

Department of Revenue PTO Rule

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November 08, 2023



FLORIDA DEPARTMENT OF REVENUE

PROPERTY TAX OVERSIGHT

RULE DEVELOPMENT WORKSHOP

November 8, 2023

10:00 a.m. to 10:31 a.m.

Polk County Administration Building

330 W. Church Street, Room 413

Bartow, Florida 33830

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APPEARANCES:

DEPARTMENT COUNSEL AND STAFF:

- Janice Forrester, Revenue Program Administrator
- Mark Hamilton, General Counsel
- Michael Paramore, Field Services Process Manager
- Mark Bishop, Classified Use Supervisor
- Andrew Spicer, Appraiser Specialist
- Aaron Lane, Senior Appraiser
- Rene Lewis, Program Director
- Shawn Blackburn, IT Manager

PUBLIC SPEAKERS:

- Julie Schwartz

1 P R O C E E D I N G S

2 MS. FORRESTER: Good morning. This is the PTO
3 Public Rule Development Workshop on Rule 12D-
4 51.011, Florida Agricultural Classified Use
5 Guidelines. We will get started shortly. If you
6 please can, go ahead and mute yourself before we
7 begin.

8 Good morning. My name is Janice Forrester.
9 I'm the Revenue Program Administrator Within
10 Property Tax Oversight. I'll be the moderator for
11 today's workshop. My role as moderator is to
12 preside in a neutral fashion. Staff from The
13 Department are here today to receive comments on 14
the proposed amendments. At this time I would like 15
staff to introduce themselves.

16 MR. PARAMORE: Good morning, I'm Michael
17 Paramore, I'm the Field Services Process Manager.

18 MR. HAMILTON: Mark Hamilton, General Counsel,
19 Florida Department of Revenue.

20 MR. BISHOP: Mark Bishop, Classified Use
21 Supervisor.

22 MR. SPICER: Andrew Spicer, Appraiser
23 Specialist.

24 MR. LANE: Aaron Lane, Senior Appraiser.

25 MS. HARPER: Jenna Harper, Compliance Assistance

1 Process Manager. In the audience we also have
2 program director Rene Lewis (phonetic), and IT
3 Manager Shawn Blackburn (phonetic).

4 MS. FORRESTER: Thank you. Today is November
5 8th, 2023. This is a public workshop scheduled in
6 general conformity with the requirements of
7 Chapter 120 Florida statutes, as indicated by
8 section 195.062(1), Florida Statutes. Although
9 these guidelines do not have the force and effect
10 of rules, in furtherance of enhancing public trust
11 in a collaborative effort with interested parties,
12 The Department is holding this workshop to discuss
13 the proposed amendments to the Florida Agricultural
14 Classified Use Real Property Appraisal Guidelines,
15 and the development of administrative updates to
16 the reference included in Rule 12D-51.001, Florida
17 Administrative Code.

18 The Department published a notice of this
19 public workshop in the October 19th, 2023 edition
20 of the Florida Administrative Register,
21 Volume XLIX, Number 204, Page 3924.

22 An initial public workshop was held on
23 February 21st, 2023, in Tallahassee. The
24 Department received comments and incorporated
25 comments in the January 2023 version of the draft

1 Florida Agricultural Guidelines.

2 A second workshop was held on June 27th, 2023,
3 in Ocala. The Department received comments and
4 incorporated comments in the June 2023 version of
5 the Draft Agricultural Guidelines. The updated
6 version is dated October of '23, this is the
7 version that we will use for the discussion today.

8 We've placed copies of the draft guidelines
9 and the proposed amendments on the back counter for
10 those in the room. For those at the computer,
11 these documents are available on The Department's
12 rules page at floridarevenue.com/rules. Select the
13 property tax proposed rules button at the bottom of
14 the page, then select Rule 12D-51.001.

15 I'll now ask Mark Hamilton to provide a brief
16 overview of The Department's vision of the process
17 for updating the guidelines presented at today's
18 workshop.

19 MR. HAMILTON: Good morning. The guidelines
20 before you today are part of the standard measures
21 of value and authorized by sections 195.032, and
22 195.0624 statutes.

23 Pursuant to Section 195.062, they must be
24 adopted in general conformity with the rule making
25 procedures set forth in Section 120.54 Florida

1 statutes; however, by law, they do not establish
2 the value of any property, they do not have the
3 force or effect of rules, and are only to be used
4 to aid and assist county appraisers.

