

**HERNANDO COUNTY  
VALUE ADJUSTMENT BOARD**

**AUGUST 11, 2008**

A Regular Meeting of the Hernando County Value Adjustment Board was held on Monday, August 11, 2008, at 2 p.m., in the John Law Ayers Room, Government Center, Brooksville, Florida. Members present were: Rose Rocco, Chairman, Dianne Bonfield, Vice Chairman, David Russell, Commissioner, and John Sweeney, School Board Member. Others present were: Jeff Kirk, Assistant County Attorney, Judy Korbus, Clerk of Circuit Court Administrative Services Manager; and Jenine Wimer, Deputy Clerk.

The meeting was called to order at 2 p.m. by Chairman Rocco.

**Value Adjustment Board – Minutes – Approval of Organizational Meeting of July 8, 2008**

The Minutes of July 8, 2008, were presented for approval.

**Motion**

Mrs. Bonfield moved to approve; seconded by Mr. Sweeney and carried unanimously.

**Value Adjustment Board - Legal Counsel - Bryant Miller Olive Selected**

A memorandum was submitted to the Board which indicated that pursuant to Florida Statutes (FS), Section 194.015 (CS/HB 909), which required that outside legal counsel be hired to represent the Board, advertisement was placed with the local newspapers requesting proposals, with a response deadline of July 31, 2008. Proposals were received from Kelley Kaye Hasson Abramowich; Ananyo "Tito" Basu; Bryant Miller Olive, Attorneys at Law; David LaCroix; Andrew Lannon; and Joseph A. Poblack. Copies were provided to the Board, along with a proposed contract form.

Assistant County Attorney Geoffrey Kirk reviewed that FS stipulated that the private counsel selected must be a member of the Florida Bar, must have practiced law for a minimum of five years, and during the time the attorney represented the Board, he/she could not represent the Property Appraiser, the Tax Collector, any local government, the County government or any taxing authority within the state.

Attorney Susan Churuti, with Bryant Miller Olive (BMO), related that BMO represented more than half of the Counties in Florida and would enter into a contract with the Osceola County Value Adjustment Board the following day. She commented that although the Department of Revenue (DOR) had issued a statement which indicated that the counsel should not represent taxing authorities, Osceola County had interpreted that to mean in valuation litigation. She commented that different Counties took a different approach to the FS language.

Mr. Kirk acknowledged that one interpretation was that the counsel could not represent any other agency within Hernando County.

Ms. Churuti reviewed her qualifications and experience. She noted that the requested rate of compensation was \$250 per hour, with the litigation rate being \$275 per hour.

Ms. Churuti confirmed for Chairman Rocco that the rate of compensation was negotiable.

Ms. Churuti replied to Mr. Kirk that she did not believe a conflict would exist provided BMO was not representing any individual before the VAB.

Comm. Russell expressed concern with the spirit of the legislation and questioned if the legislation had been tested.

Ms. Churuti clarified that the statute was not effective until September 1, 2008. She noted that DOR had issued an e-mail to various County Attorneys. She believed that one manner of reading the language was that all of the listed entities should not be represented in a property tax matter that would come before the VAB; another view was that if an attorney currently represented a taxing authority, he/she should not represent the VAB. She contended that the Board would desire an attorney with extensive local government experience, particularly in a year in which she believed very interesting challenges would occur.

Attorney Joseph Poblick, who currently served as City Attorney for the City of Zephyrhills, stated that a conflict did not exist in regard to his representation of the Board because he did not represent the City of Zephyrhills or any other taxing authority in any administrative or judicial review of property taxes. He outlined his qualifications for providing legal counsel to the Board. He emphasized that he would be the individual to attend the Board meetings. He explained that his requested rate of compensation was \$135 per hour, noting that he could charge a lower rate due to the fact that he operated a relatively small practice with low overhead costs. He replied to Chairman Rocco that while he had represented citizens before the VAB, he had not represented a VAB. In response to a further query from Chairman Rocco, he remarked that he had not conducted litigation.

Attorney David LaCroix summarized his experience and qualifications. He disclosed that he currently represented the Town of Inglis with regard to an appellate matter in litigation that was just decided, and if the Town of Inglis requested further representation and the Board had concerns, the insurance counsel for the Town of Inglis could handle the case. He mentioned that the hourly rate he quoted would be for all services. He responded to Comm. Rocco that the rate was slightly negotiable. He confirmed for Mr. Kirk that he had no clients in Hernando County at this time.

Chairman Rocco expressed concern with the possibility that the Board would contract with an attorney and it was later determined that a conflict existed.

Comm. Russell did not feel that concern could be used in the Board's decision because it would take some time for the legislation to be tested.

