) of Rule 12D-9.019, will read as follows:

(3)(b) If the petitioner has requested a copy of the property record card, it shall be sent no later than the time at which the notice of hearing is sent.

Subsections (4) through (5)(b) – No change.

When adopted, subsections (5)(c), and (d) of Rule 12D-9.019, will read as follows:

(5)(c) The board clerk shall give appropriate notice to the petitioner of the determination as to good cause. Form DR-485WCN is designated and may be used for this purpose. Form DR-485WCN is adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code. The board clerk shall also appropriately notify the property appraiser or tax collector.

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

Subsections (6) through (7)(c)– No change.

When adopted, subsection (8) of Rule 12D-9.019, will read as follows:

(8) Copies of the forms incorporated in Section 12D-16.002, F.A.C. may be obtained at the Department’s Internet site: <http://dor.myflorida.com/dor/property/forms/>.

12D-9.020 Exchange of Evidence.

When adopted, subsection (1) of Rule 12D-9.020, will read as follows:

(1) The petitioner has the option of participating in an exchange of evidence with the property appraiser. If the petitioner chooses not to participate in the evidence exchange, the petitioner may still present evidence for consideration by the board or the special magistrate. However, as described in this section, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser a reasonable time before the hearing, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. These requirements are more specifically described in subsection (8) and in Section 12D-9.025(4)(a) and (f), F.A.C.

Subsections (2)(a) through (6) – No change.

When adopted, subsections (7), (8), and (9) of Rule 12D-9.020, will read as follows:

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

(8) No petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser in connection with a filed petition, of which the petitioner had knowledge and denied to the property appraiser. Such evidentiary materials shall be considered timely if provided to the property appraiser no later than fifteen (15) days before

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property appraiser less than fifteen (15) days before the hearing, such materials shall be considered timely if the board or special magistrate determines they were provided a reasonable time before the hearing, as described in Section 12D-9.025(4)(f), F.A.C. A petitioner's ability to introduce the evidence, requested of the petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph. This provision does not preclude rebuttal evidence that was not specifically requested of the petitioner by the property appraiser.

(9) As the trier of fact, the board or special magistrate may independently rule on the admissibility and use of evidence. If the board or special magistrate has any questions relating to the admissibility and use of evidence, the board or special magistrate should consult with the board legal counsel. The basis for any ruling on admissibility of evidence must be reflected in the record.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.074, 194.011, 194.015, 194.032, 194.034, 194.035, 195.022, 195.084, 200.069, 213.05 FS. History–New \_\_\_\_\_.

12D-9.021 Withdrawn or Settled Petitions; Petitions Acknowledged as Correct; Non Appearance; Summary Disposition of Petitions.

When adopted, the introductory paragraph of subsection (1) of Rule 12D-9.021, will read as follows:

(1) A petitioner may withdraw a petition prior to the scheduled hearing. Form DR-485WI is prescribed by the department for such purpose; however, other written or electronic means may

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Florida Administrative Code. Form DR-485WI shall indicate the reason for the withdrawal as one of the following:

Subsections (1)(a) through (2) – No change.

When adopted, subsections (3) through (9) of Rule 12D-9.021, will read as follows:

(3) If a property appraiser or tax collector agrees with a petition challenging a decision to deny an exemption, classification, portability assessment difference transfer, or deferral, the property appraiser or tax collector shall issue the petitioner a notice granting said exemption, classification, portability assessment difference transfer, or deferral and shall file with the board clerk a notice that the petition was acknowledged as correct. The board clerk shall cancel the hearing upon receiving the notice of acknowledgement and there shall be no further proceeding on the matter acknowledged as correct.

