

**POLK COUNTY VALUE ADJUSTMENT BOARD  
RULES OF PROCEDURE - 2009**

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All properties in Florida are subject to real and tangible property taxes, unless expressly exempt or immune from taxation. The Value Adjustment Board (VAB) was created to provide citizens a forum to address complaints when they believe the Property Appraiser overvalued their property or improperly denied an exemption or classification or that the Tax Collector improperly denied a tax deferral. Citizens may also institute legal action in circuit court.

**1. CREATION AND COMPOSITION OF THE VAB**

**1.1** The VAB is created by F. S. 194.015, and consists of two members of the Board of County Commissioners (BoCC), one of whom shall be elected chairman, a member of the school board, a citizen appointed by the BoCC who is the owner of homestead property in Polk County, and a second citizen appointed by the school board who is the owner of commercial property located within the school district.

**1.2** The VAB hearing procedures are governed by F.S. 194.034, Florida Administrative Code 12D-10, and with regard to Transfer of Assessment Limitation Difference, Florida Administrative Code 12DER08-20–12DER08-26. These local procedures have been adopted by the Polk County VAB to facilitate review of ad valorem property tax assessments by the VAB. Should the Department of Revenue formally adopt statewide VAB procedures, they shall supersede these local procedures to the extent of any conflict.

When used herein:

**“BoCC”** means the Polk County Board of County Commissioners.

**“Clerk”** means the Polk County VAB Clerk and its staff.

**“DOR”** means the Florida Department of Revenue.

**“Ex-parte communication”** means any communication about a pending petition between members of the VAB board or a special master and any party or witness either verbally without all parties being present or in writing without immediately providing a copy to all parties.

**“Good Cause”** means the showing of extraordinary circumstances, as follows: (a) 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 appearing; or, (b) physical or mental illness, infirmity, or disability that would reasonably affect the taxpayer’s ability to timely file or appear; or, (c) verifiable miscommunication with, or misinformation received from, the clerk, property appraiser, or their staff regarding the necessity or the proper procedure for filing or appearing; or, (d) failure to receive a copy of a notice from the clerk or property appraiser through no fault of the taxpayer (e.g. mailed to the wrong address due to clerical error); or, (e) any other cause that would prevent a

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reasonably prudent taxpayer from timely filing or appearing. **It is strongly recommended that the Petitioner provide evidence to substantiate the extenuating circumstances and that the evidence is provided as close to the deadline date as possible.** Documentation can include a doctor's note, airline itinerary, et cetera.

**"Property Appraiser"** means the Polk County Property Appraiser and staff.

**"Petitioner"** means a property owner/taxpayer or an owner's authorized representative contesting the tax assessment.

**"Trim notice"** means the notice sent to each taxpayer, usually in August, advising of property valuation and estimated tax liability.

**"VAB Counsel"** means the appointed private attorney who represents the VAB.

## **2. SPECIAL MAGISTRATE QUALIFICATIONS**

**2.1** VAB will annually advertise for and hire qualified Special Magistrates to hear Petitions, as outlined in F.S. 194.035. A Special Magistrate may not be an appointed or an elected official or an employee of Polk County or any taxing authority.

**2.2** The Special Magistrates, who are paid at a rate determined by the VAB, preside over scheduled hearings, deliberating results, dictating findings of fact and conclusions of law, and editing and signing final recommended decisions.

**2.3** To hear petitions involving issues related to exemptions and classifications, the Special Magistrate shall be a member of The Florida Bar with no less than five years experience in the area of ad valorem taxation.

**2.4** To hear petitions involving issues regarding the valuation of real estate, the Special Magistrate shall be a state certified real estate appraiser with not less than five years experience in real property valuation.

**2.5** To hear petitions involving issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than five years experience in tangible personal property valuation.

## **3. FILING THE PETITION WITH VAB**

**3.1** Petitions may only be filed on forms developed or approved by DOR. Petitions are available at the office of the Property Appraiser, the VAB office, on line at the DOR web site (<http://www.fac.dor.state.fl.us>), and the Clerk of the Circuit Court website ([www.polkcountyclerk.net](http://www.polkcountyclerk.net)).

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**3.2** Petitions must be substantially complete, and accompanied by the \$15 filing fee, or they will be returned. A Petition resubmitted to the Clerk with the correct filing fee after the statutory deadline will be considered late, as noted below.

**3.3** Deadline dates to file petitions are determined by Florida Statute and are printed on TRIM (Truth in Millage) notices mailed to property owners by the Property Appraiser's Office. Contact the Clerk at (863) 534-6502, for current dates. Petitions regarding valuation must be **received** by VAB within 25 days of the mailing by the Property Appraiser of the TRIM notice.

**3.4** The Property Appraiser may accept and grant applications for homestead exemptions filed after the March 1 deadline upon sufficient evidence of extenuating circumstances provided by the applicant.

**3.5** Pursuant to FS 194.034(1)(a), Petitioners may be represented, at their own expense, by an attorney or agent. The individual, agent, or legal entity that signs the petition, becomes an agent of the taxpayer for purposes of serving process to obtain personal jurisdiction over the taxpayer for the entire VAB proceeding, including any appeals of a Board decision by the Property Appraiser pursuant to F. S. 194.036, Florida Statutes. If a Taxpayer wishes to add, change or remove a representative or agent after submitting the Petition, the Taxpayer must notify the Clerk in writing.

