VALUE ADJUSTMENT BOARD

BAY COUNTY, FLORIDA

2012
INFORMATION BOOKLET

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This booklet has been created to provide helpful tips and to provide answers to commonly asked questions, and may be relied upon only as general information. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case. This Information, as to the Value Adjustment Board Process, may be revised in accordance with changes in the Florida Statutes, or by administrative rules as may be further adopted or interpreted by the Florida Department of Revenue governing the VAB process.

This booklet has been drafted in accordance with Florida statutes and the existing Florida Administrative Code. There are specific laws, rules, policies and guidelines established by the Florida legislature and the Department of Revenue (DOR). You are directed to examine and consider these rules, laws, policies and guidelines which are published at the DOR website: http://dor.myflorida.com/dor/property/vab/. This booklet shall be subordinate and inferior in the event of any conflict with the laws, rules, guidelines and policies which are listed on the DOR website. For further information on the legal guidelines applicable to Value Adjustment Boards, parties are advised to review the following, but not limited, sources: Florida Statutes Chapters 192-221 on taxation; the Florida Administrative Code Division Chapter 12D; the DOR Standard Measures of Value; Tangible Personal Property appraisal Guidelines; the Florida Real property Appraisal Guidelines; Florida's Government-In-The-Sunshine manual (located at http://www.myflsunshine.com/sun.nsf/sunmanual) and applicable case law or other relevant Florida law.

I. VALUE ADJUSTMENT BOARD

A. WHO AND WHAT IS THE VALUE ADJUSTMENT BOARD

1. **The Bay County Value Adjustment Board (VAB) and its staff serve as the decision-making authority when the taxpayer disagrees with the Property Appraiser concerning property exemptions, classifications and value. The VAB staff handles petition filing and scheduling of quasi-judicial hearings to settle disputes and late filings regarding such exemptions, classifications, portability and value.**

2. **If your petition concern is not settled by the Property Appraiser's Office, you will be scheduled for a hearing. The VAB appoints Special Magistrates – who are all qualified, under F.S. 194.035 and F.A.C. 12D-9.010, and are professionally designated real estate appraisers, tangible personal property appraisers or attorneys – to conduct the hearings. These Special Magistrates are not connected or affiliated with the Property Appraiser's Office in any way.**

3. **The VAB consists of two County Commissioners and a School Board Member. In addition, the County Commission appoints a county resident owning some form of homestead property and the School Board appoints a county resident owning commercial real estate. With these two citizen members, the total membership of the VAB is five.**

B. DEFINITIONS AND TERMS USED IN THE VALUE ADJUSTMENT BOARD PROCESS

1. **"VAB" means the Value Adjustment Board (staff or Board).**

2. **"Board" means the Value Adjustment Board consisting of two County Commissioners and a School Board Member, plus a citizen appointed by each. One citizen member (appointed by the County Commission) must be a homestead owner and the other citizen member (appointed by the School Board) must own commercial real estate in Bay County.**

3. **"Clerk" means a VAB or Board clerk and staff. The role of the clerk is to process petitions, schedule hearings, oversee each hearing day's process, and maintain VAB records.**

4. **"Property Appraiser" or "PAO" means the Bay County Property Appraiser and staff.**

5. **"VAB Attorney" means the private attorney designated to represent the VAB.**

6. **"Petitioner" means a property owner or an owner's authorized representative or agent contesting the assessment of market value or appealing for an exemption or classification.**

7. **"Truth in Millage" notices or "TRIM" notices mean proposed tax bills and are mailed by the PAO in mid-August of each year to home owners.**

8. **"Evidence" is the documentary or oral statements and the material objects admissible as testimony in a court of law or in an administrative proceeding.**

9. **"Comparable Sale" is a property that is similar to the subject property in most respects, is located in a similar (nearby) location, and has sold recently at arm's length. The selection of comparable sales coming close to the January 1 date will carry more weight in supporting market value. Sales after January 1 can be used only if they are a true indicator of market or just value as of January 1.**

10. **"Presumption of Correctness" or "POC" , governed under F.S. 194.301, means that the Property Appraiser's Office is presumed to be correct after it has proved by a preponderance of evidence that the assessment was arrived at by complying with the criteria (8) set out in F.S. 193.011, and in doing so that it applied generally accepted appraisal practices. The Property Appraiser's Office's determination of exemption or classification status is not clothed with a presumption of correctness but petitioners have the burden of proving, by a preponderance of the evidence, that they are entitled to the exemption or classification, as a matter of law, under the governing statute and rules of the Department of Revenue.**