5 As noted during the workshop held for these
6 guidelines on February 21st, 2023 in Tallahassee,
7 as well as during the workshop held on June 27th,
8 2023 in Ocala, The Department envisioned a robust
9 public process for updating these guidelines.

10 This has included extensive opportunities for
11 public input.

12 The process continues through the workshop
13 today. The Department greatly appreciates the
14 public input that we have received to date, which
15 has assisted with the draft of the guidelines that
16 is before you today. The Department has not
17 preselected the number of workshops we intend to
18 hold for these guidelines. Throughout the process
19 The Department has envisioned having as many
20 workshops as needed to determine that no additional
21 ones will assist us in further updating the
22 guidelines.

23 Additionally, The Department does intend to
24 seek approval through the governor cabinet to hold
25 a public hearing in furtherance of the updating

1 process for the guidelines.

2 The Department has subject matter team members
3 here today to try to answer any questions you may
4 have regarding the draft that is before you today,
5 but we may not have all the answers. We will
6 endeavor to follow up as needed after today to
7 address any issues, if necessary, or areas
8 appropriate for these guidelines based upon
9 comments that are received today, or post this
10 workshop for the time period that we provide.

11 We appreciate your participation in this
12 process and want to make sure we consider all
13 issues that may be raised, and as part of any
14 comments that you may wish to submit as part of the
15 process.

16 With that, I would now ask Jenna harper to
17 explain the process we will use for taking comments
18 on the agenda items.

19 MS. HARPER: Good morning. There are three
20 options for us to take comments on the items listed
21 on the agenda.

22 1. If you are attending this workshop using
23 option telephone with audio pin and you have a
24 question or comment, please send an e-mail to
25 DORPTO@Floridarevenue.com to let me know you wish

1 to speak. We will address you by name and unmute
2 your phone when it is your turn to speak.

3 Option 2. If you are using the option
4 telephone with no audio pin, you must e-mail your
5 address -- I'm sorry, e-mail your question or
6 comment directly to DORPTO@Floridarevenue.com.
7 Please use the subject line November 8 workshop.
8 For the comment, add your name and whom you
9 represent in the e-mail. We will read your comment
10 out loud, and the court reporter will enter it in
11 the record.

12 Option 3. If you are attending this workshop
13 using your computer, raise your hand using the icon
14 on the grab tab, left of your control panel, and we
15 will address you when it's your turn to speak.
16 Please state your name and whom you represent, and
17 the court reporter will enter it in the record,
18 along with your question or comment.

19 If you experience difficulty, please use the
20 quick chat option to send me a message. As a
21 reminder for those that are in the room, please
22 mute or turn off any cell phone ringers, or any
23 other noise making devices. Thank you.

24 MS. FORRESTER: We will take comments on each
25 agenda item from anyone present, or from webinar

1 and phone attendees. For anyone present, please
2 step up to the podium when you want to speak on an
3 agenda item. For anyone using a computer, raise
4 your hand electronically. Please tell us your name
5 and whom you represent. We ask that you limit
6 comments to each topical agenda item currently open
7 for discussion of the draft published provided
8 online for the workshop. Please hold all other
9 general comments until after we discussed agenda
10 items.

11 We will begin with the draft agricultural
12 classified use real property appraisal guidelines,
13 dated October 2023.

14 We'll begin with Section 1, titled
15 "Introduction." Are there any comments on
16 Section 1?

17 MS. HARPER: I do not see any hands raised
18 from the audience.

19 MS. FORRESTER: Hearing no comments, we'll go
20 to Section 2, titled, "General Provisions." Do we
21 have any comments on Section 2?

22 MS. HARPER: All right, Ms. Schwartz, I
23 recognize you. You are self-muted, and you are
24 welcome to go ahead and unmute and ask.

25 MS. SCHWARTZ: Hi, good morning, thank you.

1 Can you hear me?

2 MS. HARPER: Yes, ma'am.

3 MS. SCHWARTZ: Okay. My name is Julie
4 Schwartz, I'm an attorney, I represent taxpayers,
5 and I'm with the law firm Rennert Vogel Mandler &
6 Rodriguez. Thank you for the workshop today, and I
7 have just a couple comments.

