



Value Adjustment Board

AGENDA

Organizational

March 25, 2024

2:30 PM

Administration Building,

4th Floor, BCC Meeting Room, 477 Houston Street,
Green Cove Springs, FL 32043

-
- I. Welcome
 - II. Public Comment
 - III. For Information Only: Decisions by the Attorney for the Value Adjustment Board, William H. Davie, II, regarding whether good cause was shown by petitioners for late filing. The Value Adjustment Board voted at its organizational meeting to authorize the magistrates to make these determinations without a hearing as allowed by law. The decisions are not attached to this agenda, but are available for review in the Finance Department of the Board of County Commissioners. No action required on this agenda item.
 - IV. Consideration of Exemption and Real Property, the Special Magistrate recommended a Findings of Fact, and Conclusions of Law for timely filed petitions and those for which good cause for late filing was shown. All Tangible Personal Property petitions which were timely filed were withdrawn prior to hearing.
 - A. Acknowledgment of all petitions:
 - 2023 VAB Petitions - Disposition - Revenue:
 - 732 petitions were filed - 728 were withdrawn.
 - 4 Petitions were heard by Special Magistrates:
 - 2 - Real Property Value
 - 2 - Exemption
 - Total revenue received for all petitions filed: \$11,440.00.
 - B. Consideration of the Special Magistrate(s) Recommendations:
 - Real Property Value - Petitions:
 - 2023-0009
 - 2023-0044
 - Exemption - Petitions:
 - 2023-0006 and Request by the Petitioner
 - 2023-0043

V. Certification of the 2023 Personal Property and Real Property Ad Valorem Assessment Rolls - Clay County Property Appraiser will provide the documents at the meeting.

VI. Adjournment

In accordance with the Americans with Disabilities Act, any person needing a special accommodation to participate in this matter should contact the Clay County ADA Coordinator by mail at Post Office Box 1366, Green Cove Springs, FL 32043, or by telephone at number (904) 269-6347 no later than three (3) days prior to the hearing or proceeding for which this notice has been given. Hearing impaired persons can access the foregoing telephone number by contacting the Florida Relay Service at 1-800-955-8770 (Voice), or 1-800-955-8771 (TDD).



VAB Agenda Item
Monday, March 25 2:30 PM

ATTACHMENTS:

Description

- ▣ Special Magistrates Recommendation 2023-0009
- ▣ Special Magistrates Recommendation 2023-0044
- ▣ Special Magistrates Recommendation 2023-0006
- ▣ Request by Petitioner 2023-0006
- ▣ Special Magistrates Recommendation 2023-0043



DECISION OF THE VALUE ADJUSTMENT BOARD
VALUE PETITION

DR-485V
R. 11/23
Rule 12D-16.002 F.A.C.
Eff. 11/23

CLAY 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), 194.181, 196.151, and 197.2425, Florida Statutes.)

Petition #	2023-0009	Parcel ID	06-04-26-010672-001-07
Petitioner name AMBA ESTATE OF ORANGE PARK FLO ⁺ The petitioner is: <input type="checkbox"/> taxpayer of record <input checked="" type="checkbox"/> taxpayer's representative <input type="checkbox"/> other, explain: PIVOTOL TAX SOLUTION		Property 1919 WELLS RD address ORANGE PARK, FL 32073	

Decision Summary ☐ Denied your petition ☐ Granted your petition ☐ Granted your petition in part

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
1. Just value, required	1,904,797.00		1,904,797.00
2. Assessed or classified use value,* if applicable			
3. Exempt value,* enter "0" if none	0.00		
4. Taxable value,* required	1,904,797.00		1,904,797.00

*All values entered should be county taxable values. School and other taxing authority values may differ. (Section 196.031(7), F.S.)

Reasons for Decision

Fill-in fields will expand, or add pages as needed.

Findings of Fact

The hearing date was 2-21-2024. Testimony was provided by Mr. Christopher A. Glidewell (taxpayer rep.) and Mr. Kristofer Obergfall, AAS, CFE (Clay County Property Appraiser Officer). The exchange of evidence was stated to be proper and the taxpayer's evidence was accepted by the Property Appraiser.

Conclusions of Law

According to Florida Statute 193.011, the property appraiser shall (properly, lawfully, duly, carefully) take the following factors into consideration:

- 1) The present cash value of the property
- 2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the

☒ **Recommended Decision of Special Magistrate** Finding and conclusions above are recommendations.

JAMES TORO II Digitally signed by JAMES TORO II Date: 2024.03.12 17:38:26 -04'00'	JAMES TORO II	03/12/2024
Signature, special magistrate <i>Christine Blanchett</i>	Print name Christine M. Blanchett	Date 03/13/2024
Signature, VAB clerk or special representative	Print name	Date

If this is a recommended decision, the board will consider the recommended decision on 03/25/2024 at 2:30 pm
Address 477 Houston Street, Green Cove Springs, FL. 32043 4th Floor - BCC Room
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 website 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

Conclusion of Law:

According to Florida Statute 193.011, the property appraiser shall (properly, lawfully, duly, carefully) take the following factors into consideration:

- 1) The present cash value of the property
- 2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property
- 3) The location of the property
- 4) The quantity/size of the property
- 5) The cost of the property and present replacement value of improvements
- 6) The condition of the property
- 7) The income from the property
- 8) The net proceeds of the sale of the property

Furthermore, the Property Appraiser need demonstrate that the appraisal methodology complies with professionally accepted appraisal practices. (F.S. 194.301(1))

The evidence submitted by the appraiser is the indication of whether or not the appraiser properly considered the eight statutory criteria. The county's appraisal and testimony sufficiently demonstrate that the appraiser did properly consider all eight statutory criteria. Furthermore, the appraiser's methodology is consistent with professionally accepted appraisal practices.