11. **"Just or Market Value" means the price at which a property, if offered for sale in the open market, with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent, under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of exigencies of the other.**

12. **"Assessed Value" means an annual determination of the just or fair market value of an item or property or the value of the homestead property as limited pursuant to s.4(c), Art. VII of the State Constitution or, if a property is assessed solely on the basis of character or use or at a specified percentage of its value, pursuant to s.4(a) or (b), Art. VII of the State Constitution, its classified use value or fractional value.**

13. **"Taxable Value" means the assessed value of property minus the amount of any applicable exemption provided under s. 3 or s. 6 Art. VII of the State Constitution and chapter 196.**

14. **"Save Our Homes" is an amendment to the Florida Constitution that the voters passed in 1992, effective January 1, 2005. This law limits the increase in assessed value for properties receiving the Homestead Exemption to be no more than three percent or the increase in the consumer price index (CPI), no matter what the increase in just value would otherwise be. The limit does not cover new construction or construction that was not taxed before the "Save Our Homes" limit applied to a particular property. It also does not apply when a property sells; the new owner starts the limitation all over again once he or she qualifies for Homestead Exemption. If your neighbor has a home just like yours, but their taxes are substantially lower, it may be because they have lived there under the protection of "Save Our Homes" for a longer period of time than you have.**

15. **"Homestead Exemption" or "HX" is available to all legal Florida residents who meet eligibility requirements for maintaining their primary place of abode such as homes, condominiums, co-op apartments, and certain mobile home lots if they qualify. The Florida Constitution provides this tax-saving exemption on the first $25,000 of the assessed value of an owner/occupied residence. If a homestead is assessed in excess of $75,000, the value between $50,000 and $75,000 is also exempt, except from taxes levied for schools.**

16. **"Filing Fee" is a charge to file a petition to the Value Adjustment Board. Law supporting this fee can be found under chapter 194.013 of the Florida Statutes. VAB Resolution ---------- was adopted by the Board to support this fee. The fee to file a petition to the Value Adjustment Board is $15.00. Any condominium or homeowner's association or petitioner that is filing a petition having multiple parcels, are subject to a $5.00 additional charge per parcel listed on the petition. All fees are non-refundable. Any petition received without the filing cannot be processed. Persons filing a petition due to the denial, by the Property Appraiser or Tax Collector, of a timely filed application for exemption, classification or tax deferral, are not subject to the filing fee, however, if the application was received after the March 1st deadline and was denied, the $15.00 petition filing fee would apply.**

II. PETITION PROCESS

A. OUTLINE OF PROCESS

1. **The property owner receives the TRIM Notice. (Truth in Mileage)**

2. **If the property owner objects to the assessment of the property, the property owner may request an informal conference with a representative from the Property Appraiser's Office. At this informal conference, the Property Appraiser, not the VAB, has exclusive control per F.S. 194.011(2) and F.A.C. 12D-9.002.**

3. **If still dissatisfied, the property owner or legally authorized agent may file a petition with the VAB Clerk by the deadline shown on the TRIM Notice.**

4. **The Petitioner shall gather evidence to be presented at the hearing. If the petitioner decides to participate in an evidence exchange with the Property Appraiser's Office, they will do so according to F.S. 194.011(4) (a) and F.A.C. 12D-9.020.**

5. **The Petitioner receives a Notice of Hearing from the VAB Clerk stating the scheduled date and time of the hearing before a VAB Special Magistrate.**

6. **Following the hearing, the Special Magistrate will render a decision and recommends it to the VAB.**

7. **After the end of all hearings, the VAB acts on the Special Magistrate recommendations and may do so without further hearing.**

8. **If the Petitioner is dissatisfied with the decision of the Board, the Petitioner may file an action in Circuit Court F.S. 194.171 and F.A.C. 12D-9.033.**

Information on refunds of property taxes, corrected taxes bills or paying property taxes can be obtained through the Bay County Tax Collector's Office (850)248-8501.

