

**From:** Mrs. Sheila Anderson <[cps1jra@gmail.com](mailto:cps1jra@gmail.com)>

**Sent:** Tuesday, April 16, 2024 10:54 AM

**To:** DORPTO <[DORPTO@floridarevenue.com](mailto:DORPTO@floridarevenue.com)>; Mark Hamilton <[Mark.Hamilton@floridarevenue.com](mailto:Mark.Hamilton@floridarevenue.com)>; CFO Patronis <[CFO.Patronis@myfloridacfo.com](mailto:CFO.Patronis@myfloridacfo.com)>; CFO Robert Tornillo <[Robert.Tornillo@myfloridacfo.com](mailto:Robert.Tornillo@myfloridacfo.com)>; [ron.desantis@eog.myflorida.com](mailto:ron.desantis@eog.myflorida.com)

**Subject:** REQUEST FOR PUBLIC MEETING

**Caution:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

**THIS is a request for a public meeting to be conducted on the afternoon of May 13th, 2024. in Building 2 in Tallahassee, beginning at 2 p.m.**

DOR draft - 12D-51.001, F.A.C. Page 8 - 1.4 Context of These Guidelines. **Section 195.062(1), F.S., *dictates* these guidelines do not have the force and effect of rules.** As such, these guidelines do not function as the complete reference authority on any of the following or similar subjects: valuation theory, approaches, methods, or procedures; assessment administration; or applicable provisions of Florida ad valorem tax law, or regulatory requirements. In accordance with the limitations imposed by s. 195.062(1), F.S., **these guidelines do not constitute a determinative legal standard** for the valuation of agricultural land. The statutory valuation legal standards are described in further detail in s. 194.301, F.S., and sections 2.1 and 2.5 of this document.

**Please illustrate and/or clarify where in 195.062(1) it *dictates* "these guidelines do not have the force and effect of rules." And, where in Chapter 120 does DOR have authority to add, modify, or change implementation of any statutes without the express authority of the Legislature?**

**In addition, what part of the State constitution, State statutes, or State case law provides that any sections of the Florida Administrative Code as adopted by the Governor and Cabinet are NOT law. Please clarify how, as with any other section of the laws and rules governing ad valorem taxation, is it not standard procedure or protocol to refer to and incorporate as appropriate all other pertinent current, governing law? Or, why would any single document be separated from the context of all governing law?**

**Sheila Anderson, Principal/Broker  
Commercial Property Services, Inc.  
Licensed Real Estate Broker  
305-608-0081**

**From:** Mark Hamilton <[Mark.Hamilton@floridarevenue.com](mailto:Mark.Hamilton@floridarevenue.com)>

**Sent:** Thursday, April 18, 2024 3:25 PM

**To:** [cps1jra@gmail.com](mailto:cps1jra@gmail.com)

**Cc:** DORPTO <[DORPTO@floridarevenue.com](mailto:DORPTO@floridarevenue.com)>; [CFO.Patronis@myfloridacfo.com](mailto:CFO.Patronis@myfloridacfo.com); Tornillo, Robert <[Robert.Tornillo@myfloridacfo.com](mailto:Robert.Tornillo@myfloridacfo.com)>; [ron.desantis@eog.myflorida.com](mailto:ron.desantis@eog.myflorida.com)

**Subject:** FW: REQUEST FOR PUBLIC MEETING

Dear Ms. Anderson,

This will acknowledge that the Department received your email requesting the hearing be held on May 13, 2024, beginning at 2PM, as noticed in the Florida Administrative Register (Volume 50, Number 73, April 12, 2014). The hearing will be held as requested. The purpose of the hearing will be to discuss proposed amendments to the Florida Agricultural Classified Use Real Property Appraisal Guidelines.

You have also requested the Department illustrate/clarify where in section 195.062, F.S., the Legislature has dictated that the guidelines do not have the force or effect of rules. For your edification, the guidelines are part of the standard measures of value identified in section 195.062, F.S. The provision in Florida law setting forth that the guidelines shall not have the force or effect of rules is identified and highlighted below.