(4) If parties do not file a notice of withdrawal or notice of acknowledgement but indicate the same at the hearing, the board or special magistrate shall so state on the hearing record and shall not proceed with the hearing and shall not issue a decision. If a petition is withdrawn or acknowledged as correct under subsection (1), (2), or (3), or settlement is reached and filed by the parties, at any time before a recommended decision or final board decision is issued, the board, special magistrate or clerk need not issue such decision. The board clerk shall list and report all withdrawals, settlements, acknowledgements of correctness as withdrawn or settled petitions. Settled petitions shall include those acknowledged as correct by the property appraiser or tax collector.

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

(6) When a petitioner does not appear by the commencement of a scheduled hearing and the petitioner has not indicated a desire to have their petition heard without their attendance and a good cause request is not pending, the board or the special magistrate shall not commence or proceed with the hearing and shall produce a decision or recommended decision as described in this section. If the petitioner makes a good cause request before the decision, if no special magistrate is used, or recommended decision, if a special magistrate is used, is issued, the board or board designee shall rule on the good cause request before determining that the decision or recommended decision should be set aside and that the hearing should be rescheduled, or that the board or special magistrate should issue the decision or recommended decision.

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

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

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

(8) Decisions issued under subsection (6) or subsection (7) shall not be treated as withdrawn or settled petitions and shall contain:

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

(b) A conclusion of law that the relief is denied and the decision is being issued in order that any right the petitioner may have to bring an action in circuit court is not impaired.

(9) Copies of the forms incorporated in Section 12D-16.002, F.A.C. may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

12D-9.022 Disqualification or Recusal of Special Magistrates or Board Members.

When adopted, subsection (1) of Rule 12D-9.022, will read as follows:

(1) If either the petitioner or the property appraiser communicates a reasonable belief that a special magistrate does not possess the statutory qualifications in accordance with Sections 194.035 and 475.611(1)(h) and (i), Florida Statutes, to conduct a particular proceeding, the basis for that belief shall be included in the record of the proceeding or submitted prior to the hearing in writing to the board legal counsel.

Subsections (2)(a) through (3) – No change.

When adopted, subsection (4)(a) of Rule 12D-9.022, will read as follows:

(4)(a) If either the petitioner or the property appraiser communicates a reasonable belief that a board member or special magistrate has a conflict of interest, the basis for that belief shall be stated in the record of the proceeding or submitted prior to the hearing in writing to the board legal counsel.

Subsections (4)(b) through (4)(e) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 194.035, 213.05, 475.611, FS. History-New \_\_\_\_\_.

12D-9.023 Hearings Before Board or Special Magistrates.

Subsections (1) through (2) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New \_\_\_\_\_.

12D-9.024 Procedures for Commencement of a Hearing.

Subsections (1) through (6) – No change.

When adopted, subsection (7) of Rule 12D-9.024, will read as follows:

(7) After the opening statement, and clarification of any questions with the parties, the board or special magistrate shall proceed with the hearing. The property appraiser shall indicate for the record his or her determination of just value, classified use value, tax exemption, property classification, or “portability” assessment difference, or deferral or penalties. Under Subsection 194.301(1), Florida Statutes, in a hearing on just, classified use, or assessed value, the first issue to be considered is whether the property appraiser establishes a presumption of correctness for the assessment. The property appraiser shall present evidence on this issue first.

Subsection (8) – No change.

When adopted, subsection (9)(a) of Rule 12D-9.024, will read as follows:

(9)(a) If the petitioner does not appear by the commencement of a scheduled hearing, the board or special magistrate shall not commence the hearing and shall proceed under the requirements set forth in Section 12D-9.021(6), F.A.C., unless:

Subsections (9)(a)1. through (9)(b)3. – No change.

When adopted, subsection (10) of Rule 12D-9.024, will read as follows:

(10) If the property appraiser or tax collector does not appear by the commencement of a scheduled hearing, except a good cause hearing, the board or special magistrate shall state on the record that the property appraiser or tax collector did not appear at the hearing. Then, the board

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have the hearing rescheduled or wants to proceed with the hearing without the property appraiser or tax collector. If the petitioner elects to have the hearing rescheduled, the board clerk shall reschedule the hearing. If the petitioner elects to proceed with the hearing without the property appraiser or tax collector, the board or special magistrate shall proceed with the hearing and shall produce a decision or recommended decision.