B. SUMMARY OF PROCESS

A property owner desiring to contest the assessed property value may utilize any or all of the following statutory procedures:

1. **Request an informal conference with a representative from the Property Appraiser's Office, F.S. 194.011(2) and 12D-9.002.**

2. **File a Petition contesting the Property Appraiser's assessment with the VAB, F.S. 194.011(3) and 12D-9.001(c).**

3. **Institute an action in Circuit Court, F.S. 194.171 and 12D-9.033.**

III. VAB PETITION PROCEDURE

A. PETITION TYPES

1. EXEMPTIONS (DR486)

a) ***You would be filing an Exemption Petition because you are a property owner qualified for an Exemption, but are filing late (after March 1st) –or—If you are a property owner who has been denied by the Property Appraiser for an Exemption. For information on the types of Exemptions you could be eligible for contact the Bay County Property Appraiser's Office at (850) 248-8401.***

2. CLASSIFICATIONS (DR486)

a) ***You would be filing a Classification Petition because you are a landowner whose land has been denied, partially granted or has had their Agricultural Classification removed by the Property Appraiser –or—You are a landowner who is filing late (after March 1st) on land that is primarily used for bona fide agricultural purposes. "Bona Fide Agricultural Purposes" means good faith commercial agricultural use of land. There are many classifications each with specific requirements. For information, contact the Bay County Property Appraiser's Office at (850) 248-8401.***

3. VALUATION REAL PROPERTY (DR486)

a) ***You would be filing a Valuation Petition because you are a Real Property owner who is seeking review or adjustment of the Market and/or Assessed Value of your property.***

4. VALUATION TANGIBLE (DR486)

a) ***You would be filing a Valuation Tangible Petition because you are a Tangible Property owner who is seeking review or adjustment of your Tangible Assets.***

5. **PORTABILITY (DR486PORT)**

a) ***You would be filing a Portability petition because you were denied portability of your "Save Our Homes" exemption on the sale of your previous exempt homestead to your new homestead, or you contest the amount of "Save Our Homes" exemption the Property Appraiser's Office is allowing you to transfer.***

B. FILING A PETITION

When all attempts to ratify your assessment with Property Appraiser's Office have been exhausted, a property owner or an authorized agent for the property owner may file a petition with the Clerk to the Value Adjustment Board.

1. **WHERE TO GET THE FORMS**

a) ***You can file a Petition by getting the form at the Clerk's Office at 300 East 4th Street or online at www.baycoclerk.com Value Adjustment Board. You can choose to file an electronic petition online at the Clerk's website http://axia.baycoclerk.com/axiaweb2012 .***

b) ***The forms are also available at the Property Appraiser's Office located at 840 W. 11th Street, or by downloading the form from the Property Appraiser's website at www.qpublic.net/bay .***

c) ***The Florida Department of Revenue has the forms available at their website http://dor.myflorida.com/dor/property/.***

2. **FILING AFTER THE STATUTORY DEADLINE**

a) ***Any petitioner wishing to file a Petition after the deadline listed on the TRIM Notice will have to demonstrate "GOOD CAUSE" justifying the extension F.A.C. 12D-9.015(11). Requests for Good Cause are subject to the approval of the Board's designee, which is the Board Attorney and are considered pending until approved F.A.C. 12D-9.015(11) (a) (4). Good cause reasons include:***

(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; or

(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 board 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

Thinking the TRIM notice was "junk mail" and not reading it or not understanding your rights as a taxpayer are not reasons to grant you the right to a petition filing extension

Questions related to exemption status, property values and types of evidence required should be directed to the Property Appraiser at (850) 248-8401.

After filing a Petition, all questions related to the hearing process or to hearing, schedules and notices should be directed to the VAB Clerk at (850) 767-3314.

IV. HEARING PROCEDURES

A. SCHEDULING AND HEARING ATTENDANCE

1. The Clerk will schedule a hearing on the petition before a Special Magistrate appointed by the VAB. The Notice of Hearing will be mailed to the petitioner at least 25 days prior to the scheduled hearing, *TO THE ADDRESS LISTED ON THE PEITION.* The Notice of Hearing shall be considered received by the petitioner unless returned to the Clerk as undeliverable.

2. Special Magistrates shall adhere as closely as possible to the schedule of hearings established by the board clerk but must ensure that adequate time is allowed for parties to present evidence and for the special magistrate to consider the admitted evidence. Some waiting should be expected, so you may wish to bring a book, magazine or something else to occupy your time while you wait.

