



DECISION OF THE VALUE ADJUSTMENT BOARD
VALUE PETITION

DR-485V
R. 01/ 17
Rule 12D-16.0 02
F.A.C.
Eff. 01/17

County

The actions below were taken on your petition.

These actions are a recommendation only, not final These actions are a final decision of the VAB
If you are not satisfied after you are notified of the final decision of the VAB, you have the right to file a lawsuit
in circuit court to further contest your assessment. (See sections 193.155(8)(l), 194.036, 194.171(2), 196.151, and 197.2425,
Florida Statutes.)

Petition # Parcel ID
Petitioner name Property address
The petitioner is: taxpayer of record taxpayer's agent other, explain:

Decision Summary Denied your petition Granted your petition Granted your petition in part
Table with 4 columns: Value (Lines 1 and 4 must be completed), Value from TRIM Notice, Before Board Action (Value presented by property appraiser Rule 12D-9.025(10), F.A.C.), After Board Action. Rows include Just value, required; Assessed or classified use value; Exempt value; Taxable value.

Reasons for Decision Findings of Fact Conclusions of Law
Fill-in fields will expand or add pages, as needed.

Recommended Decision of Special Magistrate Finding and conclusions above are recommendations.
Signature, special magistrate Print name Date
Signature, VAB clerk or special representative Print name Date
If this is a recommended decision, the board will consider the recommended decision on at Address
If the line above is blank, the board does not yet know the date, time, and place when the recommended decision will be considered. To find the information, please call or visit our web site at

Final Decision of the Value Adjustment Board
Signature, chair, value adjustment board Print name Date of decision
Signature, VAB clerk or representative Print name Date mailed to parties

### **Findings of Fact for Petition 2017-00318:**

Findings of Fact for Petition 2017-00318: Present at Collier County offices was Property Appraiser (PAO) represented by Mr. Clyde Quinby, Mr. Dennis Staruch and Ms. Jenny Blaje. Burkhard Klein, representative for PET Charles & Aprille Pappas. PET opted to appear at the hearing and provided evidence for the Special Magistrate to consider.

PAO and PET were sworn in. SM read the petitioner number. PAO confirmed just value of \$5,211,581. The TRIM value has not changed. PAO described the property which is a single family home. As part of PAO's evidence, Ms. Blaje reiterated the 50-page report on the Level of Assessment and Equalization Support Data that has been presented into the record, and this report applies to all 2017 petitions and forms part of PAO's evidence in every petition. Mr. Staruch presented the PAO's report. The report included the evidence and witness list, summary of salient facts and conclusions, definitions, limiting conditions and assumptions, scope of the appraisal, zoning, aerials, exterior photographs of the subject. PAO developed the Sales Comparison Approach and the Cost Approach, the Income Approach were not developed. The addenda contains photos of the comparable sales, and the property record card. PAO considered the 8 criteria from Section 193.011 F.S. The evidence presented by PAO was considered credible, relevant and was admitted for consideration, according to the PAO. Presented were sales of improved properties in the subject community which were used to value. PAO indicated there were plenty of sales in the community. PET provided evidence which included an appraisal performed by Burkhard Klein, Certified Appraiser in Naples, Florida. The PET evidence presented sales that supported a lower value than presented by the PAO. The SM did consider the PAO's and PET's evidence and is in agreement that the property value is less than the PAO's valuation. The PET's evidence, a Certified Appraisal is considered credible and supportive of a value change.

SM reviewed all the sales

The phrase "just value" has been determined to be synonymous with "fair market value". See *Valencia Center, Inc. v. Bystrom*, 543 So.2d 214, 216 (Fla. 1989). Further, an assessment challenge must stand or fall on its own validity, unconnected with the assessment of any prior or subsequent year. See *Keith Investments, Inc. v. James*, 220 So.2d 695 (Fla. 4th DCA 1969). The Department of Revenue (DOR) has developed specific evidence rules for presenting relevant and credible evidence See Rule 12D-9.025 (1), Florida Administrative Code (F.A.C.). Generally, "relevant evidence" is evidence that is reasonably related, directly or indirectly, to the statutory criteria that apply to the issue under review. This description means the evidence meets or exceeds a minimum level of relevance necessary to be admitted for consideration, although it does not necessarily mean that the evidence has sufficient relevance to legally justify a particular conclusion. See Rule 12D-9.025(2)(b), F.A.C. The Legislature has enacted eight factors which a property appraiser must consider when determining just valuation, which are enumerated in F. S. 193.011. In any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the property appraiser's assessment is presumed correct if the appraiser proves by a preponderance of the evidence that the assessment was arrived at by complying with F.S. 193.011, any other applicable statutory requirements relating to classified use values or assessment caps,

and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. See Section 194.301, F.S., as amended by Chapter 2009-121, Laws of Florida (House Bill 521), and Section 193.011, F.S. A taxpayer who challenges an assessment is entitled to a determination by the value adjustment board or court of the appropriateness of the appraisal methodology used in making the assessment. F.S. 193.011 outlines eight factors that must be considered to make a just value determination for each property. Refer to F.S.194.301, as amended by Chapter 2009-121, Laws of Florida (House Bill 521) and F.S. 193.011. The eight criteria specified in Florida Statute 193.011 were considered by the PAO in the following manner: (1) Present cash value - the PAO applied the Sales Comparison Approach to the subject utilizing arm's length transfers of competitive properties presumably under normal market conditions. (2) Highest and best use - land use and building codes representing highest and best use of the property were applied which were consistent with the current use; (3) Location - PAO considers locational features of the subject through the use of neighborhood codes as identified on the Property Record Card (PRC); (4) Quantity or size - the subject's size was considered based primarily on land and building areas as identified on the PRC. (5) Cost and present replacement value - PAO includes a land value from recent sales and replacement cost for the building; (6) Condition - The condition of the subject was factored into the estimated value via the Sales Comparison Approach. The Cost Approach was not developed. (7) Income - PAO was not developed. These approaches typically not developed for single family dwellings; (8) Net proceeds of sale - the PAO considers costs of sale as previously explained in the 50-page report submitted. The weight given to each of the factors is within the discretion of the property appraiser; reliance on a particular approach is dependent upon the type of property being assessed. *Id.*: *Atlantic International Inv. Corp. v. Turner*, 383 So.2d 919,929 (Fla. 5th DCA 1980). Ultimately, the proof of the correctness of value is paramount over the emphasis placed on the applicability of one particular method of value over another.

Special Magistrate has determined that PET's value is correct. PAO did not support the value. PAO Presumption of Correctness has been overcome by a preponderance of the PET's evidence. (Rule 12D-9.027(3)(a) states that if the hearing record contains competent, substantial evidence for establishing a revised just value, the board or SM shall establish a revised just value based only upon such evidence. In establishing a revised just value, the board or SM is not restricted to any specific value offered by one of the parties. PET's value is determined by the evidence to be correct.

### **Conclusions of Law for Petition 2017-00318:**

Conclusions of Law for Petition 2017-00318: Florida Law requires the Property Appraiser to establish a presumption of correctness. For the Property Appraiser to establish a presumption of correctness for the assessment, the admitted evidence must prove by a preponderance of the evidence that the Property Appraiser's just valuation methodology complies with Section 193.011, Florida Statutes and professionally accepted appraisal practices. In the instant matter, the petitioner PET provided evidence that has proved by a preponderance of the evidence that the assessment is not just. PET's value is correct. SM recommends the petition be granted and the just value of the PET of

\$4,200,000 be upheld.