



Executive
Director
James S. Zingale

Please Respond to:
Office of the General Counsel
Property Tax Oversight Legal Section
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Advisory Memorandum

Date: March 23, 2020
To: Value Adjustment Board Attorneys
Value Adjustment Board Clerks
From: Kathryn Davis, Assistant General Counsel, Office of General Counsel
Re: Value Adjustment Board Rescheduling Hearings due to COVID-19

This memorandum addresses questions received by the Department concerning postponement or rescheduling of Value Adjustment Board (VAB) hearings based on the emergency conditions created for the entire State of Florida as a result of COVID-19. The Department believes that good cause exists where rescheduling requests are made due to COVID-19 and that the VAB has the legal authority to grant such requests.

Section 194.032(2)(a), F.S., authorizes the VAB clerk to schedule hearings. Additionally, the VAB clerk is authorized by statute and rule to reschedule hearing dates based on requests made by either party to a proceeding for “good cause.” *See* section 194.032(2)(a), F.S., Rule 12D-9.019(4), F.A.C. Section 194.032(2)(a) defines “good cause” as “circumstances beyond the control of the person seeking to reschedule the hearing which reasonably prevent the party from having adequate representation at the hearing” and has applied to include emergencies experienced by special magistrates, a VAB attorney or other essential participants which practically prevent the hearing from taking place as scheduled. The VAB clerk has the same type of authority a court has: the inherent authority to control its own cases, including the scheduling. *See Winer v. N.Y. Life Ins. Co.*, 190 So. 894, 898 (Fla. 1938). The Court’s authority is broad, and “[i]n the exercise of a sound discretion [the Court] may hold one lawsuit in abeyance to abide the outcome of another.” *Id.* (*citing Landis v. N. Am. Co.*, 299 U.S. 248 (1936)).

In order to meet the dangers presented to this state and its people, on March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida as a result of COVID-19. On March 16, 2020, President Donald J. Trump and the Centers for Disease Control (CDC) issued the 15 Days to Slow the Spread guidance advising individuals to adopt far-reaching social distancing measures such as working from home and avoiding gatherings of more than 10 people. The Florida Supreme Court issued Administrative Order AOSC20-15 on March 17, 2020 advising that “no proceedings or other court events other than essential proceedings and proceedings critical to the state of emergency or the public health emergency shall be conducted through in-person hearings until such time as the public health emergency is resolved, or as provided by subsequent order.” Furthermore, the Florida Division of Administrative Hearings entered order AODOAH20-01 on March 16, 2020, directing Administrative Law Judges to “**maximize the use of**

telephonic or video conferencing” (emphasis added) and “provide the greatest deference possible to parties requiring individual accommodations.”

Based upon all of these factors, the Department believes that good cause exists where rescheduling requests are made due to COVID-19 and that the VAB should grant such requests. Please note that all hearings must be completed and the assessment roll certified to the property appraiser by June 1, pursuant to Florida Statute 193.122(1).

If there is a need for further assistance with COVID-19-related VAB matters, additional specific inquiries can be sent to the Department at vab@floridarevenue.com.

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