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VALUE ADJUSTMENT BOARD (VAB)  
SECOND FINAL MEETING  
February 6, 2014

The Value Adjustment Board (VAB) of Indian River County, Florida, met on Thursday, February 6, 2014, at 8:30 a.m., in the County Administration Building, 1801 27<sup>th</sup> Street, Building "A", Room A-102, Vero Beach, Florida. Present were Chairman Wesley S. Davis; Vice Chairman Peter O'Bryan; School Board Member Carol Johnson; and Citizen Members Duane Weise and Todd Heckman. Also present were VAB Attorney David Hancock, Clerk of Circuit Court and Comptroller Jeffrey R. Smith, and VAB Board Clerk Maria I. Suesz.

Present representing the taxpayer for Petitions 2013-001 up to and including 2013-008 was Julie Zahnizer, Esquire, and Adam Locke, Florida Property Tax Advisors, Inc. and co-founder of the American Bee Project.

**1. CALL TO ORDER**

Chairman Wesley S. Davis called the meeting to order at 8:30 a.m.

**2. INVOCATION – School Board Member Carol Johnson**

School Board Member Johnson delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE – Citizen Member Duane Weise**

Citizen Member Duane Weise led the Pledge of Allegiance to the Flag.

**4. APPROVAL OF MINUTES OF VAB FINAL MEETING OF WEDNESDAY  
JANUARY 8, 2014**

ON MOTION by Vice Chairman O'Bryan,  
SECONDED by Citizen Member Heckman, the Board  
unanimously approved the Value Adjustment Board  
First Final Meeting Minutes of Wednesday, January 8,  
2014, as written.

**5. ADDITIONS/DELETIONS**

The Chairman asked if there were any additions or deletions to the Agenda; seeing none,  
he called for a motion.

ON MOTION by Vice Chairman O'Bryan,  
SECONDED by School Board Member Johnson, the  
Board unanimously approved the agenda, as presented.

**6. ACT UPON MATTERS PENDING BEFORE THE VALUE ADJUSTMENT  
BOARD – NONE**

*(Clerk's Note: Attorney Julie Zahniser, representing the owner of the eight pending petitions,  
and Adam Locke, agent for same, entered the meeting.)*

**7. APPROVE AND ADOPT THE RESUBMITTED SPECIAL MAGISTRATE'S  
RECOMMENDED DECISION FOR PETITIONS 2013-001 UP TO AND INCLUDING  
2013-008, AS THE VALUE ADJUSTMENT BOARD'S DECISION, AND AUTHORIZE  
DISTRIBUTION OF THE BOARD'S FINAL DECISION FORM DR485V (PURSUANT  
TO SECTION 194.032, F.S.)**

- A. Resubmitted Special Magistrate's Recommended Decisions for Petitions 2013-005 and 2013-006 dated 01-14-2014 ..... 12-14
- B. Resubmitted Special Magistrate's Recommended Decisions for Petitions 2013-001 up to and including 2013-004, and 2013-007 and 2013-008 dated 01-14-2014 ..... 15-17
- C. Summary of Special Magistrate's Recommended Decisions .....18

**REFERENCE MATERIAL INCLUDED:**

**D. Original Special Magistrate Recommended Decision for Petitions 2013-001 up to and including 2013-008 dated 12-16-2013** ..... 19-21

**E. Letter of Objection from Petitioner’s Attorney** ..... 22-28

**F. Letter of Response from VAB Attorney** ..... 29-33

VAB Clerk Suesz explained the recommendations had identical text and only one recommendation was submitted to the Board for review. The difference in each recommendation was the petition number, the parcel number, and the values.

VAB Attorney Hancock suggested that the VAB consider a second hearing on these Petitions by an Attorney Special Magistrate, as suggested by the Florida Department of Revenue (DOR), and the Petitioners’ Attorney Julie Zahniser in their emails addressed to him that were forwarded to the VAB.

He believed the VAB took proper action at the last meeting based on the rules. However, he said that the DOR’s position is when in doubt send it back to the Special Magistrate for a second hearing. He suggested that the VAB take action on the direction of DOR, and consider sending it back to the Alternate Attorney Special Magistrate. He did not believe that the Attorney Special Magistrate could act fairly and impartially at this point, since she had been copied on some emails from the Petitioner’s Attorney Julie Zahniser. He explained that this action will give the Alternate Attorney Special Magistrate the opportunity to consider evidence that has already been submitted, as well as additional evidence and testimony. He was open to questions from the VAB.

Chairman Davis inquired if the other option was that this matter be taken to circuit court, and the VAB Attorney Hancock explained that that option was available regardless of what action was taken by the VAB.

Chairman Davis believed that we owed it to the Petitioner, as well as the Municipalities, to try to resolve this matter as quickly as possible. He opined that a different Special Magistrate was not going to change the Board’s opinion as to what they reviewed at the last meeting, but he did want to do what was appropriate according to the DOR rules.

Vice Chairman O'Bryan thought it was irrelevant to have a second Attorney Special Magistrate's opinion. It is his opinion that either decision would not prevent one of the parties from taking this to circuit court.

VAB Attorney Hancock agreed with Vice Chairman O'Bryan's assessment, but he stressed that we do need to ensure that the VAB process is fair, and if the DOR thinks that our process may not be fair, then he recommended that we approve a second hearing.

Chairman Davis wondered what type of standing the DOR would have in a circuit court proceeding between the Property Appraiser and the Petitioner, and learned that the DOR could file a brief, but the VAB is not typically part of that lawsuit.

