

February 25, 2008

2007 VALUE ADJUSTMENT BOARD (VAB)
MEETING MINUTES OF FEBRUARY 25, 2007 §

The Value Adjustment Board of Indian River County, Florida, met in Bldg. A, Room 102 in the County Administration Building, 1801 27th Street, Vero Beach, Florida, on Monday February 25, 2008, at 9:00 a.m. Present were Chairman Peter D. O'Bryan, Vice Chairman Gary C. Wheeler, Commissioner Wesley S. Davis, and School Board Members Karen Disney-Brombach and Debbie MacKay. Also present were County Attorney William G. Collins II, Property Appraiser Attorney Eric Barkett, Property Appraiser David Nolte, Commercial Appraiser for the County, Property Appraiser Wayne Bibeau, and Deputy Clerk Maria Suesz, as Clerk to the Value Adjustment Board.

1. CALL TO ORDER

Chairman Peter O'Bryan called the meeting to order at 9:00 a.m. He asked everyone to introduce themselves for the record. Also present from the Property Appraiser's office were: Chief Deputy Mickey Umphrey, Supervisor Bruce Goodwyn, Assessment Control Specialists Diana Beres and Janine Hicks, and Value Adjustment Board Assistant Pat Thomas.

2. INVOCATION

Commissioner Wesley Davis delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Vice Chairman Gary C. Wheeler led the Pledge of Allegiance to the flag.

4. APPROVAL OF MINUTES

ON MOTION by Vice Chairman Wheeler, SECONDED by Board Member Brombach, the Board approved the Organizational Meeting Minutes of July 10, 2007, as written.

5. PROPERTY APPRAISER'S APPEAL TO THE BOARD TO DENY SPECIAL MAGISTRATE'S RECOMMENDATIONS FOR PETITIONS 2007-0393, 2007-0394, 2007-0395, 2007-0396, 2007-0397

Property Appraiser David Nolte felt his memorandum dated February 1, 2008 (copy on file in the office of the Clerk to the Board) "stands on its own," and he asked the members of the VAB not to accept the recommendations rendered by the Special Magistrate for the above five petitions.

Wayne Bibeau, Commercial Appraiser for the County Property Appraiser, reviewed the memorandum for the Board advising them that the situation at hand covers three years of history with the same Special Magistrate and the same Tax Representative. Mr. Bibeau declared that over the past three years, Special Magistrate John Robinson had been inconsistent in his evaluations. He responded to Chairman O'Bryan's inquiries regarding the methodology used by the Special Magistrate over the past three years. Mr. Bibeau said that this change gives CVS stores an improper and competitive advantage against their biggest competitor Walgreens.

Board Member Brombach questioned if it was usual to hear the petitions one at a time, and Attorney Eric Barkett responded that the cases were heard simultaneously, one after the other at the Special Magistrate hearing level. He explained that it was at the Special Magistrate's discretion whether to hear all petitions at once, or separately. He clarified that because all of the petitions were of the same type of property with the same tenant, the Special Magistrate considered all the evidence and made his ruling.

County Attorney Collins II clarified the Property Appraiser's argument to be that a number of factors are supposed to be considered in determining market value. It appeared to him that the

Special Magistrate applied the rental rate per square foot on all five properties without considering the condition of the properties, their age, and their location. Because of that, it was not a proper appraisal. Attorney Collins stated on that basis, the Special Magistrate could not have conformed to the required considerations, and the Property Appraiser objected to all five recommendations. He read aloud the Property Appraiser's recommendations:

1. Do not accept the recommendations rendered by the Special Magistrate John Robinson, for petition numbers 2007-0393, 2007-0394, 2007-0395, 2007-0396 or 2007-0397;
2. Enter a recommendation that these appeals be scheduled for a re-hearing. The re-hearing could be heard by the members of the VAB, or could be scheduled before a different Special Magistrate;
3. Enter a motion not to seek the services of Special Magistrate John Robinson for future VAB hearings.

Attorney Collins also advised the Board that they cannot make a decision today, because the other party was not present. He named the Special Magistrates that are on contract and advised the Board not to use a Special Magistrate associated with Mr. Robinson's office for the new hearing.

MOTION WAS MADE by Vice Chairman Wheeler, SECONDED by Board Member Debbie MacKay, to approve recommendation #1, not to accept the recommendations rendered by the Special Magistrate John Robinson for Petition numbers 2007-0393, 0394, 0395, 0396, and 0397.

Discussion continued and Vice Chairman Wheeler recalled at the end of the prior year's VAB cycle that Mr. Robinson was very late with his recommendations, and he was not finished in an orderly fashion. He recalled that in prior years everything seemed to be going fine, but last year everything seemed out of order. Mr. Wheeler was ready to make his motion to approve recommendation #3.

Chairman O'Bryan asked that each option be discussed and acted upon separately, and in the order presented.

Board Member MacKay commented that the tone presented in the memorandum was very important. She was looking for help from the Property Appraiser on how to discern the best decision, and she asked for a more non-confrontational and dispassionate way of explaining what was written in the memorandum.

