



# GORDON & THALWITZER

ATTORNEYS AT LAW

257 North Orlando Avenue • Cocoa Beach, Florida 32931

Phone 321.799.4777 • Fax 321.735.0711

JASON M GORDON

Admitted in FL, NY & CT

jgordon@brevardlegal.com

JUSTIN FALATEK

jfalatek@brevardlegal.com

AARON THALWITZER

Admitted in FL & D.C.

aaron@brevardlegal.com

KATERINA PRINGIS

kpringis@brevardlegal.com

## MEMORANDUM

TO: Members of the 2019 Orange County Value Adjustment Board and VAB Clerk

FROM: Aaron Thalwitzer, Esq., Board Counsel

RE: Attorney Special Magistrate Qualifications

DATE: May 6, 2019

---

Attorney Special Magistrates (“Attorney SMs”) appointed to hear issues regarding issues of exemptions, classifications, portability assessment difference transfers, changes of ownership, changes of ownership or control, or a qualifying improvement determination for the Orange County Value Adjustment Board (“VAB”) must meet the qualifications provided by rule, as follows, in pertinent part:

### **12D-9.010, F.A.C -- Appointment of Special Magistrates to the Value Adjustment Board.**

(1) In counties with populations of more than 75,000, the value adjustment board shall appoint special magistrates to take testimony and make recommendations on petitions filed with the value adjustment board. Special magistrates shall be selected from a list maintained by the board clerk of qualified individuals who are willing to serve.

...

(4) The special magistrate must meet the following qualifications:

(a) A special magistrate must not be an elected or appointed official or employee of the county.

(b) A special magistrate must not be an elected or appointed official or employee of a taxing jurisdiction or of the State.

(c) During a tax year in which a special magistrate serves, he or she must not represent any party before the board in any administrative review of property taxes.

(d) All special magistrates must meet the qualifications specified in Section 194.035, F.S.

1. A special magistrate appointed to hear issues of exemptions, classifications, portability assessment difference transfers, changes of ownership or control under Section 193.155(3), F.S., changes of ownership or control under Section 193.1554(5), or 193.1555(5), F.S., or a qualifying improvement determination under Section 193.1555(5), F.S. shall be a member of The Florida Bar with no less than five years experience in the area of ad valorem taxation and having received training provided by the department, or with no less than three years of such experience and having completed training provided by the department.

...

4. All special magistrates shall attend or receive an annual training program provided by the department. Special magistrates substituting two years of experience must show that they have completed the training by taking a written examination provided by the department. A special magistrate must receive or complete any required training prior to holding hearings.

(5)(a) The value adjustment board or board legal counsel must verify a special magistrate's qualifications before appointing the special magistrate.

(b) The selection of a special magistrate must be based solely on the experience and qualification of such magistrate, and must not be influenced by any party, or prospective party, to a board proceeding or by any such party with an interest in the outcome of such proceeding. Special magistrates must adhere to Rule 12D-9.022, F.A.C., relating to disqualification or recusal.

The applicants' qualifications are summarized as follows:

1. **Asima M. Azam** is a licensed Florida attorney. It is not clear whether she has practiced in the area of ad valorem taxation for more than five years. She says she has appealed assessments on condominium common elements and "reviewed" assessed values in connection with terminating condominiums, but does not indicate how long she has practiced in ad valorem taxation or how much of her practice relates to ad valorem taxation, though it appears her practice is largely related to representing community associations. It is unclear whether this experience satisfies the requirement to have "at least five years of experience in the area of ad valorem taxation" or three years' experience in ad valorem taxation plus completion of the Department of Revenue's training. Without additional information, the undersigned cannot find that Ms. Azam meets this requirement.