3. Florida Statutes and F.A.C 12D-9.019(4) provide for one rescheduling of a hearing date if the request is made in writing and is received by the Clerk no less than 5 days prior to the originally scheduled hearing. Any additional rescheduling for "Good Cause" shall be made only upon proof of:

(1) Petitioner is scheduled for a value adjustment board hearing for the same time in another jurisdiction;

(2) Illness of the petitioner or a family member;

(3) Death of a family member;

(4) The taxpayer's hearing does not begin within a reasonable time of their scheduled hearing time; or

(5) Other reasons beyond the control of the petitioner.

(Staff does not have the authority to change hearing dates for any reason other than those listed above.) Documentation supporting the request for a change in hearing date is required.

4. If you fail to show up for your hearing without indicating on the petition that you do not wish to appear and there isn't a good cause request pending, the Special Magistrate and/or Board shall not commence or proceed with the hearing and shall produce a decision or recommended decision in accordance with Florida law. If you indicate on your petition that you do not wish to appear at the hearing but would like the special magistrate to consider your evidence, you shall submit your evidence to the board clerk and the property appraiser in accordance with F.A.C. 12D-9.020.

5. In accordance with the Americans with Disabilities Act, a Petitioner in need of a special accommodation to participate in any VAB proceeding should contact the Clerk at (850) 767-3314, either when filing the Petition or at least one week before the scheduled VAB proceeding requiring such accommodation.

B. ROLE OF PARTIES AT THE SPECIAL MAGISTRATE HEARINGS

1. <u>ROLE OF THE SPECIAL MAGISTRATE</u>

a) The Special Magistrate's role is to render a fair and impartial recommendation as to whether a petitioner has overcome the PAO's legal presumption of correctness (once established by the PAO) and, if applicable, to determine whether the petitioner's estimate of market value has been supported. A further role of the Special Magistrate is to administer a fair and impartial hearing. The Special Magistrate must act professionally at all times and treat the Petitioner and Property Appraiser professionally.

2. ROLE OF THE PETITIONER

a) The law places the burden of proof on the party who initiates the action. In a VAB challenge, this is the Petitioner. If the Petitioner challenges the value of the property, the Petitioner must prove, by a preponderance of the evidence (more than 50%) that the assessment of the Property Appraiser:

(1) Does not represent the just value of the property. If the property is subject to any form of cap on annual increases in assessments, such cap must be accounted for;

(2) Does not represent the classified use value or fractional value of the property if the property is required to be assessed based on its character or use; or

(3) Is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the Property Appraiser to comparable property within the County.

3. ROLE OF THE PROPERTY APPRAISER

The Property Appraiser may establish that the assessed value of the property is presumed correct by proving by a preponderance of the evidence (more than 50%) that the assessed value of the property was arrived at by correctly applying each of the eight criteria of section 193.011, Fla. Stats, (or-other statutory requirements applicable to classified use value or assessment caps). The correct application of each of the criteria of section 193.011 requires the application of professionally accepted appraisal practices. If the Property Appraiser elects not to apply any one of the eight criteria, or other applicable statutory requirements, the Appraiser must prove that such exclusion is permitted under section 193.011 or other applicable statutes and complies with professionally accepted appraisal practices. The presumption, once established, is overcome by a preponderance of the evidence under any one of the three conditions enumerated in 2. Role of the Petitioner.

4. ROLE OF THE CLERK

The role of the Clerk is to serve as clerk for all official VAB meetings, including noticing, advertising, taking minutes, keeping records and executing VAB directives; receiving and processing all petitions; coordinating and preparing hearing schedules and notices of hearings; soliciting and scheduling Special Magistrates, clerking and maintaining the recording of the hearings; preparing and publishing final notice of tax impact; and preparing and mailing final decision forms to petitioners. The Clerk is not responsible for the exemption status or assessed value of property, nor for the final decision on a petition.

V. EVIDENCE

A. ESTABLISHING THE ASSESSED VALUE

a) If the Petitioner has proven by a preponderance of the evidence that the assessed value must be set aside (as described in 2. Role of the Petitioner), the Special Magistrate or the Board (on review) shall establish the assessment if there is competent, substantial evidence of just value on the record which cumulatively meets the criteria of section 193.011 and professional appraisal practices. In establishing the assessment, the Petitioner is entitled to a determination by the Special Magistrate or the Board (on review) of the appropriateness of the appraisal methodology used in making the assessment. Ultimately, the value must be established by an appraisal methodology that complies with the criteria of section 193.011, Fla. Stats (or other applicable statutory requirements that may apply to classified use values or assessment caps) and professionally accepted appraisal practices; including mass appraisal practices, if applicable.

b) If there is not competent, substantial evidence of value in the record to establish the value under the criteria set out in A. (above), the Special Magistrate or the Board (on review) shall remand to the Property Appraiser to reassess the property in compliance with specific instructions from the Magistrate or Board to insure compliance with A (above).