Subsection (11) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New \_\_\_\_\_.

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

Subsections (1) through (2)(c) – No change.

When adopted, subsection (2)(d) of Rule 12D-9.025, will read as follows:

(2)(d) As the trier of fact, the board or special magistrate may independently rule on the admissibility and use of evidence. If the board or special magistrate has any questions relating to the admissibility and use of evidence, the board or special magistrate should consult with the board legal counsel. The basis for any ruling on admissibility of evidence must be reflected in the record. The special magistrate may delay ruling on the question during the hearing and consult with board legal counsel after the hearing.

Subsection (3)(a) – No change.

When adopted, subsections (3)(b) through the introductory sentence of subsection (4)(c) of Rule 12D-9.025, will read as follows:

(3)(b) Under Section 194.301, Florida Statutes, “preponderance of the evidence” is the standard of proof that applies in assessment challenges. The “clear and convincing evidence” standard of proof no longer applies, starting with 2009 assessments. A taxpayer shall never have the burden of proving that the property appraiser’s assessment is not supported by any reasonable hypothesis of a legal assessment.

(4)(a) No evidence shall be considered by the board or special magistrate except when presented and admitted during the time scheduled for the petitioner’s hearing, or at a time when the petitioner has been given reasonable notice. The petitioner may still present evidence if he or she does not participate in the evidence exchange. However, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and refuses to provide it to the property appraiser, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. These requirements are more specifically described in paragraph (f) below.

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

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

Subsections (4)(c)1 through (4)(e) – No change.

When adopted, paragraph (4)(f) of Rule 12D-9.025, will read as follows:

(4)(f)1. No petitioner shall present for consideration, nor shall the board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser in connection with a filed petition, of which the petitioner had knowledge and denied to the property appraiser. Such evidentiary materials

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before the hearing in accordance with the exchange of evidence rules in Section 12D-9.020, F.A.C. and, if provided to the property appraiser less than fifteen (15) days before the hearing, shall be considered timely if the board or special magistrate determines they were provided a reasonable time before the hearing. A petitioner's ability to introduce the evidence, requested of the petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph. This provision does not preclude rebuttal evidence that was not specifically requested of the petitioner by the property appraiser. For purposes of this rule and Section 12D-9.020, F.A.C. reasonableness shall be assumed if the property appraiser does not object. Otherwise, reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. If a petitioner has acted in good faith and not denied evidence to the property appraiser prior to the hearing, as provided by Section 194.034(1)(d), F.S. but wishes to submit evidence at the hearing which is of a nature that would require investigation or verification by the property appraiser, then the special magistrate may allow the hearing to be recessed and, if necessary, rescheduled so that the property appraiser may review such evidence.

2. A property appraiser shall not present undisclosed evidence that was not supplied to the petitioner as required under the evidence exchange rule, Section 12D-9.020, F.A.C. The remedy for such noncompliance shall be a rescheduling of the hearing to allow the petitioner an opportunity to review the information of the property appraiser.

Subsection (5) – No change.

When adopted, subsection (6)(a) of Rule 12D-9.025, will read as follows:

(6)(a) By agreement of the parties entered in the record, the board or special magistrate may

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collect and provide additional relevant and credible evidence. Such postponements shall be limited to instances where, after completing original presentations of evidence, the parties agree to the collection and submittal of additional, specific factual evidence for consideration by the board or special magistrate. In lieu of completing the hearing, upon agreement of the parties the board or special magistrate is authorized to consider such evidence without further hearing.

Subsections (6)(b) through (9) - No change.

When adopted, subsection (10) of Rule 12D-9.025, will read as follows:

(10) For purposes of reporting board action on decisions and on the notice of tax impact, the value as reflected on the initial roll shall mean the property appraiser's determination as presented at the commencement of the hearing or as reduced by the property appraiser during the hearing, but before a decision by the board or a recommended decision by the special magistrate.

