

# LEE COUNTY VALUE ADJUSTMENT BOARD LOCAL POLICIES AND PROCEDURES

Adopted January 12, 2011

Amended March 23, 2011; June 28; 2012; January 28, 2013; June 5, 2013;  
December 9, 2013; March 13, 2014; March 10, 2015; June 22, 2015; June 15, 2016;  
March 23, 2018, June 18, 2018, July 1, 2020, July 31, 2020

## **SECTION ONE: VALUE ADJUSTMENT BOARD MEETINGS**

The Lee County Value Adjustment Board (VAB) meets at least twice during each VAB session. An organizational meeting is usually held in either June or August, and a final meeting will be held after Special Magistrate recommendations have been completed for all petitions for the VAB session. The VAB may also schedule special meetings as needed, between the organizational meeting and the final meeting. Notices of all VAB meetings are currently published in the *News-Press* and are posted on the "Value Adjustment Board" page at the Clerk's website: [www.leeclerk.org](http://www.leeclerk.org).

## **SECTION TWO: SELECTION AND APPOINTMENT OF SPECIAL MAGISTRATES**

"Special Magistrate" means the qualified, professionally designated real estate appraisers, property appraisers or attorneys appointed by the VAB, pursuant to the Florida Statutes and Florida Administrative Code rules that govern Florida Value Adjustment Boards, to conduct hearings and provide recommendations on the petitions filed with the VAB. Individuals appointed to be Special Magistrates will execute a contract with the VAB in such form and content as may be approved by the VAB from time to time. These Special Magistrates are independent of the Property Appraiser's Office and the Tax Collector's Office and work directly for the VAB. If a petition concern is not settled by the taxpayer and the Property Appraiser's Office or Tax Collector's Office, the petition will be scheduled for a hearing in front of a Special Magistrate. The VAB will not hear appeals of the Special Magistrates' recommendations.

## **SECTION THREE: ADDITIONAL LOCAL PROCEDURAL INFORMATION**

- A. Filing Fee Non-Refundable** - Upon the acceptance and filing of a petition by the VAB Clerk, the accompanying filing fee shall be non-refundable, except when an excessive filing fee has been collected due to an error by the VAB Clerk or through the electronic filing system. Overpayments in excess of Ten and No/100 Dollars (\$10.00) due to miscalculation on the part of the petitioner or petitioner's agent shall be refunded. The VAB Clerk shall develop and utilize a standard procedure for issuing required refunds.
- B. Petitioner/Agent Mailing Address for VAB Correspondence** - The mailing address provided by the petitioner or the petitioner's agent on the petition will be used for all correspondence to the petitioner or petitioner's agent unless the petitioner has indicated a preference to be contacted via e-mail, then all correspondence related to the petition will be sent to the specified email address when possible. It will be the Petitioner's responsibility to update any electronic mailbox filters to allow correspondence from [InfoVAB@leeclerk.org](mailto:InfoVAB@leeclerk.org) . Written notification must be provided to the VAB Clerk of any changes in the taxpayer name or agent's name, mailing address, telephone number, email address, or similar contact information on the petition that occurs during the VAB process. All notices mailed or emailed to the physical address or email address of record will be considered received upon mailing to the physical address or upon sending to the email address indicated on the petition or subsequent correspondence regarding address updates, unless such mailing or emailing is returned as not deliverable.

**C. Late Filing of Petitions** –Petitions received after the Filing Deadline Date *without the required filing fee* will be rejected as incomplete, and will be returned to the Petitioner without an opportunity to resubmit. In order for the complete Late Filed petition to be assigned to the VAB Designee for a good cause review, the petitioner or petitioner’s agent shall be required to submit a statement and supporting documentation to show to the VAB Designee

- 1) good cause justifying a hearing of the petition, including substantial proof, reasonably requested by the VAB Designee, in support of any good cause statement, and
- 2) that the delay in filing the petition will not, in fact, be prejudicial to the performance of the VAB's functions in the taxing process.

The VAB Designee will review all information submitted for Late Filed good cause consideration and will determine if Petitioner had good cause to file their petition(s) after the Filing Deadline Date. If good cause is found to exist, the petition will be scheduled for a hearing and a hearing notice will be provided in accordance with Florida Statutes and Florida Administrative Code. If good cause is not found to exist for the Late Filed petition, no hearing will be scheduled, and the Petitioner will be notified that the petition has been rejected. In either case, the filing fee will be retained. The rejection of a Late Filed petition does not prevent a Petitioner from seeking relief through the Circuit Court.

