

To: Value Adjustment Board Attorneys
From: Steve Keller, Chief Assistant General Counsel, Property Tax Oversight
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FLORIDA DEPARTMENT OF REVENUE PROPERTY TAX INFORMATIONAL BULLETIN

Legal Effect of the Department's Property Appraisal Guidelines for Property Appraisers

This advisement is in response to questions that have arisen on whether the Department's appraisal guidelines for property appraisers have the force and effect of law as do provisions of the constitution, statutes, and duly adopted administrative rules. The Department's appraisal guidelines include real property appraisal guidelines, tangible personal property appraisal guidelines, and guidelines for classified use valuation of agricultural property. As described below, applicable provisions of Florida law clearly provide that these guidelines do not have the force or effect of law.

One inquiry suggests incorrectly that the Department's appraisal guidelines are in effect rules and should be applied as rules in value adjustment board (Board) proceedings. This suggestion is based on a superseded opinion of the Florida Attorney General dated June 1, 1976 (AGO 76-123). This opinion has been superseded since 1976 by legislation effective July 1, 1976, shortly after the date of the opinion. See Chapter 76-234, sections 9 and 10, Laws of Florida. This legislation is still in effect in sections 195.032 and 195.062, F.S.

Section 195.032, F.S., provides that the guidelines "*shall assist the property appraiser in the valuation of property and be deemed prima facie correct, but shall not be deemed to establish the just value of any property*". Section 195.062, F.S., provides that the guidelines "*shall not have the force or effect of rules and shall be used only to assist tax officers in the assessment of property as provided by s. 195.002*". Section 195.002, F.S., provides that the Department shall have general supervision of the assessment and valuation of property and further states: "*The supervision of the department shall consist primarily of aiding and assisting county officers in the assessing and collection functions, with particular emphasis on the more technical aspects.*"

Rules 12D-51.001, 12D-51.002, and 12D-51.003, F.A.C., refer to the agricultural property guidelines, tangible personal property guidelines, and real property appraisal guidelines, respectively. Each of these three rules states that the respective guidelines do not have the force and effect of rules.

The Real Property and Tangible Personal Property Guidelines and Professionally Accepted Appraisal Practices

Section 194.301(1), F.S., now provides that the just value of property must be determined by an appraisal methodology that complies with the criteria of section 193.011, F.S., and professionally

accepted appraisal practices. The professional texts that contain the body of such practices consist of thousands of pages. While the Department's guidelines for real and tangible personal property do address professionally accepted appraisal practices and Florida law, it is not feasible for these guidelines to contain all of such practices or all law that could apply. As "guidelines" under Florida law, the Department's guidelines were not intended to address every professionally accepted appraisal practice or every element of law that could apply to a just valuation.

Generally, there are different methods for achieving valid just valuations of property while complying with professionally accepted appraisal practices provided that the methods used are recognized, applicable, and correctly employed. In a particular valuation situation, it may be appropriate to employ a professionally accepted appraisal practice that is not addressed in the Department's guidelines. Conversely, in a particular valuation situation, it would be inappropriate to employ a professionally accepted appraisal practice that is addressed in the Department's guidelines when such practice is not appropriate for the particular situation. Therefore, it would be inappropriate to conclude that a just valuation is valid or invalid based on whether it was or was not developed in accordance with the guidelines.

Appropriate Use of the Department's Appraisal Guidelines by Boards and Special Magistrates

The Department's guidelines are specifically intended by law as aid and assistance for the production of original assessment rolls by property appraisers. Within the scope of their authority, Boards and special magistrates may consider these guidelines, where appropriate, in the administrative review of assessments produced by property appraisers.

Section 194.035, F.S., requires the Department to provide training for Boards and special magistrates and requires that this training emphasize the Department's guidelines for real and tangible personal property. This knowledge should be helpful to Boards and special magistrates in conducting their administrative reviews of just valuations. Special magistrates are expected to understand these guidelines for purposes of reviewing challenged assessments.

The Department's appraisal guidelines are compiled in a set of documents titled "Reference Materials Including Guidelines." Along with other documents, the Department provides these reference materials to Boards and special magistrates to assist them in administrative reviews of assessments. In administrative reviews, these guidelines must be used in conjunction with the Department's Uniform Policies and Procedures Manual and with an accompanying set of documents titled "Other Legal Resources Including Statutory Criteria."

If you have questions regarding this matter, you may e-mail VAB@dor.state.fl.us or call Property Tax Oversight, Technical Section at (850) 617-8889 or (850) 617-8895.