The petitioner's representative did not perform analysis via the sales comparison or income methods. This omission is not consistent with professionally accepted appraisal practices.

SPECIAL MAGISTRATE DECISION REGARDING THE PROPERTY APPRAISER'S PRESUMPTION OF CORRECTNESS:

The property appraiser did earn the presumption of correctness. The standard of proof is the preponderance of the evidence.

Ultimate Facts and Conclusions of Law:

Based on the evidence presented in this hearing, the property appraiser did establish the presumption of correctness. The standard of proof is the "preponderance of the evidence" that the assessment is in excess of just value. The petitioner did not present supported evidence in refute of the appraiser's valuation indications via the Sales Comparison and Income approaches. The property appraiser's value is consistent with the market data presented.

I find that the property appraiser's value does not exceed just value and I uphold the county appraiser's concluded value.



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

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
1. Just value, required			
2. Assessed or classified use value,* if applicable			
3. Exempt value,* enter "0" if none			
4. Taxable value,* required			

*All values entered should be county taxable values. School and other taxing authority values may differ. (Section 196.031(7), F.S.)

Reasons for Decision

Fill-in fields will expand or add pages, as needed.

Findings of Fact

Conclusions of Law

☐ **Recommended Decision of Special Magistrate** Finding and conclusions above are recommendations.

Signature, special magistrate <i>Christine Blanchett</i>	Print name C.M. Blanchett	Date 03/14/2024
Signature, VAB clerk or special representative	Print name	Date

If this is a recommended decision, the board will consider the recommended decision on 03/25/2024 at 2:30 pm
Address 477 Houston Street, Green Cove Springs, FL. 32043, 4th Floor - BCC Room
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

Conclusion of Law:

According to Florida Statute 193.011, the property appraiser shall (properly, lawfully, duly, carefully) take the following factors into consideration:

- 1) The present cash value of the property
- 2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property
- 3) The location of the property
- 4) The quantity/size of the property
- 5) The cost of the property and present replacement value of improvements
- 6) The condition of the property
- 7) The income from the property
- 8) The net proceeds of the sale of the property

Furthermore, the Property Appraiser need demonstrate that the appraisal methodology complies with professionally accepted appraisal practices. (F.S. 194.301(1))

The evidence submitted by the appraiser is the indication of whether or not the appraiser properly considered the eight statutory criteria. The county's appraisal and testimony sufficiently demonstrate that the appraiser did consider all eight statutory criteria. However, the income analysis contains some questionable components, such as the use an expense ratio that is not consistent with the bulk of the data presented by the appraiser or petitioner. Also, the appraiser's cap rate is slightly lower than his own data suggests. These factors combined, can potentially lead to a conclusion via the income approach, that is above just value.

The appraiser did present a sales comparison approach, which the petitioner did not. That data shows that throughout 2022 and 2023 investors were paying between \$250,000 and \$350,000 per unit for similar properties. The proposed assessment is \$234,778 per unit. However, the most conclusive evidence is the actual sale of the property. On November 15, 2022, approximately six weeks from the applicable date of valuation, the current owner purchased the property for \$51,300,000. That is 21% higher than proposed assessed value. It is highly questionable to think that an astute purchaser would proceed to closing suspecting that he/she is overpaying by tens of millions of dollars. By November of 2022 interest rates had been increasing dramatically for almost a year. The Appraiser's evidence includes a publication in which one of the world's leading

commercial real estate brokerage firms, CBRE, touts the \$51.3 million sale and refers to the subject as "...another best-in-class asset which was sorely needed in Fleming Island."

The appraiser's methodology is consistent with professionally accepted appraisal practices.

SPECIAL MAGISTRATE DECISION REGARDING THE PROPERTY APPRAISER'S PRESUMPTION OF CORRECTNESS:

Ultimate Facts and Conclusions of Law:

Based on the evidence presented in this hearing, the property appraiser did establish the presumption of correctness. The standard of proof is the "preponderance of the evidence" that the assessment is in excess of just value. The property appraiser's value is consistent with the market data presented and the November 2022 sale of the property is extremely strong evidence that the proposed assessment does not exceed just value.

I find that the property appraiser's value does not exceed just value and I uphold the county appraiser's concluded value.



DECISION OF THE VALUE ADJUSTMENT BOARD
EXEMPTION, CLASSIFICATION, ASSESSMENT DIFFERENCE
TRANSFER, CHANGE OF OWNERSHIP OR CONTROL,
OR QUALIFYING IMPROVEMENT PETITION

DR-485XC
R. 11/23
Rule 12D-16.002
F.A.C.
Eff. 11/23

The actions below were taken on your petition in CLAY ☒ County.

