

LEE COUNTY VALUE ADJUSTMENT BOARD

SPECIAL MAGISTRATE OPENING STATEMENT & OVERVIEW OF PROCEDURES

Prepared and provided per requirements of F.A.C. Rule 12D-9.024(4) and 12D-9.024(5)

1. The special magistrate is an independent, impartial, and unbiased officer,
2. The special magistrate does not work for the property appraiser or tax collector, is independent of the property appraiser or tax collector, and is not influenced by the property appraiser or tax collector;
3. The hearing will be conducted in an orderly, fair, and unbiased manner;
4. The law does not allow the special magistrate to review any evidence unless it is presented on the record at the hearing or presented upon agreement of the parties while the record is open; and
5. The law requires that the special magistrate evaluate the relevance and credibility of the evidence in deciding the results of the petition.
6. Once the special magistrate commences the hearing, the property appraiser shall indicate for the record his or her determination of just value, classified use value, tax exemption, property classification, or "portability" assessment difference, or deferral or penalties. Under subsection 194.301(1), F.S., in a hearing on just, classified use, or assessed value, the first issue to be considered is whether the property appraiser establishes a presumption of correctness for the assessment. The property appraiser shall present evidence on this issue first.
7. If at any point, during a hearing or proceeding, the petitioner expressly withdraws the petition or the parties expressly agree to settlement, the petition becomes a withdrawn or settled petition, the hearing or proceeding shall end and the special magistrate will state on the record that the petition has been withdrawn or settled during the hearing. The parties must complete the appropriate forms to reflect any such withdrawal or settlement. Unless expressly withdrawn or settled, if the petitioner acquiesces to the property appraiser's denial or defended value during the hearing or at the conclusion of the hearing, the recommended decision will result in a denial of appeal, will contain all legally required information with regards to evidence and testimony provided during the hearing, and will reflect said acquiescence within the findings of fact and conclusions of law.
8. It is the responsibility of both parties to present only relevant and credible evidence in support of their respective positions.
9. During this hearing, it is the duty of the special magistrate to
 - a. Review the evidence presented by the parties;
 - b. Determine whether the evidence presented is admissible;
 - c. Admit the evidence that is admissible, and identify the evidence presented to indicate that it is admitted or not admitted; and
 - d. Consider the admitted evidence.
10. When testimony is presented at a hearing, each party shall have the right to cross-examine any witness.
11. Each party will have an opportunity to present evidence, testimony and will have an opportunity for rebuttal.
12. The special magistrate is not required to make, at any time during a hearing, any oral or written finding, conclusion, decision, or reason for decision. The special magistrate has the discretion to determine whether to make such determinations during a hearing or to consider the petition and evidence further after the hearing and then make such determinations.
13. If any of the parties have any questions regarding the verbal or written overview of the procedures for the hearing, the special magistrate will respond to those questions prior to commencement of the hearing.