- **195.062 Manual of instructions.—**
  - (1) The department shall prepare and maintain a current manual of instructions for property appraisers and other officials connected with the administration of property taxes. This manual shall contain all:
    - (a) Rules and regulations.
    - (b) Standard measures of value.
    - (c) Forms and instructions relating to the use of forms and maps.

Consistent with s. [195.032](#), the standard measures of value shall be adopted in general conformity with the procedures set forth in s. [120.54](#), but shall not have the force or effect of such rules and shall be used only to assist tax officers in the assessment of property as provided by s. [195.002](#).

I personally reiterated this established legal principle at each of the three public workshops held by the Department for purposes of updating the guidelines. For example, at the [public workshop](#) you attended in Ocala, Florida, on June 27, 2023, I stated the following on the record:

- **MR. HAMILTON:** *“Good morning. Gathered before you today are part of the standard measures of value and authorized by Section 195.032 and 195.062 Florida Statutes. Pursuant to Section 195.062 Florida Statutes, they must be adopted in general conformity with the rule making procedures set forth in Section 120.54 Florida Statutes. However, they do not have the force or effect of rules and do not establish the value of any property. They are to be used only to aid and assist property appraisers in their assessments of property, as provided by Section 195.002 Florida Statutes.”*

Additionally, this piece of Florida law clearly providing these guidelines do not have the force or effect of rules has been well settled for a number of years. I have attached a copy of [PTO Bulletin 10-23](#) issued by Mr. Keller, dated August 19, 2010, to Value Adjustment Board Attorneys that further explains this point of law.

Best regards,



**Mark S. Hamilton**

*General Counsel*

Post Office Box 6668

Tallahassee, FL 32314-6668

(850) 617-8347

[mark.hamilton@floridarevenue.com](mailto:mark.hamilton@floridarevenue.com)

**To:** Value Adjustment Board Attorneys  
**From:** Steve Keller, Chief Assistant General Counsel, Property Tax Oversight  
**Date:** August 19, 2010  
**Bulletin:** PTO 10-23

## **FLORIDA DEPARTMENT OF REVENUE PROPERTY TAX INFORMATIONAL BULLETIN**

### **Legal Effect of the Department's Property Appraisal Guidelines for Property Appraisers**

This advisement is in response to questions that have arisen on whether the Department's appraisal guidelines for property appraisers have the force and effect of law as do provisions of the constitution, statutes, and duly adopted administrative rules. The Department's appraisal guidelines include real property appraisal guidelines, tangible personal property appraisal guidelines, and guidelines for classified use valuation of agricultural property. As described below, applicable provisions of Florida law clearly provide that these guidelines do not have the force or effect of law.

One inquiry suggests incorrectly that the Department's appraisal guidelines are in effect rules and should be applied as rules in value adjustment board (Board) proceedings. This suggestion is based on a superseded opinion of the Florida Attorney General dated June 1, 1976 (AGO 76-123). This opinion has been superseded since 1976 by legislation effective July 1, 1976, shortly after the date of the opinion. See Chapter 76-234, sections 9 and 10, Laws of Florida. This legislation is still in effect in sections 195.032 and 195.062, F.S.

Section 195.032, F.S., provides that the guidelines "*shall assist the property appraiser in the valuation of property and be deemed prima facie correct, but shall not be deemed to establish the just value of any property*". Section 195.062, F.S., provides that the guidelines "*shall not have the force or effect of rules and shall be used only to assist tax officers in the assessment of property as provided by s. 195.002*". Section 195.002, F.S., provides that the Department shall have general supervision of the assessment and valuation of property and further states: "*The supervision of the department shall consist primarily of aiding and assisting county officers in the assessing and collection functions, with particular emphasis on the more technical aspects.*"

Rules 12D-51.001, 12D-51.002, and 12D-51.003, F.A.C., refer to the agricultural property guidelines, tangible personal property guidelines, and real property appraisal guidelines, respectively. Each of these three rules states that the respective guidelines do not have the force and effect of rules.