8 The first two comments are in Section 2, and
9 they are in Section 2.1.2, and I'm looking at the
10 last coded version, it's at bottom, in that
11 version, it's at the bottom of Page 11. There's a
12 section that says -- states, Section 570.85,
13 Florida Statutes, allows agritourism operators to
14 maintain agricultural classifications for ad
15 valorem tax purposes under Section 193.461, Florida
16 Statute.

17 And then it states, "So long as the
18 agritourism activity relates directly to
19 agricultural production."

20 And my comment is regarding that specific
21 part, the second part of that sentence, because
22 Section 570.85, this really isn't an accurate
23 statement of what is in 570.85. 570.85 really, it
24 doesn't state that the activity must relate
25 directly to agricultural production, it doesn't

1 really touch on that. It states that it's the
2 intent of the legislature to promote agritourism,
3 and to eliminate duplication of regulatory activity
4 over agritourism -- the local government may not
5 adopt policies that limit agritourism on land that
6 is classified agricultural under 193.461.

7 And so I think that this summation of 570.85
8 that's included on the bottom of Page 11 of the
9 guidelines is misleading, and it shouldn't limit
10 the agritourism, which is -- the legislature in a
11 number of statutes has stated clearly that they're
12 trying to promote.

13 And the reason I'm bringing this up is that
14 despite continuing -- there's been a few changes in
15 the agritourism statute in recent years that are
16 clearly directed towards promoting agritourism, but
17 despite that some of the property appraisers are
18 taking a very narrow view and limiting it in pieces
19 where it seems that it should be allowed.

20 And one other comment on in --

21 MS. FORRESTER: Before -- I'm sorry,
22 Ms. Schwartz, before you make your second comment
23 can we just note on the record that this is Page 10
24 of the October 2023 draft. Thank you. If you go
25 ahead with your second comment.

1 MS. SCHWARTZ: Okay. Thank you. I apologize,
2 I have my notes in the other version.

3 Then just below that, there is, I think, a new
4 section that's added, it's underlined, and it
5 says, "Amended Section 570.85, in Section 1,
6 Florida statutes, to remove a requirement that
7 agritourism be a secondary stream of revenue for a
8 bona fide agricultural operation, and that's
9 correct.

10 But then the next sentence that begins
11 with, "However," I think that that sentence should
12 be stricken. It says, "However, it's important to
13 remember for purposes of agricultural
14 classification, Section 193.4613(b), Florida
15 Statutes, requires that the primary use of the land
16 be a bona fide agricultural use, and if you look at
17 the latest version of 570.87, it deletes,
18 specifically deletes the words, "Remain primarily
19 used for agricultural purposes."

20 So I think these need to be incorporated
21 together, and that this is a little bit too
22 limiting the way it's drafted in the guidelines,
23 and doesn't really reflect the new changes that are
24 in 570.87.

25 MS. FORRESTER: Ms. Schwartz, can you repeat

1 what section you're in, the language --

2 MS. SCHWARTZ: Yes, it's just -- it's just
3 below where we were before, and in the latest coded
4 version it's at the top of Page 10.

5 MS. FORRESTER: Okay. So in the October 2023
6 it's on the bottom of Page 10?

7 MS. HARPER: Correct.

8 MS. FORRESTER: And it goes over to Page 11.

9 MS. SCHWARTZ: There's an indented paragraph
10 that is all underlined, it starts with, "Amended
11 Section 570.85, Subsection 1."

12 MS. FORRESTER: Okay. So on the October 2023,
13 if it's not underlined --

14 MS. HARPER: Correct, it's not stricken on the
15 October 2023 draft, it is what we added in a prior
16 draft, and in this one it is not underlined any
17 longer, correct. Bottom of Page 10. Correct.

18 MS. SCHWARTZ: Yeah, and then the sentence
19 starts with, "However, it is important to
20 remember." Agritourism, if you've got where I'm --
21 where I'm looking.

22 MS. FORRESTER: Correct. We know where you're
23 looking. Yes, ma'am. It's on the bottom of
24 Page 10 of the draft 3 coded version that's labeled
25 October 2023, it's highlighted on our website.

1 That is the draft we are working from today, so
2 when we are -- when we are all speaking if we
3 could, as much as possible, try to refer to the
4 page numbers of that draft, the coded draft 3,
5 October 2023. It's highlighted on our website for
6 easy reference.