Ms. Azam also serves of the MetroPlan Orlando Advisory Board. My research shows that MetroPlan Orlando is a governmental organization formed by F.S. 339.175 operating under 23 U.S.C. 134 and 23 C.F.R. 450. According to MetroPlan's website, it is funded by "local per capita assessments", state grants, and federal grants. Many counties, municipalities, and other taxing bodies in Central Florida, including Orange County and the City of Orlando, provide funding to MetroPlan. Rule 12D-9.010(4)(b) provides that "[a] special magistrate must not be an elected or appointed official or employee of a taxing jurisdiction or of the State." It appears that MetroPlan is not itself a "taxing jurisdiction", though it is funded by "taxing jurisdiction[s]". Therefore, I do

not find this to disqualify Ms. Azam. Ms. Azam's status as a member of MetroPlan's advisory board would not violate the dual-office holding prohibition in Section 5(a), Article II, of the Florida Constitution, because the Florida Constitution contains an exception for a member of a "statutory body having only advisory powers", such as the MetroPlan advisory board. Consequently, Ms. Azam's service with MetroPlan does not disqualify her from serving as an Attorney SM. . See, e.g., AGO 2012-17.<sup>1</sup>

However, it is foreseeable that Ms. Azam's service with MetroPlan may give rise to complaints for bias, prejudice, or conflict of interest under Rule 12D-9.022(4). To be clear, the undersigned does not find the possibility of such complaints to be disqualifying, but the undersigned is obligated to notify the Board of the possibility of such complaints.

As discussed above, because it is not clear that Ms. Azam has the required experience in ad valorem taxation, the undersigned cannot find that Ms. Azam is qualified to serve as an Attorney SM.

2. **Karen Wonsetler** is a licensed Florida attorney and has practiced in the area of ad valorem taxation for more than five years. Therefore, Ms. Wonsetler is qualified to serve as an Attorney SM.

3. **Mary Solik** is a licensed Florida attorney and has practiced in the area of ad valorem taxation for more than five years. Therefore, Ms. Solik is qualified to serve as an Attorney SM.

4. **Robert W. Borr** is a licensed Florida attorney and has practiced in the area of ad valorem taxation for more than five years. Therefore, Mr. Borr is qualified to serve as an Attorney SM.

5. **Thomas Tukdarian** is a licensed Florida attorney and has practiced in the area of ad valorem taxation for more than five years. Therefore, Mr. Tukdarian is qualified to serve as an Attorney SM.

6. **Todd Hoepker** is a licensed Florida attorney, has practiced in the area of ad valorem taxation for more than five years. Therefore, Mr. Hoepker is qualified to serve as an Attorney SM.

As required by statute and rules, I have verified the qualifications of the proposed Attorney Special Magistrates and determined that attorneys **Karen Wonsetler, Mary Solik, Robert W. Borr, Thomas Tukdarian, and Todd Hoepker** and are qualified to serve for the 2019 VAB cycle. **Asima Azam** has not provided sufficient information about her ad valorem taxation experience to find that she is qualified.

Each selected applicant must complete the 2019 VAB training once offered by the Department of Revenue.

**GORDON & THALWITZER**

  
Aaron Thalwitzer, Esq.

---

<sup>1</sup> In this opinion, the Florida Attorney General concluded that a VAB special magistrate who has been appointed for a calendar year may not also serve as a hearing officer for a municipality in another county, despite not conducting hearings for both offices during the same time period. Section 5(a), Article II, Florida Constitution provides that "No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers."

cc: Katie Smith, VAB Clerk: [Katie.Smith@ocompt.com](mailto:Katie.Smith@ocompt.com)  
Jessica Vaupel, Assistant Manager, Clerk of the Board Dept.: [Jessica.Vaupel@ocompt.com](mailto:Jessica.Vaupel@ocompt.com)  
Anissa Mercado, VAB Coordinator, Clerk of the Board Dept.: [Anissa.Mercado@ocompt.com](mailto:Anissa.Mercado@ocompt.com)  
Keondra Lofton, VAB Coordinator, Clerk of the Board Dept.: [Keondra.Lofton@ocompt.com](mailto:Keondra.Lofton@ocompt.com)  
Natasha Ramirez, VAB Specialist, Clerk of the Board Dept.: [Natasha.Ramirez@ocompt.com](mailto:Natasha.Ramirez@ocompt.com)