### The Real Property and Tangible Personal Property Guidelines and Professionally Accepted Appraisal Practices

Section 194.301(1), F.S., now provides that the just value of property must be determined by an appraisal methodology that complies with the criteria of section 193.011, F.S., and professionally

accepted appraisal practices. The professional texts that contain the body of such practices consist of thousands of pages. While the Department's guidelines for real and tangible personal property do address professionally accepted appraisal practices and Florida law, it is not feasible for these guidelines to contain all of such practices or all law that could apply. As "guidelines" under Florida law, the Department's guidelines were not intended to address every professionally accepted appraisal practice or every element of law that could apply to a just valuation.

Generally, there are different methods for achieving valid just valuations of property while complying with professionally accepted appraisal practices provided that the methods used are recognized, applicable, and correctly employed. In a particular valuation situation, it may be appropriate to employ a professionally accepted appraisal practice that is not addressed in the Department's guidelines. Conversely, in a particular valuation situation, it would be inappropriate to employ a professionally accepted appraisal practice that is addressed in the Department's guidelines when such practice is not appropriate for the particular situation. Therefore, it would be inappropriate to conclude that a just valuation is valid or invalid based on whether it was or was not developed in accordance with the guidelines.

#### Appropriate Use of the Department's Appraisal Guidelines by Boards and Special Magistrates

The Department's guidelines are specifically intended by law as aid and assistance for the production of original assessment rolls by property appraisers. Within the scope of their authority, Boards and special magistrates may consider these guidelines, where appropriate, in the administrative review of assessments produced by property appraisers.

Section 194.035, F.S., requires the Department to provide training for Boards and special magistrates and requires that this training emphasize the Department's guidelines for real and tangible personal property. This knowledge should be helpful to Boards and special magistrates in conducting their administrative reviews of just valuations. Special magistrates are expected to understand these guidelines for purposes of reviewing challenged assessments.

The Department's appraisal guidelines are compiled in a set of documents titled "Reference Materials Including Guidelines." Along with other documents, the Department provides these reference materials to Boards and special magistrates to assist them in administrative reviews of assessments. In administrative reviews, these guidelines must be used in conjunction with the Department's Uniform Policies and Procedures Manual and with an accompanying set of documents titled "Other Legal Resources Including Statutory Criteria."

If you have questions regarding this matter, you may e-mail [VAB@dor.state.fl.us](mailto:VAB@dor.state.fl.us) or call Property Tax Oversight, Technical Section at (850) 617-8889 or (850) 617-8895.

**From:** Mrs. Sheila Anderson <[cps1jra@gmail.com](mailto:cps1jra@gmail.com)>  
**Sent:** Thursday, April 18, 2024 4:01 PM  
**To:** Mark Hamilton <[Mark.Hamilton@floridarevenue.com](mailto:Mark.Hamilton@floridarevenue.com)>  
**Cc:** DORPTO <[DORPTO@floridarevenue.com](mailto:DORPTO@floridarevenue.com)>; [CFO.Patronis@myfloridacfo.com](mailto:CFO.Patronis@myfloridacfo.com); Tornillo, Robert <[Robert.Tornillo@myfloridacfo.com](mailto:Robert.Tornillo@myfloridacfo.com)>; [ron.desantis@eog.myflorida.com](mailto:ron.desantis@eog.myflorida.com)  
**Subject:** Re: FW: REQUEST FOR PUBLIC MEETING

**Caution:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you Mr. Hamilton for your response. Nevertheless the Guidelines, all three sets, are incorporated into the Florida Administrative Code and approved by the Governor and Cabinet. Therefore, are they not administrative law? The late Benjamin Phipps, whose fingerprints were on most of the tax statutes, was emphatic in declaring the Guidelines are law. And that makes sense to me. So I object strenuously to written statements to the contrary. Moreover, such statements create the impression that the Governor and Cabinet are merely figureheads, and subservient to local officials - NOT an appropriate let alone desirable impression..

