

RICK SINGH, CFA
ORANGE COUNTY PROPERTY APPRAISER

200 S. Orange Avenue, Suite 1700 • Orlando, Florida 32801-3438 • (407) 836-5044



April 15, 2020

Orange County Value Adjustment Board
c/o Katie Smith, Manager, Clerk of the Board Department
201 S. Rosalind Ave
Orlando, FL 32801

RE: Reconsideration Request: Petitions 2019-002337 and 2019-002351; Parcel Numbers: 35-22-29-1852-01-000, 35-22-29-1852-02-000; Owner: CRP/Crescent Lucerne, LLC

Dear Members of the Value Adjustment Board:

The Orange County Property Appraiser's office is in receipt of the Petitioner's reconsideration request for the above referenced petition.¹ The reconsideration request submitted in this case simply re-hashes the arguments which were presented, or should have been presented, at the hearing on February 21, 2020. The reconsideration request does not allege that the Special Magistrate's decision is legally insufficient or that the recommended decision does not comply with the requirements of sections 194.301, 194.034(2) or 194.035(1), Florida Statutes, or other controlling legal authority. Instead, Petitioner is seeking a new hearing, which is not permitted under the law, simply because Petitioner disagrees with the recommendation.

Along with blaming the VAB Clerk and VAB Attorney for alleged non-responsiveness, Petitioner discusses the same evidentiary issues which were raised during the hearing throughout the request for reconsideration. The hearing, which lasted for two hours and forty-five minutes (only having been scheduled for one hour) provided the Petitioner with more than adequate due process under Florida law and all appropriate evidence was considered and all possible arguments were made by the Petitioner; some appropriate and some not appropriate for a VAB hearing. For the Board to consider additional facts or evidence not presented during the hearing would be improper.

Even if the Board were to consider the arguments made by the Petitioner, those arguments should be wholly rejected:

¹ While reconsideration requests are allowed under 12D-9.032(6)(c), F.A.C., as long as all parties have been furnished a copy **and afforded adequate opportunity to respond**, the party requesting consideration should allege that the Special Magistrate's decision does not comply with the requirements of sections 194.301, 194.034(2) or 194.035(1), Florida Statutes. (See 12D-9.031(1) and 12D-9.031(4), F.A.C.)



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- Items 1 and 2, in the Petitioner's request for reconsideration provide no legal or factual reason as to why the Board should reconsider or overturn the Special Magistrate's recommendation. Therefore, they will not be given any credence in this response, except to say that they do not form a valid basis for reconsideration and should be disregarded by the Board.
- Item 3 also contains a statement against the VAB staff but provides no legal or factual reason as to why the Board should reconsider or overturn the Special Magistrate's recommendation. The Petitioner's representative seems to have a misguided belief that the VAB staff and VAB attorney must provide legal advice and answer to demands made of them. Item 3, in its entirety, is disingenuous. This is especially true regarding the valuation of the property and communication with the Property Appraiser's office. Petitioner states that the Property Appraiser's office has not provided insight as to the methodology used when determining the value. Not only did the Property Appraiser's office timely provide 156 pages of evidence in support of its value determination, the Property Appraiser's office has been in contact with the Petitioner's representative many times to help her understand the valuation process. Numerous informal conferences were held between the Petitioner and the Property Appraiser's office, including a telephone conference with the undersigned, prior to the hearing. The Petitioner's representative simply was not happy with the answers given, so the Petitioner's representative continues to use circular reasoning and misrepresent the facts to coerce a different result. The Petitioner requested that the hearing be held in front of an attorney special magistrate because the question Petitioner had was regarding "substantial completion." If the Petitioner truly wished to dispute the value at that time, the hearing should have remained in front of an appraiser special magistrate.
- Items numbered 4 and 5 in Petitioner's request for reconsideration are a misstatement of the facts and misapplication of Florida Administrative Code. During the hearing, the Special Magistrate was careful to rule on the admissibility of all evidence presented and neither party communicated with the VAB or Special Magistrate *ex parte*. The Petitioner takes umbrage with rebuttal evidence (which is allowed under Fla. R. Admin. P. 12D-9.025(c): "Rebuttal evidence is relevant evidence used solely to disprove or contradict the original evidence presented by an opposing party.") However, the request for reconsideration is not specific as to what evidence the Petitioner is objecting to, because during the hearing the Petitioner also objected to case law being discussed, and case law is not evidence.
- Item 6 refers to the fact that the Property Appraiser objected to the hearing taking place before an attorney special magistrate. Not only is the objection irrelevant to the Petitioner's request for

reconsideration, but the Petitioner prevailed on that argument and the hearing was held at the Petitioner's pleasure in front of the requested attorney magistrate.

- Item 7 misrepresents the recommendation of the Special Magistrate and proposes that the Board ignore the weight given to the evidence after a lengthy and full hearing and attempts, again, to rehash and reargue issues raised and considered at the hearing.
- Item 8 is a partial definition. §192.042, Florida Statutes, regarding substantial completion states: "Substantially completed" shall mean that the improvement or some self-sufficient unit within it can be used for the purpose for which it was constructed." However, simply providing a definition does not form a valid basis for reconsideration and should be disregarded by the Board.
- Item 9 is nothing more than a meritless *ad hominem* attack on the Property Appraiser's office and its personnel. Petitioner cherry-picks words and phrases from the USPAP standards in a futile effort to discredit the Property Appraiser's office. To assert that there was an ethics violation is unfounded and meritless at best and, at worst, is an assertion made in bad faith and with malice.

Not one of the items in the Petitioner's request for reconsideration forms a valid basis for reconsideration and the entire request should be disregarded by the Board. Petitioner's request for reconsideration was received on April 14, 2020; the day of the VAB Final Meeting. The Board received guidance from its counsel, Attorney Thalwitzer, that, among other things, because the request was untimely, it should be denied but the Board voted against the advice of its counsel. The concern of those Board members who voted to ignore the advice of counsel, and hold a second final meeting, was to ensure a taxpayer received due process. While that may be a legitimate concern in some instances, especially when a *timely* request for reconsideration is filed, a quick review of the history of this matter would have shown that those concerns do not apply here. Not only was due process unequivocally given to this Petitioner, but Petitioner's representative is not a simple taxpayer who does not understand the rules. Professional taxpayer representative, Sally Paul, filed this request for reconsideration and, having testified herself of her many years of experience, was well aware of the requirements under the Florida Administrative Code, yet still filed her request at literally the eleventh hour. If all petitioners were given the same deference and were allowed to skirt the rules in this way, a tax roll would never be certified by the Board because the parties could seek reconsideration in perpetuity.

The Petitioner's entire reconsideration request is nothing more than a thinly veiled attempt to have a second bite at the apple. The Petitioner has been afforded more than substantial due process during the VAB

process. Therefore, the Special Magistrate's recommendation in this matter should be ratified by the Board and the Petitioner's request for reconsideration should be flatly denied.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Robert Grimaldi', is positioned above the typed name.

Robert Grimaldi, Esq.
Orange County Property Appraiser's Office

CC: Aaron Thalwitzer, Esq., VAB Legal Counsel – via email (aaron@brevardlegal.com)