7 MS. SCHWARTZ: Okay. And I apologize.

8 MS. FORRESTER: No, that's okay. That's just
9 the one we in the room have.

10 MS. SCHWARTZ: Thanks. And then should I -- I
11 have one more -- one last comment today, and it's
12 on 2.5. Should I make that now?

13 MS. FORRESTER: Yes, ma'am.

14 MS. SCHWARTZ: Okay. So in Section 2.5, it --
15 challenges, there are four -- underneath the first
16 paragraph there's a paren one through paren four,
17 and my comments are to those four statements.

18 It states that the professional standards for
19 the property appraiser's development and reporting
20 of agricultural classified use valuations for ad
21 valorem tax -- in Florida are stated in
22 Section 194.301. The standards are, and then
23 number 1 is compliance with professionally accepted
24 appraisal practices.

25 I am just asking if you could perhaps include

1 some more guidance on this. For example, what are
2 these practices, and what steps must appraisers
3 take to comply with them?

4 And then similarly in number two, it says
5 avoiding arbitrarily different appraisal practices
6 within groups of comparable property within the
7 same county.

8 And in this case, what is an appropriate
9 appraisal methodology, and what are the criteria?
10 What steps, again, must appraisers take to comply?

11 And then same thing with number three,
12 avoidance of superseded case law. So it -- I'm
13 sorry, in this one I think that there is a list of
14 some of the superseded case law below, but there --
15 the list is -- the list is correct, but there are
16 some additional cases that aren't included that can
17 also be included. For example, Powell v. Kelly
18 (phonetic) from 1969, and the Deltona (phonetic)
19 case from 1976.

20 And number -- the correct application of
21 appropriate -- and I guess there just to give some
22 more guidance on appraisal methodology, and what --
23 steps appraisers take to comply.

24 That's all the comments I have today. I would
25 like to --

1 MR. HAMILTON: Ms. Schwartz, if you could hold
2 on a second?

3 MS. SCHWARTZ: Yes.

4 MR. HAMILTON: This is Mark Hamilton, I'd like
5 to address a few of those items. You know, the
6 department did make edits to this draft based upon
7 comments that we had received from you previously,
8 and we appreciate that feedback, and we think that
9 there were some pertinent clarifications that we
10 included within this draft.

11 As it relates to further clarification of
12 professionally accepted appraising practices or
13 methodology, just to be clear, these are
14 guidelines. They're not rules, they're not law,
15 and certainly the context of this document cannot
16 include all professionally accepted appraisal
17 practices, because that would be thousands of
18 pages. Any methodology, that's not going to be
19 incorporated in these guidelines, which again, are
20 not rules or law, and the department would not be
21 able to accomplish that, and even assuming we could
22 include thousands of pages, we certainly wouldn't
23 be able to navigate changes that might occur on a
24 day-to-day basis for a particular property.

25 So these guidelines cannot incorporate those

1 types of dynamics, nor under the law are they
2 intended to do so, because as noted, they're not
3 law, they're not rules, and so based upon that I
4 want to make sure that I was clear that these
5 guidelines are not to be viewed as a determinative
6 legal standard. That's not what they're intended
7 for. They're intended to provide some aid and
8 assistance to appraisers. As it relates to the
9 case law, as you noted, we have not included an
10 exhaustive list of cases. These are some examples.
11 We included examples that identify superseded case
12 law that we thought were pertinent, and as you
13 noted, doesn't -- it's not an exhaustive list. We
14 wouldn't be able to necessarily come up with an
15 exhaustive list, nor are we intending to.

16 But we do believe the cases on there are
17 important, and so that everyone is clear, too, I
18 know in previous workshops we've talked about a few
19 other cases that were out there and noted, I
20 believe that previously was asked why we didn't
21 include the Darden case, from Florida, the Darden
22 case that was out there previously, was noted it's
23 at 266 So.3d 228.

24 For the record, the Darden case didn't apply
25 an incorrect standard. In fact, that court got it

1 correct.

2 I think another case that was noted before in
3 another workshop was CVS Fruitville, the cite for
4 that is 124 So.3d 289. Again, the Court in CVS did
5 not apply an incorrect standard, so that's why
6 those cases are not listed.