“Filing Deadline Date” as stated herein means the last date to timely file a petition with the VAB, so that such petitioner is received by the Lee County Clerk’s Minutes Office either:

- 1) on or before 5:00 pm (11:59 p.m. if filed on-line) on the 30th calendar day following the mailing of the Notice of Denial of Classification or Exemption, or
- 2) on or before 5:00 pm (11:59 p.m. if filed on-line) on the final filing date stated on the Truth in Millage (TRIM) Notice, or as adjusted due to TRIM Notice mailing delays.

**D. Acknowledgment of Receipt of Petition / Distribution of Copies of Petition** - The VAB Clerk, upon receipt of a timely filed petition, shall assign a unique, identifying number to the petition and shall provide the petitioner or petitioner’s agent with an acknowledgment that the petition has been filed with the VAB Clerk. Such acknowledgement will include a transaction number and password which may be used to access the online petition record and check the hearing status at the web address provided on the receipt. A copy of the petition (and any attachments) shall be promptly made available to the Property Appraiser once the same is completed and not suspended in the VAB Axia system for any reason, and an electronic copy of the original petition (and any attachments) shall be retained by the VAB Clerk for official recordkeeping purposes.

**E. Evidence -**

- 1) For the current VAB session, any evidence uploaded by the petitioner into the VAB Axia system (Axia) will be admissible during the corresponding hearing, so long as such evidence is uploaded into Axia at least fifteen (15) calendar days prior to the corresponding hearing or a reasonable time prior to hearing, if not available fifteen (15) calendar days before said hearing. This local policy is subject to Property Appraiser consent, and is subject to change at any time. The uploading of petitioner evidence into Axia will not commence the evidence exchange process. In order to commence the evidence exchange process, petitioner must follow Florida Statute Section 194.011(4) and any corresponding section of the Florida Statutes and Florida Administrative Code. Any request for PAO evidence uploaded into Axia will NOT constitute a formal request for PAO evidence. The VAB follows the requirements of the Florida Statutes and the Florida Administrative Code with regards to the evidence exchange process, and any and all parties are strongly encouraged to review such requirements and follow the same.
- 2) If petitioner has indicated on the petition that petitioner is unable to attend the hearing, but would like the VAB to consider evidence in petitioner’s absence, evidence must be uploaded into Axia prior to the hearing, pursuant to the sections of the Florida Statutes and the Florida

Administrative Code which apply to evidence. If the petitioner is unable to upload evidence into Axia, then one (1) copy of the evidence packet must be provided to the Lee County Clerk's Minutes Office at 2115 Second St, 2nd Floor, Fort Myers FL 33901 or P.O. Box 2469, Fort Myers FL 33902 at least fifteen (15) business days prior to the hearing.