See Section 12D-9.038, F.A.C.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.092, 194.011, 194.032, 194.034, 195.022, 195.084, 213.05 FS. History-New \_\_\_\_\_.

#### 12D-9.026 Procedures for Conducting a Hearing by Electronic Media.

Subsections (1) through (1)(b) – No change.

When adopted, subsection (1)(c) of Rule 12D-9.026, will read as follows:

(c) The board must reasonably accommodate parties that have hardship or lack necessary equipment or ability to access equipment. The board must provide a physical location at which a party may appear, if requested.

Subsections (2) through (4) – No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.032, 194.034, 195.035, 195.022, 195.084, 213.05 FS. History-New

12D-9.027 Process of Administrative Review.

When adopted, Rule 12D-9.027, will read as follows:

(1) This section sets forth the sequence of general procedural steps for administrative reviews. This order of steps applies to: the consideration of evidence, the development of conclusions, and the production of written decisions. The board or special magistrate shall follow this general sequence in order to fulfill the procedural requirements of Section 194.301, Florida Statutes. The following subsections set forth the steps for administrative reviews of:

(a) Just valuations in subsection (2);

(b) Classified use valuations, and assessed valuations of limited increase property, in subsection (3); and

(c) Exemptions, classifications, and portability assessment transfers in subsection (4).

(2) In administrative reviews of the just valuation of property, the board or special magistrate shall follow this sequence of general procedural steps:

(a) Determine whether the property appraiser established a presumption of correctness for the assessment, and determine whether the property appraiser's just valuation methodology is appropriate. The presumption of correctness is not established unless the admitted evidence proves by a preponderance of the evidence that the property appraiser's just valuation methodology complies with Section 193.011, Florida Statutes, and professionally accepted appraisal practices, including mass appraisal standards, if appropriate.

(b)1. In administrative reviews of just valuations, if the property appraiser establishes a presumption of correctness, determine whether the admitted evidence proves by a preponderance of the evidence that:

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

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

2. If one or both of the conditions in subparagraph (b)1. above are determined to exist, the property appraiser's presumption of correctness is overcome.

3. If the property appraiser does not establish a presumption of correctness, or if the presumption of correctness is overcome, the board or special magistrate shall determine whether the hearing record contains competent, substantial evidence of just value which cumulatively meets the criteria of Section 193.011, Florida Statutes, and professionally accepted appraisal practices.

a. If the hearing record contains competent, substantial evidence for establishing a revised just value, the board or an appraiser special magistrate shall establish a revised just value based only upon such evidence. In establishing a revised just value, the board or special magistrate is not restricted to any specific value offered by one of the parties.

b. If the hearing record lacks competent, substantial evidence for establishing a revised just value, the board or special magistrate shall remand the assessment to the property appraiser with appropriate directions for establishing just value.

4. If the property appraiser establishes a presumption of correctness and that presumption of correctness is not overcome as described in subparagraph (b)1. above, the assessment stands.

(3) In administrative reviews of the classified use valuation of property or administrative reviews of the assessed valuation of limited increase property, the board or special magistrate shall follow this sequence of general procedural steps:

(a) Identify the statutory criteria that apply to the classified use valuation of the property or to the assessed valuation of limited increase property, as applicable.

(b) Determine whether the property appraiser established a presumption of correctness for the assessment, and determine whether the property appraiser's classified use or assessed valuation methodology is appropriate. The presumption of correctness is not established unless the admitted evidence proves by a preponderance of the evidence that the property appraiser's valuation methodology complies with the statutory criteria that apply to the classified use valuation or assessed valuation, as applicable, of the petitioned property.