B. 12D-9.020 EXCHANGE OF EVIDENCE

12D-9.020 Exchange of Evidence.

(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) of this rule and in Rule 12D-9.025(4)(a) and (f), F.A.C.

(2)(a) If the petitioner chooses to participate in an exchange of evidence with the property appraiser, at least fifteen (15) days before the hearing, the petitioner shall provide the property appraiser with a list and summary of evidence to be presented at the hearing accompanied by copies of documentation to be presented at the hearing. To calculate the fifteen (15) days, the petitioner shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

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

(c) No later than seven (7) days before the hearing, if the property appraiser receives the petitioner's documentation and if requested in writing by the petitioner, the property appraiser shall provide the petitioner with a list and summary of evidence to be presented at the hearing accompanied by copies of documentation to be presented by the property appraiser at the hearing. The evidence list must contain the property record card if provided by the board clerk. To calculate the seven (7) days, the property appraiser shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing.

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

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

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

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

information in the evidence exchange, the information shall be provided by U.S. mail. The property appraiser shall provide the information at the address listed on the petition form for the petitioner.

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

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

(7) A property appraiser shall not use at a hearing evidence that was not supplied to the petitioner as required. 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.

(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 the hearing in accordance with the exchange of evidence rules in this section. If provided to the 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 paragraph`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 3-30-10.

The petitioner can submit their evidence to the Property Appraiser's office at 840 W. 11th Street Panama City, FL 32401, emailed to www.qpublic.net/bay , faxed to (850) 248-8447 or uploaded at http://axia.baycoclerk.com/axiaweb2012 with your user name and password. Your user name and password is located in the upper right hand corner of your Hearing Notice or was given to you when you electronically submitted your petition.

All evidence submitted will be retained as official records and will not be returned to the petitioner. It is strongly suggested that copies be submitted, rather than originals.

C. EXAMPLES OF PETITIONER'S EVIDENCE

1. Income Type Property: (Commercial, Commercial/Residential Personal Property)

a) Federal tax returns and financial statement for the most current years. Supporting document should include:

(1) Operating statements showing income and expenses.

(2) Rent roll(s) showing square footage of space leased and at what rate; names of tenants; breakdown of who pays expenses (i.e., common area maintenance, taxes, insurance, utilities, etc.).

(3) Copy of current lease(s) to determine lease details (e.g., who pays what expenses).

(4) Copy of closing statement(s) if there has been current sale(s).

(5) Appraisals made on the property in connection with obtaining mortgage financing or the sale thereof.

b) Comparable sales data (i.e., prices at which similar, nearby properties have sold, on or about the taxing date).

c) Pictures portraying the property's condition (as of January 1).

d) Estimates and/or bills of repair (should be dated close to January 1).

2. Non-Income Type Property (Residential)

a) Anything that will help show the market value, as stated on your TRIM notice, is incorrect as of January 1 (i.e., appraisals, area sales, surveys, etc.).

b) Copy of closing statement(s) if there has been a sale(s) in the previous three years.

c) Appraisals made on the property in connection with obtaining mortgage financing or the sale thereof.

d) Comparable sales data (i.e., prices at which similar, nearby properties have sold, on or about the taxing date).

e) Pictures, newspaper articles, and/or other information portraying the property's condition as of January 1.

f) Estimates and/or bills of repair (should be dated close to or after January 1).

D. BURDEN OF PROOF IN CLASSIFICATION AND EXEMPTION CASES

There is no presumption of correctness which attaches to a determination of the classified or exempt status of property. The party initiating the challenge or the review must prove by a preponderance of the evidence that the classified or exempt status of the property being challenged or reviewed is incorrect. For example, a Petitioner must prove by a preponderance of the evidence, before a Special Magistrate, that the Property Appraiser's determined status is incorrect. If the Special Magistrate recommends in favor of the Petitioner, and the Appraiser seeks a review by the Board, the Appraiser must prove by a preponderance of the evidence that the Special Magistrate's recommendation is incorrect.