Attorney Julie Zahniser introduced herself as the Attorney and Representative of the owners of the eight Petitions in this matter. In terms of going to court, she stated there are really two issues: (1) the agricultural classification, which may or may not go to court, and (2) the issue of whether the VAB is going to be sued for improperly conducting the VAB process. When she listened to the VAB meeting recording, "it seemed that everyone followed the herd and voted that way," she said. She pointed out that said meeting was not to be a hearing. She said there was ex-parte communication made by the Property Appraiser, as well as arguments by the VAB. She said it was very prejudicial. Secondly, she continued to say that Vice Chairman O'Bryan said that he visited the property, which is new evidence, and a year after the assessment. She said it may not be relevant, but it was brought before the Board. She explained that these are two major clauses that are subject to ethics complaints and would subject this Board to a lawsuit. In her opinion, she did not think the Board would have a prayer in winning. She said the DOR felt very strongly that the Board's action was inappropriate. She also brought this matter to the Auditor General's attention and they are looking at auditing the VAB.

Chairman Davis asked Ms. Zahniser if she agreed with the VAB Attorney's suggestion that this matter be sent back to the Special Magistrate, and she said that she would rather not have another hearing. She stated the role of the VAB was not to substitute judgment based on the facts defined by the Special Magistrate. Her main reason for saying that was the Board did not have all the facts. She continued to define the purpose of the American Bee Company.

Chairman Davis inquired if the VAB does not have the ability to reject a Special Magistrate's decision, then he questioned why were they holding a meeting. Ms. Zahniser explained that the VAB does have the ability to reject a Special Magistrate's decision, based on procedural due process. She proceeded to define the three statutes that the Board is to base their opinion.

Chairman Davis asked if there were any other questions from the Board.

Citizen Member Heckman sought additional information from legal counsel.

VAB Attorney Hancock clarified the motion to approve, or not approve the recommended decision, and have it rescheduled before the Alternate Attorney Special Magistrate.

Chairman Davis agreed with what Vice Chairman O'Bryan said, but thought that the process would be shorter if we did approve to send the eight petitions back to the Alternate Attorney Special Magistrate.

Citizen Member Heckman stated his reason for objecting to the recommended decision in the first meeting was that this issue, in his opinion, was not fully met. He felt to obtain true clarification the VAB would need to have an Alternate Attorney Special Magistrate review the evidence at another hearing.

MOTION WAS MADE by Citizen Member Heckman,  
SECONDED by Citizen Member Weise, to approve all  
issues of this matter to be heard at a second hearing by  
the Alternate Attorney Special Magistrate.

Citizen Member Weise was leaning towards the circuit court decision because of the agricultural classification. However, the VAB Attorney stated that in order for an orderly process to proceed and to avoid further confrontation, he supported the recommendation to have an Alternate Attorney Special Magistrate hold a second hearing first, and he hoped that eventually this matter will be cleared up in circuit court.

Attorney Hancock recalled for the Board that at the Organizational Meeting the VAB approved the appointment of Joseph H. Davis as the Alternate Attorney Special Magistrate.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board approved that all matters of Petitions 2013-001, up to and including Petition 2013-008, to be heard at a second hearing by the Alternate Special Magistrate Joseph H. Davis, Esquire.

**8. AUTHORIZE AND APPROVE THE CHAIRMAN TO EXECUTE THE REVISED TAX IMPACT NOTICE AND CERTIFICATION FORMS (PURSUANT TO F. S. 193.122) - TABLED**

- A. Tax Impact Notice DR-529 for Tax year 2013 .....34
- B. Certification Form DR-488 Real Property ..... 35-36
- C. Certification Form DR-488 Tangible Personal Property ..... 37-38

(Clerk’s note: This item was tabled until after the Board receives the Alternate Special Magistrate’s recommended decision for approval at the Board’s Third Final Meeting.)

**9. PUBLIC COMMENT**

Attorney Zahniser said she hoped she would be able to do an educational outreach for the VAB on the American Bee Company. She thinks that everyone had the impression that this was a tax scam, but she said they are really doing something incredible. She spoke briefly about the American Bee Company.

School Board Member Johnson voiced that she has respect for Ms. Zahniser’s passion, and she explained that this Board is not comprised of experts, but they do have certain legal parameters that they need to operate within. She asked Ms. Zahniser not to think that she is being dismissed.

VAB Attorney Hancock addressed Ms. Zahniser’s concerns regarding the availability of her witnesses at the second hearing. He advised her that the evidence from the first hearing will be given to the Alternate Special Magistrate, so she did not have to engage all of her witnesses for the second hearing.

Adam Locke, co-founder of the American Bee Project, declared that he was surprised that nobody brought up the colony collapse disorder at the first hearing. He asked the Board to learn about colony collapse disorder and what we, as human beings, can do about it.

Ms. Zahniser added that she was not aware of any lawyer on the taxpayer side that has litigated as many cases on agricultural classifications as she has.

VAB Attorney Hancock advised the Board to disregard any statements that may pertain to the current Petitions and their qualifications for the agricultural classification. He understood what Attorney Zahniser was trying to say, but he did not want the VAB to apply that to the Petitions that are coming back for approval.

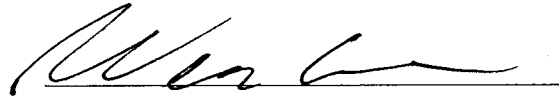
**10. ADJOURNMENT**

ON MOTION by Vice Chairman O'Bryan,  
SECONDED by Chairman Davis, the Board approved  
to adjourn the meeting at 9:05 a.m.

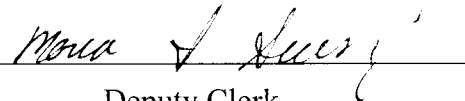
ATTEST:



Jeffrey R. Smith, CPA, CGFO, CGMA  
Clerk of Circuit Court and Comptroller



Wesley S. Davis, Chairman  
Value Adjustment Board

By:   
Deputy Clerk

Approved 7-21-2014