(c)1. In administrative reviews of classified use valuations, if the property appraiser establishes a presumption of correctness, determine whether the admitted evidence proves by a preponderance of the evidence that:

a. The property appraiser's classified use valuation does not represent classified use value; or

b. The property appraiser's classified use valuation is arbitrarily based on classified use valuation practices that are different from the classified use valuation practices generally applied by the property appraiser to comparable property of the same property classification within the same county.

2. If one or both of the conditions in subparagraph (c)1. above are determined to exist, the property appraiser's presumption of correctness is overcome.

3. If the property appraiser does not establish a presumption of correctness, or if the presumption of correctness is overcome, the board or special magistrate shall determine whether

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cumulatively meets the statutory criteria that apply to the classified use valuation of the petitioned property.

a. If the hearing record contains competent, substantial evidence for establishing a revised classified use value, the board or an appraiser special magistrate shall establish a revised classified use value based only upon such evidence. In establishing a revised classified use value, the board or special magistrate is not restricted to any specific value offered by one of the parties.

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

4. If the property appraiser establishes a presumption of correctness and that presumption of correctness is not overcome as described in subparagraph (c)1. above, the assessment stands.

(d)1. In administrative reviews of assessed valuations of limited increase property, if the property appraiser establishes a presumption of correctness, determine whether the admitted evidence proves by a preponderance of the evidence that:

a. The property appraiser's assessed valuation does not represent assessed value; or

b. The property appraiser's assessed valuation is arbitrarily based on assessed valuation practices that are different from the assessed valuation practices generally applied by the property appraiser to comparable property within the same county.

2. If one or both of the conditions in subparagraph (d)1. above are determined to exist, the property appraiser's presumption of correctness is overcome.

3. If the property appraiser does not establish a presumption of correctness, or if the presumption of correctness is overcome, the board or special magistrate shall determine whether

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cumulatively meets the statutory criteria that apply to the assessed valuation of the petitioned property.

a. If the hearing record contains competent, substantial evidence for establishing a revised assessed value, the board or an appraiser special magistrate shall establish a revised assessed value based only upon such evidence. In establishing a revised assessed value, the board or special magistrate is not restricted to any specific value offered by one of the parties.

b. If the hearing record lacks competent, substantial evidence for establishing a revised assessed value, the board or special magistrate shall remand the assessment to the property appraiser with appropriate directions for establishing assessed value.

4. If the property appraiser establishes a presumption of correctness and that presumption of correctness is not overcome as described in subparagraph (d)1. above, the assessment stands.

(4) In administrative reviews of exemptions, classifications, and portability assessment transfers, the board or special magistrate shall follow this sequence of general procedural steps:

(a) In the case of an exemption, the board or special magistrate shall consider whether the denial was valid or invalid and shall:

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

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

3. If the denial is found to be invalid, not give weight to the exemption denial or to any evidence supporting the basis for such denial, but shall instead proceed to dispose of the matter without further consideration in compliance with Section 194.301, Florida Statutes.

4. If the denial is found to be valid, proceed with steps (b) through (g) below.

(b) Consider the admitted evidence presented by the parties.

(c) Identify the particular exemption, property classification, or portability assessment transfer issue that is the subject of the petition.

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

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

(f) Identify and consider the basis used by the property appraiser in issuing the denial for the petitioned property.

(g) Determine whether the admitted evidence proves by a preponderance of the evidence that the property appraiser's denial is incorrect and the exemption, classification, or portability assessment transfer should be granted because all of the applicable statutory criteria are satisfied. Where necessary and where the context will permit in these rules, the term "statutory criteria" includes any constitutional criteria that do not require implementation by legislation.

(5) "Standard of proof" means the level of proof needed by the board or special magistrate to reach a particular conclusion. The standard of proof that applies in administrative reviews is called "preponderance of the evidence," which means "greater weight of the evidence."