☒ 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), 194.181, 196.151, and 197.2425, Florida Statutes.)

Petition # 2023-0006

Parcel ID 21-07-25-010640-002-04

Petitioner name Steven W and Jane S. Conner Family Trust

Property address 6022 Sweet Moody Road
Green Cove Springs, Florida, 32043

The petitioner is: ☒ taxpayer of record ☐ representative
☐ other, explain: _____

Decision Summary ☒ Denied your petition ☐ Granted your petition ☐ Granted your petition in part

Lines 1 and 4 must be completed

Value from
TRIM Notice

Value before Board Action
Value presented by property appraiser
Rule 12D-9.025(10), F.A.C.

Value after
Board Action

1. Just value, required

1,593,027.00

2. Assessed or classified use value,* if applicable

478,259.00

3. Exempt value,* enter "0" if none

113,747.00

4. Taxable value,* required

364,512.00

*All values entered should be county taxable values. School and other taxing authority values may differ. (Section 196.031(7), F.S.)

Reason for Petition

- | | | | |
|--|--|---|---|
| <input type="checkbox"/> Homestead | <input type="checkbox"/> Widow/er | <input type="checkbox"/> Blind | <input type="checkbox"/> Totally and permanently disabled veteran |
| <input type="checkbox"/> Low-income senior | <input type="checkbox"/> Disabled | <input type="checkbox"/> Disabled veteran | <input type="checkbox"/> Use classification, specify _____ |
| <input type="checkbox"/> Parent/grandparent assessment reduction | <input type="checkbox"/> Deployed military | <input checked="" type="checkbox"/> Use exemption, specify <u>Conservation Easement</u> | <input type="checkbox"/> Qualifying improvement |
| <input type="checkbox"/> Transfer of homestead assessment difference | | <input type="checkbox"/> Other, specify _____ | |
| <input type="checkbox"/> Change of ownership or control | | | |

Reasons for Decision

Fill-in fields will expand, or add pages as needed.

Findings of Fact

See Attached:

Conclusions of Law

See Attached:

☒ **Recommended Decision of Special Magistrate** The finding and conclusions above are recommendations.

See Attached

Paul Sanders

Signature, special magistrate

Print name

Date

Christine M. Blanchett

Christne M. Blanchett

03/04/2024

Signature, VAB clerk or special representative

Print name

Date

If this is a recommended decision, the board will consider the recommended decision on 3/25/2024 at 2:30 ☐ AM ☒ PM.
Address 477 Houston Street, 4th Floor, BCC Meeting Room, Green Cove Springs, FL 32043

If the line above is blank, please call (904) 529-4125 or visit our website 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

THE VALUATION ADJUSTMENT BOARD
OF
CLAY COUNTY, FLORIDA

Hearing Date February 21, 2024

Petition 2023-0006

Parcel # 27-07-25-010640-002-04

**SPECIAL MAGISTRATE RECOMMENDATION TO THE
VALUE ADJUSTMENT BOARD**

Petitioner seeks review of computation and application of the Homestead exemption in relation to other exemptions applied to the same parcel, including Agriculture and Conservation Easement exemptions.

Parties present were: The Petitioner; The Clay County Property Appraiser; The Attorney for the Clay County Property Appraiser; the Board Clerk, The Board Attorney, and the Special Magistrate.

JURISDICTIONAL QUESTION

The Property Appraiser raised the argument that the Value Adjustment Board lacks jurisdiction to hear this matter, stating essentially that the Petitioner had failed to renew his application for a Conservation Easement Classification for the 2023 tax year, and is therefore asking for review of a denial of Classification where no denial exists, having never been considered by the Property Appraiser for 2023. The Property Appraiser further asserts that the denial of the Conservation Easement Classification for the prior (2022) tax year reset the classification request back to being non-existent unless and until the property owner renews an application for the classification again.

The Petitioner argued that a renewal of his application for classification was unnecessary because the original application remains valid until the “use” of the property changes. The Petitioner quoted F.S. 196.011(6)(b) stating that “...an owner is not required to refile until the use no longer complies...”. The actual language of the statute is as follows:

“(b) Once an original application for tax exemption has been granted under F.S. §196.26, the property owner is not required to file a renewal application until the use of the property no longer complies with the restrictions and requirements of the conservation easement.”

The Petitioner argued that the Conservation Easement had been previously granted in 2018, and that the use had not changed, even though a house had been constructed on it, because the original conservation easement allowed the construction of a home. Thus, no renewal application was required.

The application of the classification to a homestead was denied in 2022. The Property Appraiser is correct. The subject parcel of land (a one-acre square lot that includes a dwelling and curtilage for purposes of the Petitioner's residence) had previously been considered part of the conservation easement, until portability was applied in 2022 for the one acre to become a homestead parcel. For the 2022 tax year, the Petitioner disputed the Property Appraiser's failure to apply the conservation exemption (50% reduction) to the homestead valuation. The Petitioner was ultimately denied for 2022 and the conservation exemption was never applied to value. The homestead parcel was therefore removed from the conservation easement. However, the homestead parcel could revert back to being included in the conservation easement (and resulting exemption) if homestead status and exemption is removed from the one-acre parcel. Under the language of F.S. 196.011(6)(b), the 2022 classification would have had to be "granted" for the original application to be valid, which did not occur. The denial for 2022 does imply that a renewed application is necessary for the Property Appraiser to reconsider further classification of this parcel for 2023 and any subsequent tax year until a new application for conservation easement has been applied for.