- 3) Evidence may be uploaded directly to the petition record on the VAB website. Evidence must be in PDF file format, less than 60MB in size. To upload petitioner evidence, the petitioner should
  - a) Select "Value Adjustment Board", then "Access Filed Petitions", at the Clerk's website: <http://www.leeclerk.org>.
  - b) Enter Transaction # and Password (provided on the petition receipt) to access and open the petition record, select the "Upload Docs" icon, and follow the prompts.
- 4) Lee County Clerk's Minutes Office Evidence Upload Policy:
  - a) The parties must upload their own respective evidence into Axia
  - b) Each party submitting evidence should number each page of any and all evidence and/or documentation submitted which contains multiple pages.
  - c) In the event that a party is unable to upload evidence into Axia, then said party must:
    - 1) Contact the VAB Clerk for assistance in resolving the issue
    - 2) If the issue cannot be resolved, provide any and all such evidence as PDF documents of reasonable size (less than 10 MB) to the VAB Clerk via email to [InfoVAB@leeclerk.org](mailto:InfoVAB@leeclerk.org)
  - d) The VAB Clerk will scan and upload paper evidence provided by a party ONLY IF such party has no access to a computer and no means to accomplish #1 or #3 above.
  - e) Please note: Any and all evidence submitted to the VAB Clerk will be promptly scanned into the electronic petition record only if the party submitting such evidence is unable to upload such evidence in the Axia system, and any such evidence will thereafter be accessible to both the petitioner and the PAO. PAO evidence may not be visible to petitioner if petitioner has not properly initiated the Evidence Exchange process as described above.
  - f) The VAB is not responsible for the accuracy nor completeness of any uploaded evidence. It is the sole responsibility of the petitioner to log into their petition record and confirm the accuracy and/or completeness of any and all evidence scanned and/or uploaded to petitioner's petition record. The petitioner must immediately notify the VAB Clerk of any discrepancy in evidence provided versus evidence scanned and/or uploaded to petitioner's petition record.
  - g) Evidence submitted, no matter the method, becomes part of the petition record and will not be returned.
- 5) To facilitate processing of paper evidence submitted to the VAB Clerk, parties submitting evidence should:
  - a) Not use staples or tape.
  - b) Provide photographs on 8-1/2" x 11" pages.
  - c) Include only pages no larger than 11" x 17".
  - d) Caption photographs on the front sides.
  - e) Provide all documents in "unbound" format. (Do not use binders, notebooks, report covers, index dividers, plastic sleeves, etc.)
- 6) At the hearing, connections will be provided to allow each party, using their own laptop computers, to access the internet and allow each party to control the display of their own evidence that has been scanned or uploaded into the electronic petition record. Please contact the VAB Clerk at [InfoVAB@leeclerk.org](mailto:InfoVAB@leeclerk.org) or 239-533-2328 for details regarding equipment and other requirements for this access.

- 7) Confidential information: Any party submitting information, evidence and/or documentation which such party deems confidential must complete and submit Lee County VAB Form NCI – “Notice of Confidential Information within Submitted Evidence,” available at the Value Adjustment Board link at the Clerk's website: <http://www.leeclerk.org> with such evidence, information and/or documentation or mark it as confidential in such a way that it is obvious to any person that views the same that such evidence, information and/or documentation should be treated as confidential. Additionally, any party providing testimony which such party deems to be confidential must indicate the same during the hearing so that the verbatim record reflects the confidential nature of any such testimony.

**F. Accommodation for Special Needs** - If special accommodations, in accordance with the Americans with Disabilities Act, are needed to allow any person to view or participate in any proceedings of the Value Adjustment Board, any such person shall notify the VAB Clerk at (239) 533-2328 either at the time of the filing of the petition or no later than ten (10) business days prior to the proceeding at which such accommodation is required.

English: If an interpreter is needed the person needing an interpreter will be responsible for securing an interpreter and all costs associated with hiring an interpreter.

En Espanol: Si un intérprete es necesario la persona que necesita un intérprete será el responsable de obtener un intérprete y todos los costos asociados con contratar a un intérprete.

En Francais: Si un interprète est nécessaire, la personne ayant besoin d'un interprète sera responsable de la sécurisation d'un interprète et tous les coûts associés à l'embauche d'un interprète.

**G. Telephonic Hearings** - The following procedures must be followed to participate telephonically in any hearing before the Lee County Value Adjustment Board (VAB) Special Magistrate.

1. A request to participate telephonically must be received by the VAB no later than THREE (3) BUSINESS DAYS PRIOR TO THE SCHEDULED HEARING DATE to allow sufficient time to obtain the necessary approvals. The request must be submitted on local VAB Form RTH, available at the Value Adjustment Board link at the Clerk's website: <http://www.leeclerk.org>, and addressed to: Lee County Value Adjustment Board, PO Box 2469, Fort Myers, FL 33902; or by Email to [InfoVAB@leeclerk.org](mailto:InfoVAB@leeclerk.org); or by Fax to (239) 485-2038. By requesting a telephonic hearing, a party expressly agrees to the following procedures set forth below.
2. Telephonic hearings will be scheduled only under the following circumstances:
  - a) The petitioner's residence or place of business is more than 150 miles from the hearing location.
  - b) If the petitioner's residence or place of business is less than 150 miles from the hearing location and the petitioner has a valid medical reason that does not allow him/her to be physically present.
3. Upon receipt of the request for a telephonic hearing, the VAB Clerk will ascertain whether or not a revised hearing notice will be necessary. In the event that the parties waive the notice requirements as set forth in the Florida Administrative Code, the VAB Clerk will forward a revised hearing notice for a hearing on the same date as the original hearing or a date certain which is agreed to by the parties, subject to agreement of the special magistrate assigned to the hearing date. The VAB Clerk will provide the parties with procedures for telephonic hearings and will provide the party requesting a telephonic hearing with the telephone number to the Hearing Room in which the hearing will be held.
  - a) Any and all parties and witnesses must appear in person, in the Hearing Room listed on the Hearing Notice, which Hearing Room will be located in the Lee County