**3.6** A condominium, cooperative or homeowners association, as defined in F.S. 723.075, may file a single petition for multiple units upon compliance with F.S. 194.011(e), Florida Statutes.

**3.7** The owner of contiguous parcels may file with the VAB a single joint petition if the Property Appraiser determines that such parcels are contiguous. Contiguous parcel petitions must be accompanied with a written statement from the Property Appraiser verifying the parcels are contiguous or a separate petition for each parcel will be required.

**3.8** In accordance with the Americans with Disabilities Act, a Petitioner in need of special accommodation to participate in any VAB proceedings should contact the Clerk at (863) 534-6502, when filing the Petition, or at least one week before the scheduled VAB proceedings requiring such accommodation.

**3.9** The Clerk shall acknowledge receipt of a completed petition and promptly provide a copy to the Property Appraiser.

**3.10** After filing a Petition, all questions regarding the scheduling of the Petition for hearing should be addressed to the Clerk at (863) 534-6502, while all questions relating to value or exemption issues should be referred to the Property Appraiser at (863) 534-4777.

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**4. NONREFUNDABLE FILING FEE**

Each year, the VAB adopts a resolution authorizing the Clerk to collect a nonrefundable \$15 filing fee for each single petition, except for the exemptions listed below:

**4.1** No filing fee shall be required for a petition contesting the denial of a timely filed application for a homestead exemption or a tax deferral.

**4.2** No filing fee shall be required for a petition filed by a taxpayer who demonstrates at the time of filing, by an appropriate certificate or other documentation issued by the Department of Children and Family Services and submitted with the petition, that the Petitioner is then an eligible recipient of temporary assistance under Chapter 414, Florida Statutes.

**4.3** Single petitions filed for multiple properties by condominium, cooperative or homeowners associations or the owner of contiguous parcels shall pay an additional fee of \$5 for each parcel included in the petition.

**4.4** A nonrefundable \$15 filing fee will be charged for all late-filed Petitions.

**4.5** Filing fees may be paid by check, money order or cash. Petitioners are advised not to send cash through the mail. Checks are payable to the VAB.

**4.6** Online petitions may be filed on the Clerk of Court website. The online fee is \$15 per parcel plus a \$5.00 convenience fee charged by the credit company. Online payments must be made by credit card. The credit card vendor will charge a \$5.00 convenience fee. The website address is [www.polkcountyclerk.net](http://www.polkcountyclerk.net). Petitioners filing a single petition online will receive a pin number and will be able to review, on line, the documents in their case. Petitioners filing online should check with the Clerk or their credit card company to ensure that the charge went through and their petition is filed.

A petition with contiguous parcels is charged \$15.00 plus an additional \$5.00 per parcel. However, when filing online, a separate petition must be filed for each parcel. **To have a fee modified on contiguous parcels, the petition must be filed by mail or in person.** Therefore, it is recommended that petitions with contiguous parcels be filed in person or by mail at a cost of \$15.00 per petition and \$5.00 for each contiguous parcel listed on the petition.

**5. LATE-FILED PETITIONS**

**5.1** Petitions mailed prior to the filing deadline but not received until after the deadline are considered late-filed and will be returned to the petitioner.

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**5.2** If a Petitioner believes a late petition filing is justified and has good cause that is not prejudicial to the performance of the functions of the VAB, the Petitioner may request that a VAB Attorney Special Magistrate review the Petitioner's **detailed**, written explanation of extenuating circumstances (Good Cause) by contacting the Clerk at (863) 534-6502.

**5.3** The VAB Attorney Special Magistrate will review the evidence and written explanation submitted by Petitioners who file their petitions after the statutory deadline. Petitions will be accepted or denied based on the Magistrate's decision.

**5.4** Late petitions, for good cause, will be processed and have the opportunity to be considered until 30 days after the statutory deadline, after which the acceptance of late petitions will be deemed prejudicial to the performance of the VAB functions in the taxing process and will not be accepted.

**6. SCHEDULING AND NOTICING PETITIONS FOR HEARING**

**6.1** The Clerk will prepare the schedule of hearings and provide written notice of the scheduled hearing no less than 25 days in advance of the hearing. Notice will be given by U. S. Mail. If the notice of hearing is mailed 30 days prior to the hearing it is presumed to have been received within the time. (F.S. 194.032(2))

**6.2** Upon request of the Petitioner notice may be provided by e-mail. (DAV OP-00-004)

**6.3** The Notice of Hearing will be deemed received by the Petitioner unless it is returned to the Clerk as undeliverable. If the Petitioner does not receive a Notice of Hearing from the Clerk within four to six weeks after the deadline date printed on the TRIM notice, the Petitioner must contact the Clerk at (863) 534-6502.

**6.4** Hearings are conducted on weekdays between 8:30 a.m. to 5:00 p.m., in the Neil Combee Administration Building, Bartow, Florida. Hearings are usually held October through November and sometimes later, depending on the number of Petitions scheduled for hearings.

**6.5** No Petitioner shall be required to wait more than 4 hours from the scheduled time; and if his or her petition is not heard in that time, the Petitioner may, at his or her option, report to the Clerk that he or she intends to leave; and, if his or her petition is not heard immediately, the Petitioner's administrative remedies will be deemed to be exhausted, and he or she may seek further relief as he or she deems appropriate.

**6.6** If a Petitioner wishes to reschedule the hearing, a **written** request must be submitted to the Clerk **no later than five days before** the scheduled hearing. This is allowed only one time. (12D-10.0044[8] Florida Administrative Code)