The 2022 assessment for the entire 274 acres (including the homestead acre subject to this petition) was heard before the Value Adjustment Board in March, 2023. The Petitioner sought revaluation of the homestead to include the conservation easement classification and an agricultural classification in addition to the homestead exemption, all applied to the one-acre homesite. The Petitioner was denied. But, the recommendation of the Special Magistrate used an incorrect standard of review when applying the law, and the recommendation was not approved. Rather, the Value Adjustment Board denied the Petition and advised the Petitioner of his right to proceed in Circuit Court. The Petitioner sought review in Circuit Court and the matter was dismissed for reasons uncertain to this Magistrate.

For these reasons, lack of jurisdiction prohibits the Value Adjustment Board such a claim for conservation easement for the 2023 tax year. However, the most likely scenario is that the Petitioner, having failed to renew his application for 2023, would merely reapply for the classification for the 2024 tax year, and restate the arguments of this Petition next year at this time. Therefore, in the interests of judicial economy, the parties having exchanged evidence, drafted legal arguments, and the hearing being scheduled, the issue was heard and is addressed herein to give clarity to the parties for future years. No adjustments, denial, or grant of a conservation easement may be made for the 2023 tax year due to the jurisdictional issue presented. However, the Value Adjustment Board does have subject matter jurisdiction of the issue in future years if the Petitioner reapplies for the classification.

Accordingly, the issues of the Petition were heard and are considered herein.

FINDINGS OF FACT

The subject parcel consists one acre of a larger tract (274.6 acres, more or less). The parcel is subject to a perpetual Conservation Easement as recorded in Clay County Official Records Book 3607, Pages 33-58. This Easement was established in December, 2013 to an area larger than the subject parcel, but includes the subject parcel. The Petitioner purchased the subject parcel March 9, 2017, naming as owner(s) The Steven W. and Jane S. Conner Family Trust. Prior to ownership of the family trust, the land was used for timber production and did not

contain any structures, residences, or other improvements. On May 17, 2017, the trustees filed an *Application and Return for Agricultural Classification of Lands* for the use of the entire unimproved parcel as timberland. This application was approved and applied to the 2018 assessment. On May 15, 2018, the trustees filed an application for exemption for *Real Property Dedicated in Perpetuity for Conservation*. It was determined that the parcel was in a Conservation Easement which also allows use for “allowed commercial purposes”. A Conservation Easement exemption was also applied to the 2018 assessment with the entire parcel receiving an exemption equal to 50 % of the total assessed value.

The trustees constructed a residential home on the subject parcel with building permits issued August 1, 2018, followed by a Certificate of Occupancy on November 18, 2019. The home is a single- family detached improvement consisting of 7,142 square feet, with a valuation at \$700,000. This new residence was added to the 2020 assessment. On February 4, 2020, the trustees filed an Original Application for Ad Valorem Tax Exemption for the 2020 assessment year. This included a request for Homestead exemption and transfer of Homestead transfer difference from a prior Homestead. Trust language and other relative factors were considered and accepted by the Property Appraiser and the Homestead exemption was approved for the 2020 assessment (and thereafter, automatically renewing each year).

Only the assessment, classifications, and exemptions of the one-acre parcel are subject to this current Petition. The current assessment was derived by valuing the dwelling with one acre, which included the same *Save Our Homes* Differential which was transferred from the prior Homestead in the prior year. The total assessed value for this parcel only includes the value of the homestead without any agricultural or conservation easement exemptions applied to that acre. The reason for this method of separating the residence from the agricultural land is because the use of land for agricultural timber growth is a “commercial purpose” versus the “residential purposes” used for the house and 1.0 acre. Homestead Exemption, as defined by the Florida Constitution, does not permit a Homestead to exist on a commercial purpose property.

The question is of whether the Homestead acre is or is not included into the Conservation Easement and thus entitled to receive a 50% Conservation Easement reduction on top of the Homestead exemption, the same 50% reduction applied to the remaining conservation easement.

THE PROPERTY APPRAISER’S ARGUMENT

For assessment of the Conservation Easement and the Agricultural Classification exemptions in light of a Homestead exemption being applied, the Property Appraiser relies on statutes and the distinction between commercial purpose versus residential purpose. Statutes cited are §196.26(2), §196.26(3), and §196.26(6), all aiding to define Conservation Easement exemptions.

§196.26(6), in particular, describes the need to separate building valuation from surrounding land valuations, stating:

“Buildings, structures and other improvements situated on land receiving the exemption provided for in this section and the land area immediately surrounding the buildings, structures, and improvements must be assessed separately pursuant to Chapter 193.

However, structures and improvements that are auxiliary to the use of the land for conservation purposes are exempt to the same extent as the underlying land.”