Mr. Bibeau commented that after having been through a history of observing Mr. Robinson, not just with this particular tax representative, but with others, there was a very clear and obvious type of relationship that exists between these two parties. He clarified that he was not saying that Mr. Robinson had a prejudice against the Property Appraiser or a bias toward that representative. The latter was what he believed exists because Mr. Robinson had done a three-year flip-flop with his decisions, granted relief the first year, denied relief the second year, and granted relief the third year.

The Clerk stated that Sheila Anderson was not notified of this meeting in response to Chairman O'Bryan's inquiry. Attorney Collins clarified that generally the Board could accept or reject the recommendations; therefore, there was no point in having everyone present, if the Board decided to accept the Special Magistrate's recommendations. He advised the Board that if they do not accept the Special Magistrate's recommendation, then they have to render a decision on their own.

Discussion ensued and Attorney Collins advised the Board what actions they could take at this meeting.

The Chairman CALLED THE QUESTION and the Motion passed unanimously. The Board approved recommendation #1. not to accept the Special Magistrate's recommendations for Petitions 2007-0393, 2007-0394, 2007-0395, 2007-0396, and 2007-0397, as recommended in the memorandum.

ON MOTION by Vice Chairman Wheeler, SECONDED by Board Member Davis, by a 5-0 vote, the Board approved recommendation #2., that the subject appeals be scheduled for a re-hearing before a different Special Magistrate, as recommended in the memorandum.

Board Member Brombach recalled problems with Mr. Robinson last year when the Board had to reschedule its meeting because his worksheets were not ready on time. Also, she felt that they would be doing themselves a disservice by hearing the appeals themselves. Chairman O'Bryan agreed, and Board Member Wheeler commented on the fact that last year the Board had to wait an hour or longer to receive the worksheets during a meeting.

MOTION WAS MADE by Board Member Davis, SECONDED by Vice Chairman Wheeler, to approve recommendation #3, not to renew the services of Mr. Robinson, as recommended in the memorandum.

Board Member Brombach thought the Board took this action at a prior meeting the year before. Chairman O'Bryan stated that the Board did authorize Mr. Robinson to be hired last year, but they did change the contract to have a penalty, if the reports were not filed in a timely manner. Upon reviewing Mr. Robinson's invoice, it appeared to Chairman O'Bryan that Mr. Robinson did the fewest number of actual petition hearings and ended up charging the most amount of money. He pointed out that the office review hours were very high, and one of the changes that the Board made last year was for the Special Magistrates to remain on site to finish their reports.

Vice Chairman Wheeler agreed, and, in closing, commented that there were many inconsistencies across-the-board in this third year.

The Chairman CALLED THE QUESTION and the Motion passed unanimously. The Board approved recommendation #3. not to renew the services of Mr. Robinson, as recommended in the memorandum.

6. RECAP OF THE HEARINGS AND APPROVAL OF SPECIAL MAGISTRATES' RECOMMENDATIONS

- A. Hearing Summary Sheets
- B. Decision Code List
- C. Decision Totals 2006 and 2007
- D. Magistrate Expenses – 2006 and 2007

ON MOTION by Commissioner Davis, SECONDED by Board Member Brombach, by a 5-0 vote, the Board accepted all the Special Magistrates recommendations as the final records of decision, except petitions 2007-0393, 2007-0394, 2007-0395, 2007-0396, and 2007-0397.

7. RESOLUTION APPROVING THE FILING FEE

ON MOTION by Board Member Brombach, SECONDED BY Board Member Davis, the Board approved VAB Resolution 2008-01 setting the filing fee to be paid to the Clerk of the Value Adjustment Board (VAB). The vote was as follows:

Peter D. O'Bryan Aye
Gary C. Wheeler Aye
Wesley S. Davis Aye
Karen Disney-Brombach Aye
Debbie MacKay Aye

8. SPECIAL MAGISTRATES – AUTHORIZE STAFF TO NOTIFY, SELECT AND APPOINT SPECIAL MAGISTRATES FOR THE PURPOSE OF TAKING TESTIMONY AND MAKING RECOMMENDATION TO THE BOARD FOR 2008

Chairman O'Bryan noted that with their vote of approval of recommendation #3 earlier in the meeting, no notification would be made to Mr. Robinson.

ON MOTION by Board Member Brombach, SECONDED BY Board Member Davis, by a 5-0 vote, the Board authorized staff to notify, select and appoint Special Magistrates for the purpose of taking testimony and making recommendations to the Board for 2008 VAB hearings.

9. ADDITIONAL INFORMATION (No action required)

Chairman O'Bryan announced that the School Board did change their appointees to the Value Adjustment Board, appointing Mrs. Carol Johnson to replace Mrs. Karen Disney-Brombach, effective July 2008.

10. PUBLIC INPUT - None

11. ADJOURNMENT

There being no further business, the Chairman declared that the meeting adjourn at 9:25 a.m.

ATTEST:

J. K. Barton, Clerk

By: Maria I. Suesz
Maria I. Suesz, Deputy Clerk

Peter D. O'Bryan
Peter D. O'Bryan, Chairman

Minutes Approved 5-8-2008

VAB2007/MIS/FINALMTGMinutes