(6) When applied to evidence, the term "sufficient" is a test of adequacy. Sufficient evidence is admitted evidence that has enough overall weight, in terms of relevance and credibility, to legally justify a particular conclusion. A particular conclusion is justified when the overall weight of the admitted evidence meets the standard of proof that applies to the issue under

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sufficiently relevant and credible to reach the standard of proof that applies to the issue under consideration. In determining whether the admitted evidence is sufficient for a particular issue under consideration, the board or special magistrate shall:

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

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

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

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

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

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.122, 194.011, 194.015, 194.032, 194.034, 194.036, 194.037, 194.301, 195.002, 195.084, 195.096, 196.011, 196.151, 196.193, 197.122, 213.05 FS. History—New \_\_\_\_\_.

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

Subsection (1) – No change.

When adopted, subsection (2) of Rule 12D-9.028, will read as follows:

(2) A petitioner may file a petition with the value adjustment board, in the county where the new homestead is located, to petition either a denial of a transfer or the amount of the transfer, on Form DR-486PORT. Form DR-486PORT is adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code. Such petition must be filed at any time during the

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taxes as provided in Section 194.011, Florida Statutes. If only a part of a transfer of assessment increase differential is granted, the notice of proposed property taxes shall function as notice of the taxpayer's right to appeal to the board.

Subsections (3) through (4) – No change.

When adopted, subsection (5) of Rule 12D-9.028, will read as follows:

(5) If the petitioner does not agree with the amount of the assessment limitation difference for which the petitioner qualifies as stated by the property appraiser in the county where the previous homestead property was located, or if the property appraiser in that county has not stated that the petitioner qualifies to transfer any assessment limitation difference, upon the petitioner filing a petition to the value adjustment board in the county where the new homestead property is located, the board clerk in that county shall, upon receiving the petition, send a notice using Form DR-486XCO, to the board clerk in the county where the previous homestead was located, which shall reconvene if it has already adjourned. Form DR-486XCO is adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code.

Subsections (6)(a) through (7) – No change.

When adopted, subsection (8) of Rule 12D-9.028, will read as follows:

(8) Copies of the forms incorporated in Section 12D-16.002, F.A.C. may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1) FS. Law Implemented 193.155, 194.011, 195.084, 213.05 FS. History—New \_\_\_\_\_.

12D-9.029 Procedures for Remanding Value Assessments to the Property Appraiser.

When adopted, subsection (1) of Rule 12D-9.029, will read as follows:

(1) The board or appraiser special magistrate shall remand a value assessment to the property appraiser when the board or special magistrate has concluded that:

(a) The property appraiser did not establish a presumption of correctness, or has concluded that the property appraiser established a presumption of correctness that is overcome, as provided in Section 12D-9.027, F.A.C.; and

(b) The record does not contain the competent substantial evidence necessary for the board or special magistrate to establish a revised just value, classified use value, or assessed value, as applicable.

Subsections (2) through (3) – No change.

When adopted, subsection (4) of Rule 12D-9.029, will read as follows:

(4) The board or special magistrate shall, on the appropriate decision form from the Form DR-485 series, produce written findings of fact and conclusions of law necessary to determine that a remand is required, but shall not render a recommended or final decision unless a continuation hearing is held as provided in subsection (9). The Form DR-485 series is adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code.

Subsections (5) through (9)(a) – No change.

When adopted, subsection (9)(b) of Rule 12D-9.029, will read as follows:

(9)(b) The board clerk shall schedule a continuation hearing if the petitioner notifies the board clerk, within 25 days of the date the board clerk sends the written remand review, that the results of the property appraiser's written remand review are unacceptable to the petitioner and that the petitioner requests a further hearing on the petition. The board clerk shall send the notice of hearing so that it will be received by the petitioner no less than twenty-five (25) calendar days

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When a petitioner does not notify the board clerk that the results of the property appraiser's written remand review are unacceptable to the petitioner and does not request a continuation hearing, or if the petitioner waives a continuation hearing, the board or special magistrate shall issue a decision or recommended decision. Such decision shall contain:

1. A finding of fact that the petitioner did not request a continuation hearing or waived such hearing; and

2. A conclusion of law that the decision is being issued in order that any right the petitioner may have to bring an action in circuit court is not impaired.