The Property Appraiser’s argument is that a residential structure is not “auxiliary” to conservation purposes, in contrast to other structure or building examples such as an equipment shed, pump house, fencing, etc.

For assessment of the Homestead, the Property Appraiser relies on §193.155 (*Save Our Homes Act*). In particular, §193.155(6) states:

“Only property that receives a Homestead exemption is subject to this section. No portion of property that is assessed solely on the basis of character or use pursuant to §193.46 (*Agricultural Exemption*), or §193.501 (*Conservation Easement Exemption*), or assessed pursuant to §193.505 (*Historical Exemption*), is subject to this section. When property is assessed under §193.46, or §193.501, or assessed pursuant to §193.505 and contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage must be assessed separately, pursuant to §193.011, for the assessment to be subject to the limitation in this section.” (*emphasis added*)

Regarding assessment of Agricultural Lands, the Property Appraiser relies on §193.461. In particular §193.461(3) states:

“(c) The maintenance of a dwelling on part of the lands used for agricultural purposes does not in itself preclude an agricultural classification.

(d) When property receiving an agricultural classification contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage of the residence must be assessed separately, pursuant to 193.011, to qualify for the assessment limitation set forth in §193.155 (*Save Our Homes Act*). The remaining property may be classified under the provisions of paragraphs (a) and (b).”

Under this view, the Property Appraiser believes it was proper to assess the Homestead (and its curtilage) as consisting of 1.0 acre only, rather than a larger area up to the 160 acre maximum allowed by the Florida Constitution. More specific to the subject of this Petition, the Statutes cited state that *Save Our Homes* exemptions cannot be applied to Conservation Easements or Agricultural lands, the 3% annual *Save Our Homes* limitation should only be applied to what the taxpayer wants to define as his homestead.

THE PETITIONER’S ARGUMENT

Pursuant to §196.26(6), the house is “auxiliary” to the use of the land as a Conservation Easement. This relies on the language of the Conservation Easement as originally established and recorded in the Official Records of the County. Petitioner cites the Conservation Easement which states:

“WHEREAS the Grantor and the Grantee [St. Johns River Water Management District] recognize the natural, scenic and special character of the Property and have a common

purpose of conserving certain natural and agricultural values and character of the Property by conveyance of a Perpetual Conservation Easement... on, over, and across the Property, which shall conserve the value, rural and agricultural character, ecological integrity and hydrological integrity of the Property, conserve and protect the animal and plant populations on the Property and prohibit certain further development activity on the Property...” and,

“Section III. Grantor reserves in perpetuity, and reserves for its successors and assigns in perpetuity, the following reserved rights, which may be exercised at any time (subject to notice requirements described) ...

3. Subdivisions, Buildings and Improvements

- a) Each subdivided parcel may have one residential homesite, allowing for a total of 6 new residential homesites. Alteration shall be limited by the following:
 - i) Each parcel contain a maximum of 25,000 square feet of non-commercial rooftop including the residential home, ...”

The Petitioner argues that his residential home is under 25,000 square feet (at 7142 square feet) and qualifies under the language of the Conservation Easement to be a stated and included purpose of the Easement. Thus, the residence is “auxiliary” as required by §196.26(6). An example of this was the Petitioners intention to use the residence to assist with his care and maintenance of the Easement lands.

The Petitioner argues further that §193.155(6) does not state expressly prohibit conservation easement and agricultural classification exemptions from being excluded from a homestead, and argues that the statute merely says they must be “assessed” differently. The Petitioner argues that calculating the original value (before exemption values apply) counts as separate assessments, and that no further separation of the purposes or uses of the property should occur when applying any resulting exemption to the overall valuation.

In furtherance of his Petition, the Petitioner also argues that §704.6(6) creates no legal restriction to applying a conservation easement exemption to land or structure because a homestead exemption is also applicable. The statutory language cited is:

“the provisions of this section shall not be construed to imply that any restriction, easement, covenant, or condition which does not have benefit of this section shall, on account of any provision hereof, be unenforceable.”

Note that the Agricultural Classification was not listed in the current Petition, but the following will apply to that as well.

CONCLUSIONS OF LAW

The standard of review in this matter is by preponderance of the evidence. The Property Appraiser has proven by a preponderance of the evidence that Conservation Easement classification and exemption, and the Homestead exemptions were applied correctly. Put more simply, one acre that includes the residence and its curtilage must be assessed separately from

land surrounding it that are subject to either Agricultural classification or Conservation Easement classification.

Regarding the issue of ambiguity of the term “auxiliary”, each party provided definitions for this term, and the definitions were the same. With each party understanding the meaning of the word, but disagreeing on its application, no actual ambiguity exists in the word definition. The application of “auxiliary” favors the Petitioner because the Conservation Easement as recorded in the Clay County Official Records Book 3607 Pages 33-58 does reserve the right to build a residential structure up to 25,000 square feet, which is consistent with the structure built by the Petitioner. The construction of a home is auxiliary to the conservation easement in my opinion. However, just because the residence is auxiliary to the recorded Conservation Easement does not impose a requirement to assess the home as a Conservation Easement asset. In this case, Homestead has been applied for, approved, and is self-renewing. Homestead changes how this one acre of the Conservation Easement is assessed.