Mr. Kirk referred to a DOR bulletin dated August 8, 2008, which was submitted to him by the Property Appraiser's Office, which indicated that DOR's understanding was that in order for an attorney to represent a VAB, he/she could not currently represent in any County the Property Appraiser, the Tax Collector, any taxing authority, including cities and counties, or any property owner in any administrative or judicial review of property taxes. He noted that the bulletin stated that an attorney may represent more than one VAB, an attorney that had previously served as a Special Magistrate may represent a VAB, and an attorney Special Magistrate currently serving in one County could represent a VAB in another County.

Comm. Russell commented on the disparity in the hourly rates requested.

Mr. Kirk noted that several applicants did meet the criteria, such as the requisite five years experience.

Upon questioning by Mr. Sweeney, Ms. Churuti offered an hourly rate of \$205. She replied to a query from Chairman Rocco that BMO would not bill travel charges on an hourly basis, but would charge for mileage reimbursement at the State rate.

**Motion**

Comm. Russell moved to accept BMO, attorneys at law, at \$205 per hour; seconded by Mr. Sweeney.

Ms. Churuti replied to Mr. Sweeney that BMO would not reduce the litigation fee.

Comm. Rocco asked if an alternate attorney should be selected.

Mr. Kirk noted that if the Board hired a firm, another member of the firm could be present at the Board meeting in the event the primary attorney could not be present. He stated that as infrequently as the Board met, he would not recommend selecting a second attorney, but rather, would impress upon the attorney selected that if he/she agreed to represent the VAB, he/she needed to be present at the few meetings the Board held.

The vote was taken on the Motion and it carried 4-0.

Mr. Kirk noted that a contract form had been prepared, which he would provide to Ms. Churuti.

Comm. Russell suggested that a caveat be included that if the statute was promulgated in such a fashion that precluded the ability of BMO to represent the VAB, the contract would become null and void.

Mr. Kirk agreed.

Ms. Churuti agreed that most attorney contracts included such language.

Later in the meeting, Mr. Sweeney asked if a Motion was needed to adopt the contract.

Mr. Kirk advised that the contract could be approved in similar form to the document submitted; however, Ms. Churuti would likely suggest minor changes, and the "boilerplate" would be revised to accommodate Comm. Russell's comments. He suggested that the Board authorize him to work with Ms. Churuti in regard to the contract form submitted.

**Motion**

Comm. Russell so moved, including a boilerplate severability clause; seconded by Mr. Sweeney and carried 4-0.

**Value Adjustment Board – Composition - Update on Appointment of Citizen Members**

A memorandum was submitted from Deputy Clerk Sherry Crum advising that pursuant to VAB direction, the Clerk had requested that the Board of County Commissioners and the School Board make their respective citizen member appointments to the 2008 VAB. Recent Legislative changes to FS 194.015 affecting the composition of the VAB included a requirement that two citizen members be appointed, one of whom shall be appointed by the governing body of the county and must own homesteaded property within the county and one of whom must be appointed by the School Board and must own a business occupying commercial space located within the school district. A citizen may not be a member or an employee of any taxing authority, and may not be a person who represented property owners in any administrative or judicial review of property taxes.

The Board of County Commissioners had considered the request at their August 5, 2008, meeting. The School Board would consider the request on August 12, 2008.

Clerk of Circuit Court Administrative Services Manager Judy Korbus noted that the County Administrator's Office was in the process of advertising for the Board appointment.

Chairman Rocco questioned the time frame in which the School Board could make their appointment.

Mr. Kirk pointed out that while the next Board meeting was not anticipated until December 2008, it was recommended that the citizen appointments be made as soon as possible because the statute became effective September 1, 2008. He informed Mrs. Bonfield that there was no specific time frame in which the advertisement soliciting interested individuals needed to be published in the newspaper.

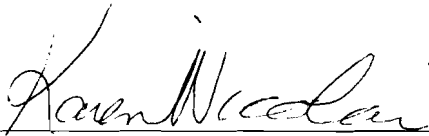
Mrs. Bonfield suggested that the School Board could set the application period for one week.

**Value Adjustment Board – Petition Hearings – List of Tentative Dates Noted**

A list of tentative dates was submitted for Special Magistrate hearings at which petitions filed with the 2008 Value Adjustment Board (VAB) would be considered. A tentative date of Friday, December 19, 2008, had been reserved for the final meeting of the VAB. VAB members were not required to be present at the hearings, which were conducted by Special Magistrates.

**ADJOURNMENT**

There being no further business to come before the Value Adjustment Board at this time, the meeting was adjourned at 2:40 p.m.



KAREN NICOLAI, CLERK



ROSE ROCCO, CHAIRMAN