- Administration Building East, at the time of the scheduled telephonic hearing, unless a specific and timely request is made, in writing to the VAB Clerk, to appear by telephone.
- b) The party requesting a telephonic hearing shall call the Hearing Room at the time designated on their revised hearing notice.
  - c) The party requesting a telephonic hearing shall make sure all supporting documentation uploaded into Axia will contain page numbers on each page.
  - d) Remote parties (parties not personally present in the hearing room) shall not use a speaker phone during the telephonic hearing, as this may interfere with the recording of the hearing; clarity and preservation of the record are of the utmost importance.
  - e) Parties shall identify themselves each time they speak so that all parties will know who is addressing the Special Magistrate at all times.
  - f) The Special Magistrate will conduct the hearing according to Florida Administrative Code 12D-9 and 12D-10.
  - g) If a petitioner requests a telephonic hearing, the petitioner is still required to follow the sections of the Florida Statutes and the Florida Administrative Code which apply to the exchange of evidence, as well as any and all local policies with regards to evidence as stated hereinabove.
  - h) The party requesting a telephonic hearing must also specify in their request whether any witnesses will be presenting evidence, and whether said witnesses will be appearing by telephone or in person.
  - i) Any and all parties and/or witnesses appearing by telephone for a VAB hearing must be sworn in at the commencement of the hearing by a notary public or other person permitted to administer an oath, and an affidavit affirming the same must be submitted to the VAB Clerk within seven (7) calendar days after the hearing. A separate affidavit must be supplied for each party and/or witness appearing by telephone. Affidavits for such purpose (Local Form THA) are provided on the VAB Clerk's website at <http://www.leeclerk.org>.

**H. Payment of Taxes/Refund Claims after VAB Process** - If a petitioner prevails at a VAB hearing and has overpaid their taxes, the petitioner will need to contact the Tax Collector's Office directly to discuss and partake in any refund process.

**LEE COUNTY VALUE ADJUSTMENT BOARD  
LOCAL POLICIES AND PROCEDURES  
ADDENDUM 1 - GUIDELINES FOR PROCESSING COMPLAINTS RECEIVED**

**APPROVED JUNE 28, 2012**

In the event a complaint regarding the Lee County Value Adjustment Board (“VAB”) is received by the VAB Clerk, VAB Attorney, Clerk of Courts or Lee County Clerk’s Minutes Office, the following procedure shall be followed in the response of any such complaint:

- 1) The complaint shall be forwarded to the VAB Attorney, if the VAB Attorney has not already received said complaint.
- 2) The VAB Attorney shall acknowledge the receipt of any complaint, and shall forward these guidelines to the corresponding complainant.
- 3) The VAB Attorney may research and review any complaint received, and may draft a preliminary response for VAB review at the next scheduled VAB public meeting.
- 4) The VAB Attorney shall inform the complainant that any and all complaints and proposed responses shall be reviewed and approved by the VAB, prior to issuing any formal responses to any complaints received.
- 5) The VAB Attorney may address any legal or administrative matter directly, in efforts to promote the efficient operation of the VAB, without delay. Any such matters, and any response(s) and/or resolution(s), will be reported to the VAB at the next scheduled VAB public meeting.
- 6) The VAB shall review any complaints received and proposed responses provided by the VAB Attorney during any scheduled VAB public meeting, and shall either:
  - a. Approve the VAB Attorney’s proposed response(s) for submittal to the corresponding complainant(s), or
  - b. Provide the VAB Attorney with any desired additional information, modifications, considerations or changes to the VAB Attorney’s proposed response(s).
- 7) The VAB Attorney shall forward any and all finalized response(s) to the corresponding complainant(s) and the Department of Revenue within ten (10) business days after the VAB public meeting during which any such complaints and responses were considered.
- 8) Nothing herein shall be construed as discouraging any member of the public from appearing at any VAB public meeting in order to submit comments or complaints directly to the VAB.