The applicable statutes are §193.155(6) and §193.461(3) which are controlling. The statutes specifically state how assessments are to be made when dealing with homestead property that also have agricultural or conservation easement classifications. It states that the uses have to be “assessed separately” for the *Save Our Homes* exemption to apply.

The 2023 assessment is currently based on the Homestead and curtilage as being 1.0 acre. If the curtilage is expanded, the valuation of the homestead will change as well as the value of exemptions available to surrounding acres. An “assessment” in my opinion, states the total of assessments after inclusion of any applicable exemptions. Thus, *Just Value* minus *Exempt Value* equals *Assessed Value*. There is no method to reach the assessed value without considering the exemptions afforded to a parcel. Thus, the word “assessment” implies that the exemptions count in the “assessment”, and parcels with different uses need to be separately valued and allowable exemptions be determined separately as stated in §193.155(6). It is improper to separate the uses, determine values, call that a “separate assessment”, then recombine the uses for application of all of the exemptions, applying them all to the same parcel.

The Petitioner’s argument that F.S. §704.6(6) gives free range for a conservation easement to effectively override any other statute ever written, is simply not true. The statutory language simply means that any easement **that is not a conservation easement** does not become less than whatever it was just because the legislature gave special rights to conservation easements. This paragraph, nor any other part of F.S. §704 mention an exception for homestead property for the conservation easement exemption to be applied to homesteads. There just is no clear expression of the legislature’s desire to counter what the legislature already stated clearly in §193.155(6).

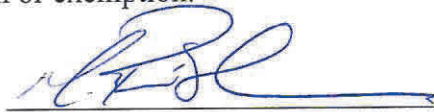
The Petitioner has a right to the conservation exemption if he decides to cancel his homestead status on his house. If homestead is abandoned and the Conservation Easement reduction is afforded to the home value, it is uncertain as to whether the Petitioner will have a higher or lower total assessment. This is because he will lose Homestead to get the Conservation reduction. Losing Homestead on **this** house, means losing all of the portability he brought into it. So, the assessment may or may not go up. Also, expanding the Homestead to more acres would lose valuable Conservation savings and Agricultural savings because curtilage will change.

Since this is the nature of the law, the Petitioner would be wise to do mathematics and amortization of future values and so forth for advancing years to calculate his most advantageous position. He is free to claim any of the Classifications and Exemptions he desires. He is free to set his curtilage and Homestead boundaries to 160 acres or cancel the homestead altogether. But, Conservation Easement exemptions and Agricultural Classifications are mutually exclusive to the Homestead exemptions. It depends on the mathematics, long term and short.

Because the Value Adjustment Board lacks jurisdiction to consider the Conservation Easement for the 2023 tax year, the arguments above do not apply to the 2023 tax year. Any future Petitions for following years will need to be addressed as they are filed. However, the discussion of the arguments raised is included herein, not as prejudgment, but an informative analysis of the issues raised. For these reasons, the Property Appraiser's determinations for the 2023 assessment should stand.

RECOMMENDATION TO THE VALUE ADJUSTMENT BOARD

I recommend that Petition 2023-0006 be **DENIED** for lack of jurisdiction due to no 2023 application for Conservation Easement classification or exemption.



M. PAUL SANDERS, Special Magistrate

The Recommendation of the Special Magistrate is hereby adopted by decision of the Clay County Value Adjustment Board this _____ day of _____, 2024.

CHAIRMAN, Value Adjustment Board

FILED
TARA S GREEN

2024 MAR 15 AM 10:39

CLAY COUNTY CLERK OF COURT
AND COMPTROLLER

6022 Sweet Moody Road
Green Cove Springs, Florida 32043

March 15, 2024

Value Adjustment Board of Clay County
Ms. Christine Blanchett, Clerk
P.O. Box 698
Green Cove Springs, Florida 32043
Sent via email to VAB@clayclerk.com

Re: Petition 2023-0006
Parcel id: 21-07-25-010640-002-04
Petitioner: Steven W. and Jane S. Conner Family Trust

Dear Ms. Blanchett:

I received an email from you on March 5, 2024, that contained the Recommended Decision of Special Magistrate on the above referenced Petition. The email notified me that a meeting of the VAB will consider the Recommended Decision on March 25, 2024.

On behalf of the Petitioner, I request a second public hearing at the VAB meeting on March 25, 2024, in accordance with Clay County Adjustment Board Local Administrative Procedure No. 1.

Adoption of the Recommended Decision of the Special Magistrate does not meet the statutory requirements for adoption of the Decision.