E. OBSOLETE LAW AND CASES TO BE DISCARDED

The Florida legislature has repeatedly rejected any requirement established by case law that a taxpayer has the burden of proving that the Property Appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment. The legislature has also repeatedly and expressly rejected all such case law. Further, the legislature, in Ch 2009 -121, Laws of Florida, has also rejected any case law which holds, or suggests, that a Petitioner is NOT entitled to a determination by the VAB of the appropriateness of the appraisal methodology used in making the assessment or that such methodology complies with all the criteria of section 193.011, Fla. Stats, and professionally accepted appraisal practices. The Board and its Special Magistrates must comply with this legislative mandate in the conduct of their hearings.

IMPORTANT NOTES:

Under Florida Law, just value equals market value. In arriving at just or market value, the PAO is required to consider properly the eight criteria in Section 193.011, Florida Statutes:

F.S. 193.011 Factors to consider in deriving just valuation.--In arriving at just valuation as required under s. 4, Art. VII of the State Constitution, the property appraiser shall take into consideration the following factors:

(1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration the legally permissible use of the property, including any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

(3) The location of said property;

(4) The quantity or size of said property;

(5) The cost of said property and the present replacement value of any improvements thereon;

(6) The condition of said property;

(7) The income from said property; and

(8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

VI. CONSIDERATION AND ADOPTION OF RECOMMENDED DECISIONS OF SPECIAL MAGISTRATES BY THE VAB AND CIRCUIT COURT

If you believe and can substantiate that the Special Magistrate has made an error in their recommendation to the Board, you have the opportunity to bring the issue to the attention of the VAB when they meet to consider the recommendation of the special magistrate. The petitioner will be informed of the date, time and place by the Clerk of the VAB. If the Board determines that a recommended decision, made by a special magistrate, does not comply with the requirements of F.S. 194.301, 194.034(2) and 194.035(1), the Board shall request the advice of the Board legal counsel to evaluate further action and shall take the steps necessary for producing a final decision F.A.C. 12D-9.031(4). A petitioner that is dissatisfied with the decision of the Value Adjustment Board, may bring action in Circuit Court according to F.S. 194.171 and F.A.C. 12D-9.033.

VII. PAYMENT OF PROPERTY TAXES BEFORE APRIL 1

Section 194.014, Florida Statutes (Partial payment of ad valorem taxes; proceedings before value adjustment board) became effective July 1, 2011, and applies to all petitions filed with the Value Adjustment Board (VAB) on or after July 1, 2011. This section is summarized below:

- A petitioner who challenges the **assessed value** of property must pay all of the non-ad valorem assessments **and** make a partial payment of at least 75 percent of the ad valorem taxes, less the applicable discount, before the taxes become delinquent (April 1).

- A petitioner who challenges the **denial of a classification or exemption** or the **assessment based on an argument that the property was not substantially complete as of January 1**, must pay all of the non-ad valorem assessments **and** the amount of the tax which the taxpayer admits in good faith to be owing, less the applicable discount, before the taxes become delinquent (April 1).

- If the VAB determines that the amount of the tax that the taxpayer has admitted to be owing is grossly disproportionate to the amount of the tax found to be due, and that the taxpayer's admission was not made in good faith, the Tax Collector must collect a penalty at the rate of 10 percent of the deficiency per year from the date the taxes became delinquent.

- The VAB must deny the petition by written decision by April 20 if the petitioner fails to make the required payments.

- If the VAB determines that the petitioner owes ad valorem taxes in excess of the amount paid, the unpaid amount accrues interest at the rate of 12 percent per year from the date the taxes became delinquent until the unpaid amount is paid.

- If the VAB determines that a refund is due, the overpaid amount accrues interest at the rate of 12 percent per year from the date the taxes became delinquent until a refund is paid. **Interest does not accrue on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice.**

This section does not apply to petitions for ad valorem tax deferrals pursuant to Chapter 197.

Payments must be made to the Bay County Tax Collector located at 850 W. 11th Street, Panama City, FL 32401. The office can be reached by phone at (850) 248-8501.

VIII. DISCLOSURE OF TAX IMPACT

After hearing all Petitions, complaints, appeals and disputes, the Clerk shall make public notice of the findings and results of the Board in at least a quarter-size advertisement of a standard size or tabloid size newspaper, and the headline shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county. The advertisement must comply with Section 194.036 Florida Statutes and F.A.C. 12D-9.038.

CONTACT INFORMATION

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