The petition shall be treated and listed as board action for purposes of the notice required by Section 12D-9.038, F.A.C.

Subsections (9)(c) through (13) – No change.

When adopted, subsection (14) of Rule 12D-9.029, will read as follows:

(14) Copies of the forms incorporated in Section 12D-16.002, F.A.C. may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

12D-9.030 Recommended Decisions.

Subsections (1) through (5) – No change.

When adopted, subsections (6) and (7) of Rule 12D-9.030, will read as follows:

(6) Legal advice from the board legal counsel relating to the facts of a petition or to the specific outcome of a decision, if in writing, shall be included in the record and referenced within the findings of fact and conclusions of law. If not in writing, such advice shall be documented within the findings of fact and conclusions of law.

(7) Copies of the forms incorporated in Section 12D-16.002, F.A.C. may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

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

Subsection (1) – No change.

When adopted, subsection (2) of Rule 12D-9.031, will read as follows:

(2) As provided in Sections 194.034(2) and 194.035(1), Florida Statutes, the board shall consider the recommended decisions of special magistrates and may act upon the recommended decisions without further hearing. If the board holds further hearing for such consideration, the board clerk shall send notice of the hearing to the parties. Any notice of hearing shall be in the same form as specified in Section 12D-9.019(3)(a), F.A.C., but need not include items specified in subparagraphs 6. through 9. of that subsection. The board shall consider whether the recommended decisions meet the requirements of subsection (1), and may rely on board legal counsel for such determination. Adoption of recommended decisions need not include a review of the underlying record.

Subsections (3) through (4)(c) – No change.

12D-9.032 Final Decisions.

When adopted, subsections (1) and (2) of Rule 12D-9.032, will read as follows:

(1)(a) For each petition not withdrawn or settled, the board shall produce a written final decision that contains findings of fact, conclusions of law, and reasons for upholding or overturning the property appraiser's determination. Each final decision shall contain sufficient

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decision, and shall otherwise meet the requirements of law. The board may fulfill the requirement to produce a written final decision by adopting by reference a recommended decision of the special magistrate containing the required elements and providing notice that it has done so. The board may adopt the special magistrate’s recommended decision as the decision of the board incorporating the recommended decision by reference, using a postcard or similar notice. The board shall ensure regular and timely approval of recommended decisions.

(b) Legal advice from the board legal counsel relating to the facts of a petition or to the specific outcome of a decision, if in writing, shall be included in the record and referenced within the findings of fact and conclusions of law. If not in writing, such advice shall be documented within the findings of fact and conclusions of law.

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

Subsection (3) – No change.

When adopted, subsections (4) through (6)(a) of Rule 12D-9.032, will read as follows:

(4) Upon issuance of a final decision by the board, the board shall provide it to the board clerk and the board clerk shall promptly provide notice of the final decision to the parties. Notice of the final decision may be made by providing a copy of the decision. The board shall issue all final decisions within 20 calendar days of the last day the board is in session pursuant to Section

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(5) For the purpose of producing the final decisions of the board, the department prescribes the Form DR-485 series, and any electronic equivalent forms approved by the department under Section 195.022, Florida Statutes. The Form DR-485 series is adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code. The Form DR-485 series, or approved electronic equivalent forms, are the only forms that shall be used for producing a final decision of the board. Before using any form to notify petitioners of the final decision, the board shall submit the proposed form to the department for approval. The board shall not use a form to notify the petitioner unless the department has approved the form. All decisions of the board, and all forms used to produce final decisions on petitions heard by the board, must contain the following required elements:

(a) Findings of fact;

(b) Conclusions of law; and

(c) Reasons for upholding or overturning the determination of the property appraiser.