The Clay County Value Adjustment Board Local Administrative Procedure No. 1 states:

The VAB, if requested, will conduct a second public hearing to consider whether the recommended decisions of the Special Magistrate meet the requirements of F.A.C. Rule 12D-9.031(1), and the VAB may rely on the VAB's legal counsel for such determination. The VAB's adoption of recommended decisions need not include a review of the underlying record of the prior Special Magistrate conducted public hearing. The VAB will not consider any evidence from either the Petitioner or the Property Appraiser which was not first submitted to the Special Magistrate, nor authorize the second public hearing to take place until after the conclusion of the Special Magistrate conducted initial hearing. The Petitioner and Property Appraiser must notify the Clerk of the VAB of the desire for a second public hearing no later than 10 days prior to the date of the public hearing before the VAB. Legal Authority: F.S. ss. 194.301, 194.034(2), and 194.035(1), and F.A.C. Rule 12D-9.031. (revised and adopted 9/10, re-adopted 9/13/11, revised and adopted 9/7/12).

Value Adjustment Board of Clay County
Ms. Christine Blanchett, Clerk
March 15, 2024
Page 2 of 3

The Local Rule states that VAB must “consider whether the recommended decisions of the Special Magistrate meet the requirements of F.A.C. Rule 12D-9.031(1).” The decision of the Special Magistrate does not meet the requirements of F.A.C. Rule 12D-9.031(1).

Florida Administrative Code Rule 12D-9.031(1) reads as follows:

12D-9.031 Consideration and Adoption of Recommended Decisions of Special Magistrates by Value Adjustment Boards in Administrative Reviews.

(1) All recommended decisions shall comply with Sections 194.301, 194.034(2) and 194.035(1), F.S. A special magistrate shall not submit to the board, and the board shall not adopt, any recommended decision that is not in compliance with Sections 194.301, 194.034(2) and 194.035(1), F.S.

Page 1, paragraph 3, first sentence of Recommended Decision states that “ the Property Appraiser raised the argument the Value Adjustment Board lacks jurisdiction to hear this matter, stating essentially that the Petitioner had filed to renew his application . . .” The Property Appraiser provided no evidence as the basis for his argument. The Recommended Decision cites no statute, case law, or any other substantial authoritative support for the basis of the Property Appraiser’s argument.

Page 2, paragraph 3, third sentence states that “no adjustments, denial, or grant of a conservation easement may be made for the 2023 tax year due to the jurisdictional issue presented.” This determination is tantamount to the Special Magistrate providing the Clay County Property Appraiser with a presumption of correctness by the Appraiser merely stating that the VAB does not have jurisdiction to hear the Petition.

Section 194.301(d), F.S., eliminates any presumption of correctness on exemption issues:

(d) If the challenge is to the classification or exemption status of the property, there is no presumption of correctness, and the party initiating the challenge has the burden of proving by a preponderance of the evidence that the classification or exempt status assigned to the property is incorrect.

Put simply, the recommended decision of the Special Magistrate does not comply with F.A.C. Rule 12D-9.031(1) -- a presumption of correctness cannot be applied. Thus, adoption of the recommended decision would be inappropriate and in violation of the Local Rule.

Since the Recommendation is not within F.A.C. Rule 12D-9.031(1), it cannot be accepted by the VAB.

Value Adjustment Board of Clay County
Ms. Christine Blanchett, Clerk
March 15, 2024
Page 3 of 3

Florida statutes and Florida Administrative Code do not provide the VAB authority to waive jurisdiction to a timely filed petition with the Clerk for the VAB.

The jurisdiction of the VAB is statutorily defined by §195.027(1), F.S.¹

Rule 12D-10.003, F.A.C., (Powers, Authority, Duties and Functions of Value Adjustment Board) is the rule formulated by the Florida Department of Revenue to implement §195.027(1), F.S. Nothing within the Rule provides authority to the VAB to waive jurisdiction on a VAB petition.

Further, Rule 12D-10.003(3), F.A.C.,² details that each decision of the VAB must contain a detailed determination of facts with such facts annotated to the supporting evidence of the fact. It is impossible to make a decision based on facts if jurisdiction is waived because no facts are considered. It is also then impossible to annotate (ie reference) the supporting evidence of a fact because there is no fact to reference.

The logic of providing no ability to waive jurisdiction is foundational to the entire purpose of the VAB to be an independent body to resolve disputes between the Property Appraiser and a property owner. Without such waiver prevention, the VAB could merely waive jurisdiction of all timely filed petitions if it wanted to make no determinations on any petition in a given year.

As specified in the Local Rule, the only evidence available for the VAB for the second public hearing is the evidence filed with the Clerk for the VAB by the Petitioner and by the Property Appraiser for the first public hearing. Such evidence is on file on the docket of the Petition.

Sincerely,


Steven W. Conner

SWC;me

D:\Word\SWC and JSC personal files\Re 6022 Sweet Moody Road\Property tax assessments\Value Adj Board Petition 2023 (Parcel 4)\9.000 Response to recom decision of special mag 031324.docx

¹ §195.027 Rules and regulations. —

(1) The Department of Revenue shall prescribe reasonable rules and regulations for the assessing and collecting of taxes, and such rules and regulations shall be followed by the property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards. It is hereby declared to be the legislative intent that the department shall formulate such rules and regulations that property will be assessed, taxes will be collected, and the administration will be uniform, just, and otherwise in compliance with the requirements of the general law and the constitution.

² Rule 12D-10.003(3) Every decision of the board must contain specific and detailed findings of fact which shall include both ultimate findings of fact and basic and underlying findings of fact. Each basic and underlying finding must be properly annotated to its supporting evidence.