7 The cases that are there are to provide a
8 general overview for appraisers so that they can
9 identify, again, some cases that are identified and
10 used an incorrect burden of proof legal standard,
11 which the legislature specifically changed by
12 statute when it implemented 194.3015, and updated
13 194.301.

14 So those are the limited purposes for what
15 we've incorporated those contents into the
16 guidelines, and again, it's not to address anything
17 beyond the superseded burden of proof legal
18 standard. So I want to make sure that we clarified
19 that on the record.

20 MS. SCHWARTZ: Thank you, I appreciate that
21 explanation, and I do recognize what you're saying,
22 the -- as far as that it can't be completely
23 comprehensive. So, I appreciate that.

24 MR. HAMILTON: Thank you.

25 MS. SCHWARTZ: Thank you.

1 My only other question is what -- is there a
2 deadline to submit written comments? Has that
3 deadline been established?

4 MS. FORRESTER: Yes, ma'am. We've established
5 that deadline. It's going to be November 30th.

6 MS. SCHWARTZ: Okay. I'll just request if
7 possible to extend it, considering that we're
8 approaching the holidays, and it's a busy time of
9 years with hearings and the holidays. If it's
10 possible to extend it I would appreciate that.

11 MR. HAMILTON: We've given a lot of
12 consideration. Based upon the fact that we're at
13 the third workshop and there's been additional
14 input and comments already provided that we've
15 adapted, we believe November 30th is an appropriate
16 timeframe.

17 MS. SCHWARTZ: Okay. Thank you very much.
18 I'll mute myself.

19 MR. HAMILTON: Thank you.

20 MS. HARPER: Are there any additional
21 questions or comments on Section 2? I do not see
22 any other hands raised for speaking.

23 MS. FORRESTER: We'll move to Section 3,
24 titled Timberland. Are there any comments on
25 Section 3?

1 MS. HARPER: I do not see any hands raised for
2 any comments on Section 3.

3 MS. FORRESTER: Section 4, titled, "Pasture
4 Land." Do we have any comments?

5 MS. HARPER: I do not see any hands raised for
6 comments on Pasture Land.

7 MS. FORRESTER: Next we have Section 5, Citrus
8 Land. Are there any comments or questions on
9 Section 5, Citrus Land?

10 MS. HARPER: I do not see any hands raised for
11 Section 5, Citrus Land.

12 MS. FORRESTER: Next is Section 6, Cropland.
13 Are there any comments on Section 6?

14 MS. HARPER: I do not see any comments on
15 Section 6.

16 MS. FORRESTER: Next on the agenda are the
17 addendums A through H. Are there any comments on
18 these addendums?

19 MS. HARPER: I do not see any comments or
20 hands raised.

21 MS. FORRESTER: And last, we have the Rule
22 12D-51.001, Florida Administrative Code, titled
23 Classified Use Real Property Guidelines, Standard
24 Assessment Procedures and Standard Measures of
25 Value, Agricultural Guidelines. Are there any

1 comments to the amendment to Rule 12D-51.001?

2 MS. HARPER: I do not see any hands raised or
3 any comments.

4 MS. FORRESTER: We'll give our audience on the
5 webinar and in the room any other opportunities to
6 make additional comments.

7 MS. HARPER: I do not see anybody raising
8 their hand or making a comment.

9 MS. FORRESTER: Hearing none, we will conclude
10 the workshop. On behalf of the department, I want
11 to thank everyone for participating and sharing
12 your comments with us. Your participation is very
13 helpful during this workshop process.

14 You may provide written comments to us.
15 Please bear in mind that they do become part of the
16 public record. We ask that any written comments be
17 provided to us by close of business on November
18 30th, 2023.

19 You may send those comments by e-mail to
20 DORPTO@Floridarevenue.com; or, mail your comments
21 to Property Tax Oversight, Florida Department of
22 Revenue, PO Box 3000, Tallahassee, Florida 32315-
23 3000.

24 This concludes the workshop. Thank you.

25 (Thereupon, the workshop was concluded at 10:31 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF POLK

I, Jennifer Cope, Court Reporter, certify that I was authorized to and did report the Department of Revenue PTO Rule meeting; and that the transcript is a true and correct record of my notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 18th day of December 2023.



Jennifer Cope, Court Reporter