(6)(a) If, prior to a final decision, any communication is received from a party concerning a board process on a petition or concerning a recommended decision, a copy of the communication shall promptly be furnished to all parties, the board clerk, and the board legal counsel. No such communication shall be furnished to the board or a special magistrate unless a copy is immediately furnished to all parties. A party may waive notification or furnishing of copies under this subsection.

Subsections (6)(b) through (6)(d) – No change.

When adopted, subsection (7) of Rule 12D-9.032, will read as follows:

(7) Copies of the forms incorporated in Section 12D-16.002, F.A.C. may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05 FS. History-New \_\_\_\_\_.

12D-9.033 Further Judicial Proceedings. After the board issues its final decision, further proceedings and the timing thereof are as provided in Sections 194.036 and 194.171, Florida Statutes.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 195.022, 213.05 FS. History-New \_\_\_\_\_.

12D-9.034 Record of the Proceeding. No change

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

When adopted, subsection (1) of Rule 12D-9.035 will read as follows:

(1) When a change in the tax roll made by the board becomes subject to review by the Circuit Court pursuant to Section 194.036(1)(c), Florida Statutes, it shall be the duty of the board clerk, when requested, to prepare the record for review. The record shall consist of a copy of each paper, including the petition and each exhibit in the proceeding together with a copy of the board's decision and written findings of fact and conclusions of law. The board clerk shall

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in the following form:

Certification of Record

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

\_\_\_\_\_  
Clerk of Value Adjustment Board

By: \_\_\_\_\_

Deputy Clerk

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

CERTIFICATION OF VERBATIM TRANSCRIPT

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

\_\_\_\_\_  
Clerk of Value Adjustment Board

By: \_\_\_\_\_

Deputy Clerk

Subsection (2) – No change.

12D-9.036 Procedures for Petitions on Denials of Tax Deferrals. No change.

### **Part III**

#### **Uniform Certification of Assessment Rolls**

12D-9.037 Certification of Assessment Rolls.

When adopted, subsection (1) and the introductory paragraph of subsection (2) of Rule 12D-9.037, will read as follows:

(1)(a) When the tax rolls have been extended pursuant to Section 197.323, Florida Statutes, the initial certification of the value adjustment board shall be made on Form DR-488P. Form DR-488P is adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code.

(b) 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 referenced in subsection (2) of 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, adopted and incorporated by reference in Section 12D-16.002, Florida Administrative Code, designated for this purpose, that all requirements in Chapter 194, Florida Statutes, and department rules, were met as follows:

Subsections (2)(a) through (3) – No change.

When adopted, subsection (4) of Rule 12D-9.037, will read as follows:

(4) Copies of the forms incorporated in Section 12D-16.002, F.A.C. may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>. Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 193.122, 194.011, 195.022, 195.084, 213.05 FS. History—New \_\_\_\_\_.

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

When adopted, subsection (1) of Rule 12D-9.038, will read as follows:

(1) After all hearings have been completed, the board clerk shall publish a public notice advising all taxpayers of the findings and results of the board decisions, which shall include changes made by the board to the property appraiser's initial roll. Such notice shall be published to permit filing within the timeframe in Section 12D-17.004(1) and (2), where provided. For petitioned parcels, the property appraiser's initial roll shall be the property appraiser's determinations as presented at the commencement of the hearing or as reduced by the property appraiser during the hearing but before a decision by the board or a recommended decision by a special magistrate. This section shall not prevent the property appraiser from providing data to assist the board clerk with the notice of tax impact. The public notice shall be in the form of a newspaper advertisement and shall be referred to as the "tax impact notice". The format of the tax impact notice shall be substantially as prescribed in Form DR-529, Notice Tax Impact of Value Adjustment Board, incorporated by reference in Section 12D-16.002, Florida Administrative Code.

Subsections (2) through (5) – No change.

When adopted, subsection (6) of Rule 12D-9.038, will read as follows:

(6) Copies of the forms incorporated in Section 12D-16.002, Florida Administrative Code, may be obtained at the Department's Internet site: <http://dor.myflorida.com/dor/property/forms/>.