In addition, I urge you to expand the introduction to each of the Guidelines to include language that reflects the uniformity provision in the Florida Constitution AND in Chapter 195. A special magistrate recently stated, on the record, that he did not have to consider uniformity because there is no enforcement mechanism. I found that about as unAmerican as any statement anyone on a government payroll could make. Since the entire point of having PTO's certification process is, and should be, to ensure uniformity of classifications in the tax roll, and those principles originated in the founding of the United States, would be nice of Florida was not embarrassed by such ignorance. One solution would be expansion of the introductions in each of the Guidelines..

And - unless the Governor and Cabinet have repealed 12D-51.003 F.A.C. - Real Property Guidelines - it is inappropriate and frankly offensive to find statements on DOR's website, paid for with public money, that suggest the entire document is not in effect. I had the same special magistrate tell me, at a VAB hearing, that he did not have to consider the contents of the Guidelines because of the website statement. The impression therefore is that he could disregard the entire body of law. Given the number of statutes which are older, by adoption date, than any of the Guidelines yet are not to be disregarded unless repealed or overturned by a court, as part of your fiduciary obligations to uphold the public trust, would be better - as a matter of good faith - to simply identify any portions which have been overturned or amended in some way by the legislature or the courts. If you cannot identify such sections, then why is the misleading statement on a public source of information?

Finally - last June you did not appear to know that PTO has not - **evidently for years** - separately gathered data for improvements (aka buildings) per the definition of real property in Chapter 192. Per direct conversation with her last June, the current head of PTO seems to have no idea that buildings have assessed value - in some case enormous value - and there is no professional method of verifying total assessments without separately gathered and tested values for such improvements - for purposes of uniformity, for purposes of condition, for purposes of verification that no tangible or intangible assets are included in the totals. SO, while not part of the discussion related to Guidelines, it is of major concern that PTO is even operating given that **EXTEMELY SIGNIFICANT OMISSION**. The excuse made to me last June was, in my opinion, an embarrassment to the State generally and the Governor and Cabinet members specifically. What is the point of having PTO if the value(s) of buildings are not gathered or

tested. The problem appears to originate in PTO's annual requests for data. The category is NOT in those requests, therefore is not provided. Income data also is NOT requested either, although improvements (aka buildings) and income are both specifically material parts of 193.011, F.S. Seems as if public money going to salaries and benefits is a total waste if the annual certification of ad valorem tax rolls is a hit or miss effort. Without those omitted components, it certainly is not and cannot be professionally valid.

Sincerely,

Sheila Anderson

**From:** Mrs. Sheila Anderson <[cps1jra@gmail.com](mailto:cps1jra@gmail.com)>

**Sent:** Wednesday, May 1, 2024 3:22 PM

**To:** DORPTO <[DORPTO@floridarevenue.com](mailto:DORPTO@floridarevenue.com)>; Mark Hamilton <[Mark.Hamilton@floridarevenue.com](mailto:Mark.Hamilton@floridarevenue.com)>; CFO Patronis <[CFO.Patronis@myfloridacfo.com](mailto:CFO.Patronis@myfloridacfo.com)>; Tornillo, Robert <[Robert.Tornillo@myfloridacfo.com](mailto:Robert.Tornillo@myfloridacfo.com)>; [ron.desantis@eog.myflorida.com](mailto:ron.desantis@eog.myflorida.com)

**Subject:** [EXT]

FYI - I am withdrawing my request for a public meeting related to 12D-51.001. I do NOT know if anyone else still wants the meeting. AND please be advised that I do **NOT** agree with nor do I approve of the text in the current draft.

Sheila Anderson