



# GORDON & THALWITZER

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**VIA E-MAIL (ONLY) TO: [KATIE.SMITH@OCCOMPT.COM](mailto:KATIE.SMITH@OCCOMPT.COM)**

VAB Clerk

c/o Ms. Katie Smith, Deputy Clerk, Manager Clerk of the Board Department

Re: Petitioner's Request for Consideration received April 14, 2020

Petition Numbers: 2019-02351 and 2019-02337

Petitioner: CRP Crescent Lucerne, LLC

Hearing Date: February 21, 2020

Dear Ms. Smith,

On April 14, 2020, the petitioner in petitions 2019-02351 and 2019-02337 submitted a Request for Reconsideration, asking the Orange County Value Adjustment Board ("**VAB**") to reconsider the issues, which are summarized and discussed below.

Requests for reconsideration are authorized by Rule 12D-9.032(6)(c), F.A.C. (requiring all parties to receive a copy of the request and an adequate opportunity to respond before the Board may rule on a request for reconsideration). Per Rules 12D-9.031(1) and 12D-9.031(4), F.A.C., a request for reconsideration should allege that the recommendation does not comply with the requirements of sections 194.301, 194.034(2) or 194.035(1), Florida Statutes.

The request was received mere hours before the VAB's 2019 Final Meeting, and as such there is insufficient time for the Orange County Property Appraiser ("**OCPA**") to be expected to respond to the request. Additionally, there is little, if anything, in the request suggesting that it could not have been submitted before the day of the Final Meeting. As such, to the extent the petitioner states any issues worthy of reconsideration, OCPA is entitled to a meaningful opportunity to respond.

## **Petitioner's Request for Reconsideration**

- (1) The 'before' values have not been updated to reflect to lower values announced at the hearing. **The updated 'before' values will be included in the recommendations before the Final Meeting.**
- (2) The recommendations were not signed by the special magistrate. **The special magistrate will sign the recommendations before the Final Meeting.**
- (3) The VAB has not responded regarding petitioner's April 8, 2020 request to reinstate the original values of the subject properties. **See response to issue 1, above. Additionally, Rule 12D-9.032(2), F.A.C. provides: "If the property appraiser has reduced his or her value ... whether before or during the hearing but before board action, the values in the 'before' column shall reflect the adjusted figure before board action."** As such, the VAB rules both anticipate and support the practice of reducing a determination of just value before or during a hearing, and VAB counsel has recommended to the

**Board to do so in the Final Decision. See also the letter from VAB counsel dated April 13, 2020 addressing this issue.**

(4) OCPA submitted undisclosed documents at the hearing, which were considered over the petitioner's objection. **Both during the hearing and in the request for reconsideration, the petitioner failed to identify the specific documents which it claims were not timely disclosed, how the petitioner was prejudiced, and how untimely disclosure led to erroneous conclusions of law. As such, I cannot find that this issue merits reconsideration.**

(5) This issue is substantially similar to issue 4; the petitioner claims that OCPA submitted undisclosed documents at the hearing, which were considered over the petitioner's objection. **See response to issue 4, above.**

(6) OCPA objected to an attorney special magistrate hearing the case instead of an appraiser special magistrate. **The special magistrate ruled on this issue, concluding that, per AGO 2018-02, the hearing was properly heard before an attorney special magistrate, and VAB counsel agrees with this position. Additionally, this is not the petitioner's objection to raise. At their discretion, OCPA may raise an objection to this issue.**

(7) The special magistrate failed to consider certain evidence, including a rent roll showing zero income, tenant testimony, Google images showing the status of the construction of the buildings, permits with expiration dates preceding January 1, 2019 showing no Certificate of Occupancy until after that date. **Beyond making conclusory statements, the petitioner fails to show that the special magistrate failed to consider any evidence. To the extent the petitioner argues that the evidence was not given the weight it deserves, the special magistrate has discretion to give evidence the weight he feels it deserves, and the petitioner does not show that the special magistrate failed to give any evidence the proper weight. As such, VAB counsel does not find that this issue should be reconsidered.**

(8) The petitioner merely recites F.S. 192.042(1)'s definition of "substantially complete". **This does not state an objection. As such, no response is necessary.**

(9) OCPA did not use "necessary due diligence" by not visiting the subject properties between July 2018 and February 2019 (after the January 1, 2019 valuation date). Petitioner also raises ethical issues regarding OCPA's appraisal practices. **The VAB has no jurisdiction to hear ethical issues related to appraisers. To the extent OCPA's diligence in visiting the subject property is germane to the petitions, the special magistrate has discretion to give such evidence the weight he feels it deserves. Additionally, the petitioner fails to state how this issue affected the recommendation. Therefore, to the extent this is something properly subject to reconsideration (which is not clear), the petitioner makes no showing that the special magistrate failed to give any evidence the proper weight. As such, VAB counsel does not find that this issue should be reconsidered.**

Based upon the foregoing, notwithstanding the fact that OCPA has not had an opportunity to respond to the Request for Reconsideration, I recommend that the request be denied.

**GORDON & THALWITZER**



Aaron Thalwitzer, Esq.

Cc: Special Magistrate Tukdarian, Esq.