

LOCAL PROCEDURES FOR REQUESTS FOR RECONSIDERATION

1. Procedure for Requests for Reconsideration, Responses, and Opinions.

1.1. Requests for Reconsideration. In each VAB proceeding, the Property Appraiser and petitioner (each, a “party”, or, collectively, “parties”) may each file one request for reconsideration per recommended decision and one response to each request for reconsideration filed by the opposing party. A response is not required, however, the lack of a substantive response shall give rise to an inference that the request for reconsideration, to the extent legally sufficient on its face, is meritorious. Submissions following a request for reconsideration and a response shall not be accepted unless requested in writing by the VAB Clerk or VAB Counsel.

1.1.1. Substance. Requests for reconsideration and responses to same shall: (a) not include or reference evidence not offered at the hearing before the special magistrate; (b) specifically identify erroneous findings of fact or conclusions of law including without limitation how the recommended decision fails to comply with Sections 194.301, 194.034(2) or 194.035(1), F.S.; (c) identify the specific legal authority which such findings or conclusions violate; (d) discuss why such findings or conclusions violate or fail to comply with such legal authority; (e) specifically identify the relief requested by the requesting party, but the VAB is not limited to granting the requested relief. Responses shall address each issue raised in the corresponding request for reconsideration, and the VAB may find that the responding party concedes any issue which the responding party fails to address. Failure to comply with this section may result in the excluding part or all of a party’s brief.

1.1.2. Notice. All requests for reconsideration and responses to same shall be emailed to the VAB Clerk and to all designated email addresses of the other party. Requests for reconsideration and responses to same shall not be considered received unless the filing party complies with this section. It is the sole responsibility of the filer to comply with this requirement, not the VAB Clerk, VAB Counsel, or the other party. Petitioners shall serve all requests for reconsideration, and responses to same on the Property Appraiser’s point of contact, **george.mascellino@bcpao.us**, and service upon the foregoing email address shall be considered presumptively proper.

1.1.3. Form. Requests for reconsideration and responses to the same shall be submitted via email or, for petitioners who have designated U.S. Mail as their preferred contact method, by U.S. Mail. Parties may, but are not required to, include PDF copies of legal authorities cited in briefs, but shall not include evidence not submitted to the VAB before the hearing(s) before the VAB special magistrate(s).

1.1.4. No Oral Requests. The VAB shall only accept written requests for reconsideration and responses. Oral communications regarding such requests and responses shall not be accepted or considered.

1.1.5. Timing of Requests. Requests for reconsideration must be received by the VAB Clerk not later than 10 calendar days after each party receives notice that a recommended decision has been filed. Petitioners who have designated U.S. Mail as their preferred contact method must provide their request for reconsideration not later than 10 calendar days after the time stamp on the special magistrate’s recommended decision.

1.1.6. Timing of Responses. Responses to requests for reconsideration must be received by the VAB Clerk not later than 10 calendar days after a request for reconsideration is received. Petitioners who have designated U.S. Mail as their preferred contact method must ensure that their response is received by the VAB not later than 10 calendar days after the VAB receives a request for reconsideration from the Property Appraiser.

1.1.7. End of Tax Cycle Deadline. All requests for reconsideration, regardless of when a recommended decision is received by the parties, must be received by the VAB clerk at least 10 days before the Adoption Meeting. If more than one Adoption Meeting is scheduled, then this deadline shall be calculated based upon the date of the first adoption meeting (the "Adoption Meeting Date"). The VAB clerk shall have discretion to accept requests for reconsideration from parties who did not receive a recommended decision until less than 15 days from Adoption Meeting Date. In considering whether to accept such requests for reconsideration, the VAB clerk shall consider all relevant factors, including the request's effect on the functioning of the VAB in the taxation process, the ability of the VAB clerk and VAB counsel to process such requests and responses, and the complexity of the request for reconsideration.

1.1.8. Adoption Meeting. At the VAB's Adoption Meeting, or at such other meetings as the VAB may hold, the VAB shall consider all requests for reconsideration.

1.1.9. Untimely Requests and Responses. Untimely requests for reconsideration and responses shall not be accepted by the VAB.

1.1.10. Record. All requests for reconsideration and responses, VAB Counsel's opinions, emails, and other documents, if any, related to the foregoing shall be included in the record of each petition.

1.1.11. Requests for Reconsideration Not Mandatory. Requests for reconsideration are not required before a party may appeal a final decision to the Circuit Court.

1.2. VAB Counsel's Opinion. After the VAB receives a response to a request for reconsideration, or the responding party indicates that it will not file a response, or the time for a response expires, VAB Counsel shall have 20 calendar days to issue a written opinion on the request for reconsideration, unless the Adoption Meeting is less than 20 calendar days after the date on which VAB Counsel is authorized to prepare an opinion under these rules, in which case VAB Counsel shall prepare an opinion before the Adoption Meeting. VAB Counsel's opinion shall determine each party's compliance with these procedures and the consequences for failure to comply with same. VAB Counsel may confer with the special magistrate who prepared the underlying recommended decision in connection with preparing such opinion. The VAB may rely upon and adopt VAB Counsel's determinations without reviewing the underlying record. VAB Counsel's failure to comply with the instant rule shall not be grounds for any party to seek or obtain relief from the VAB.

1.2.1. No Reconsideration of Opinions or Revised Recommended Decisions. Requests for reconsideration of VAB Counsel's opinion or of revised recommended decisions following issuance of such opinion shall not be accepted by the VAB.

1.3. Oral Argument. At any Adoption Meeting, the Board may permit oral argument on requests for reconsideration. Each side shall be allowed 3 minutes for oral argument. On its own motion or that of a party, the Board may require, limit, expand, or dispense with oral argument.

1.4. Requests Granted by the VAB. If the VAB, in whole or in part, grants a request for reconsideration, the VAB provide specific direction to the special magistrate as to the changes to the recommended decision needed to comply with Rule 12D-9.031(1), F.A.C. and the relief granted by the VAB, if any.

1.5. Due Process. At all stages of the reconsideration process, fundamental due process shall be observed and shall govern the proceedings. As such, these procedures shall be implemented and interpreted to effectuate this requirement.

1.6. Calculation of Time. When calculating time for all time periods specified in this rule, (a) begin counting from the next day that is not a Saturday, Sunday, or legal holiday; (b) count every day, including intermediate Saturdays, Sundays, and legal holidays; and (c) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

1.7. Definitions.

1.7.1. "Adoption Meeting" defined. "Adoption Meeting" means a meeting at which the VAB considers adopting recommended decisions for a given tax cycle under Rule 12D-9.031, F.A.C.

1.7.2. "Last Day" Defined. Unless a different time is set by a statute, rule, or for good cause by VAB Counsel, the last day ends at midnight.

1.7.3. "Next Day" Defined. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

1.7.4. "Legal Holiday" Defined. "Legal holiday" means (a) the day set aside by section 110.117, Florida Statutes, for observing New Year's Day, Martin Luther King, Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the Friday after Thanksgiving Day, or Christmas Day, and (b) any day designated as a holiday by the Value Adjustment Board.

***See Rule 12D-9.005(2)(a) ("Value Adjustment Boards may have additional internal operating procedures, not rules, that do not conflict with, change, expand, suspend, or negate the rules adopted in this rule chapter or other provisions of law, and only to the extent indispensable for the efficient operation of the Value Adjustment Board process. The board may publish fee schedules adopted by the board.