

To: Value Adjustment Board Members, Board Attorneys, Board Clerks, Board
Special Magistrates, and Interested Parties
Date: October 8, 2014

FLORIDA DEPARTMENT OF REVENUE PROPERTY TAX INFORMATIONAL BULLETIN

Written Decisions of Value Adjustment Boards

The Auditor General for the State of Florida issued an audit report, dated May 2014, on county Value Adjustment Boards (Boards). A copy of this audit report (No. 2014-194) is available at: http://www.myflorida.com/audgen/pages/pdf_files/2014-194.pdf

The Auditor General's report contains recommendations for Boards to ensure that written decisions sufficiently document findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser, as required by statute and rule. This bulletin provides information and explanations to assist Boards, Board attorneys, Board clerks, and Board special magistrates with meeting those requirements. This bulletin itself is not a rule, does not have the force or effect of law, and is not exhaustive.

Overview of Legal Requirements for Written Decisions

For each petition not withdrawn by the petitioner or settled between the parties, a written decision must be produced. See Rules 12D-9.030(1) and 12D-9.032(1)(a), F.A.C. Section 194.035(1), F.S., provides for a special magistrate to produce written recommended decisions. Section 194.034(2), F.S., requires the Board to produce written final decisions, and requires the Board to consider each recommended decision of special magistrates if the Board uses special magistrates. These statutes require that both recommended decisions and final decisions contain findings of fact, conclusions of law, and reasons for upholding or overturning the determinations of the property appraiser.

Each written decision must contain sufficient factual and legal information and reasoning to enable the parties to understand the basis for the decision, and must otherwise meet the requirements of law. See Rules 12D-9.030(1) and 12D-9.032(1)(a), F.A.C. Written decisions include the written remand decisions provided in Rule 12D-9.029(4), (6), and (7), F.A.C. Procedures for considering evidence and producing written decisions where one party does not appear at the hearing are contained in Rules 12D-9.021(6), (7), and (8), 12D-9.024(9), (10), and (11), 12D-9.025(4)(c) and (d), and 12D-9.028(6)(d), F.A.C. Other requirements for written decisions are provided in Rules 12D-9.027, 12D-9.029, 12D-9.030, 12D-9.031, 12D-9.032, and 12D-10.003, F.A.C.

In administrative reviews, the Board and special magistrates are bound by the same standards as property appraisers. See Rule 12D-10.003(1), F.A.C. It is the duty of the Board attorney to advise the Board and special magistrates regarding the requirements for written decisions. See Rule 12D-9.009(1)(e)3., F.A.C.

Consideration of Evidence for Written Decisions

Before producing a written decision, a Board or special magistrate must consider the evidence in a Board petition. Rules 12D-9.024(7) and 12D-9.027, F.A.C., contain some requirements for the consideration of evidence for producing written decisions. The consideration of evidence allows the Board or special magistrate to produce findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. In considering evidence, the Board or special magistrate must evaluate the relevance and credibility of the evidence in light of the legal criteria that apply to the issue under review. Regarding relevance and credibility of evidence, see Rules 12D-9.024(5)(e) and 12D-9.027(6), F.A.C. For each legal criterion that applies to the issue under review, the evidence needs to be considered as a whole and without regard to which party presented the evidence.

Findings of Fact for Written Decisions

Every written decision produced by a Board or special magistrate must contain specific and detailed findings of fact. See Rule 12D-10.003(3), F.A.C. The written findings of fact must be based on the relevance and credibility of the evidence as it relates to each of the legal criteria that apply to the issue under review. See Rules 12D-9.024(5)(e) and 12D-9.027(6), F.A.C. Each written decision needs to contain a finding of fact, based on the evidence or lack of evidence, for each legal criterion that applies to the issue under review. Each finding of fact must be properly annotated to its supporting evidence. See Rule 12D-10.003(3), F.A.C. Findings of fact must provide reasons for upholding or overturning the property appraiser's determination. To help the parties understand the reasons for Board decisions, the findings of fact should address the basic questions of "who, what, when, where, how, and why" regarding the evidence.

Conclusions of Law for Written Decisions

Each conclusion of law must be supported by and flow rationally from the findings of fact. See Rule 12D-10.003(3)(a), F.A.C. A conclusion of law must be based upon the evidence, the findings of fact, and the law that applies to the issue under review. Conclusions of law need to be stated in terms of the law that applies to the issue under review. A conclusion of law may state only the "preponderance of the evidence" standard of proof. See Rules 12D-9.025(3)(b) and 12D-9.027(5), F.A.C. Each of the sequential steps provided in Rules 12D-9.024(7) and 12D-9.027, F.A.C., when applicable to the issue under review, needs to be specifically and separately addressed in a conclusion of law. Conclusions of law must provide reasons for upholding or overturning the property appraiser's determination.

Reasons for Written Decisions

All recommended decisions and all final decisions must contain written reasons for upholding or overturning the property appraiser's determination. See Rules 12D-9.030(1) and 12D-9.032(1)(a), F.A.C. Reasons are those clearly stated grounds upon which the Board or special magistrate acted. See Rule 12D-10.003(3)(c), F.A.C.

Reasons for upholding or overturning a particular determination of the property appraiser must be based upon the evidence, the findings of fact, and the conclusions of law for that petition. Reasons should be sufficiently detailed for the parties to understand the reasons and to understand the evidence, facts, and law on which the reasons must be based. Reasons should be expressed in findings of fact and conclusions of law.

Required Forms for Producing Written Decisions

For producing written decisions, the Department has prescribed the Form DR-485 series, and any electronic equivalent forms approved by the Department under Section 195.022, F.S. The Form DR-485 series, or approved electronic equivalent forms, are the only forms that may be used for producing remand decisions, recommended decisions, and final decisions. See Rules 12D-9.029(4), 12D-9.030(4), and 12D-9.032(5), F.A.C.

Boards and special magistrates are required to use forms that are current and up-to-date. The Form DR-485 series is available on the Department's website at:
<http://dor.myflorida.com/dor/property/forms/#11>.

Value Adjustment Board Training Information Regarding Written Decisions

Module 11 of the Department's 2014 Value Adjustment Board Training contains substantial information on legal requirements for Board written decisions. To further assist Boards, Board attorneys, and special magistrates, Module 11 also includes practical information for evaluating the relevance and credibility of evidence and for producing findings of fact and conclusions of law.

Any questions regarding this bulletin may be sent by e-mail to VAB@dor.state.fl.us