DECISION OF THE VALUE ADJUSTMENT BOARD
EXEMPTION, CLASSIFICATION, ASSESSMENT DIFFERENCE
TRANSFER, CHANGE OF OWNERSHIP OR CONTROL,
OR QUALIFYING IMPROVEMENT PETITION

DR-485XC
R. 11/23
Rule 12D-16.002
F.A.C.
Eff. 11/23

The actions below were taken on your petition in CLAY ☒ County.

☒ 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), 194.181, 196.151, and 197.2425, Florida Statutes.)

Petition # <u>2023-0043</u>	Parcel ID <u>20-07-27-016089-001-00</u>
Petitioner name <u>David Rose</u> The petitioner is: <input checked="" type="checkbox"/> taxpayer of record <input type="checkbox"/> representative <input type="checkbox"/> other, explain: _____	Property address <u>5860 County Road 209 Green Cove Springs, Florida 32043</u>

Decision Summary ☒ Denied your petition ☐ Granted your petition ☐ Granted your petition in part

Lines 1 and 4 must be completed	Value from TRIM Notice	Value before Board Action Value presented by property appraiser Rule 12D-9.025(10), F.A.C.	Value after Board Action
1. Just value, required	654,224.00		
2. Assessed or classified use value,* if applicable	593,592.00		
3. Exempt value,* enter "0" if none	50,000.00		
4. Taxable value,* required	543,592.00		

*All values entered should be county taxable values. School and other taxing authority values may differ. (Section 196.031(7), F.S.)

Reason for Petition

- | | | | |
|--|--|---|---|
| <input type="checkbox"/> Homestead | <input type="checkbox"/> Widow/er | <input type="checkbox"/> Blind | <input type="checkbox"/> Totally and permanently disabled veteran |
| <input type="checkbox"/> Low-income senior | <input type="checkbox"/> Disabled | <input type="checkbox"/> Disabled veteran | <input type="checkbox"/> Use classification, specify _____ |
| <input type="checkbox"/> Parent/grandparent assessment reduction | <input type="checkbox"/> Deployed military | <input checked="" type="checkbox"/> Use exemption, specify <u>Conservation Easement</u> | <input type="checkbox"/> Qualifying improvement |
| <input type="checkbox"/> Transfer of homestead assessment difference | | <input type="checkbox"/> Other, specify _____ | |
| <input type="checkbox"/> Change of ownership or control | | | |

Reasons for Decision

Fill-in fields will expand, or add pages as needed.

Findings of Fact

See Attached:

Conclusions of Law

See Attached:

☒ **Recommended Decision of Special Magistrate** The finding and conclusions above are recommendations.

Signature, special magistrate	<u>Paul Sanders</u> Print name	Date
	<u>Christne M. Blanchett</u> Print name	<u>03/04/2024</u> Date
Signature, VAB clerk or special representative	Print name	Date

If this is a recommended decision, the board will consider the recommended decision on 03/25/2024 at 2:30 ☐ AM ☒ PM.
Address 477 Houston Street, 4th Floor, BCC Meeting Room, Green Cove Springs, Florida 32043
If the line above is blank, please call _____ or visit our website 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

THE VALUATION ADJUSTMENT BOARD
OF
CLAY COUNTY, FLORIDA

Hearing Date February 21, 2024

Petition 2023-0043

Parcel # 20-07-27-016089-001-00

**SPECIAL MAGISTRATE RECOMMENDATION TO THE
VALUE ADJUSTMENT BOARD**

Petitioner filed a Petition for review of his portability valuation.

Parties present were: The Clay County Property Appraiser; The Attorney for the Clay County Property Appraiser; the Board Clerk, The Board Attorney, and The Special Magistrate.

The Petitioner was notified of the hearing, has not withdrawn the Petition, did not submit evidence, nor a request to consider the Petition in his absence. Nonetheless, the matter was called and the following announced on record:

FINDINGS OF FACT

The subject of the Petition is to reassess the previous valuation of his previous homestead, the intent being to increase the value of the prior homestead, thus increasing the taxpayer's portability amount.

The prior homestead was sold in October 2021. The portability assessment was applied to his new homestead in 2023. Modification of the selling price of the prior homestead is required to satisfy the Petitioner's Request. The tax rolls for 2021 values and 2022 values have already been certified.

CONCLUSIONS OF LAW

The Value Adjustment Board and Courts of the State of Florida lack jurisdiction to redetermine values of properties beyond 60 days following the certification of the tax rolls for the year of the valuation. This is consistent with the holding of *Nikolis v. Neff*, Fla. Dist. Ct. App. 4th Dist., Feb. 24, 2016. Thus, the Petition was not considered for lack of jurisdiction.

RECOMMENDATION TO THE VALUE ADJUSTMENT BOARD

I recommend that Petition 2023-0043 be **DISMISSED FOR LACK OF JURISDICTION**.



M. PAUL SANDERS, Special Magistrate

The Recommendation of the Special Magistrate is hereby adopted by decision of the Clay
County Value Adjustment Board this _____ day of _____, 2024.

CHAIRMAN, Value Adjustment Board