Sunshine Law, training session for value adj. bd.

Number: AGO 2008-63

Date: November 21, 2008

Subject:
Sunshine Law, training session for value adj. bd.

(But see AGO 2010-15)

Ms. Lisa Echeverri
Executive Director
Department of Revenue
Tallahassee, Florida 32399-0100

RE: GOVERNMENT IN THE SUNSHINE – OPEN MEETINGS – VALUE ADJUSTMENT BOARDS – SPECIAL MAGISTRATES – application of open meetings law to training sessions for value adjustment board special magistrates. ss. 194.035 and 286.011, Fla. Stat.

Dear Ms. Echeverri:

You have asked substantially the following question:

Does section 286.011, Florida Statutes, apply to orientations given by local county officials for special magistrates hired to hear value adjustment board petitions?

In counties with a population of more than 75,000, the county's value adjustment board is required to appoint special magistrates to take testimony and make recommendations to the board.[1] Section 194.035, Florida Statutes, as amended by Chapter 2008-197, Laws of Florida, directs the Florida Department of Revenue to provide and conduct training for special magistrates at least once each state fiscal year in at least five locations throughout the state.[2] Subsection (3) of the statute states that "[t]he training shall be open to the public."

While the plain language of the statute requires such training sessions to be open to the public, nothing in the statute or in the legislative analysis accompanying the statutory change indicates that they are subject to the requirements of section 286.011, Florida Statutes.[3] Section 286.011, Florida Statutes, provides a right of access to governmental proceedings, requiring that meetings of public boards or commissions be open to the public, that reasonable notice of such meetings be given and that minutes of the meeting be taken. In light of the fact that there is no meeting of a board or commission at which official business will be conducted, section 286.011, Florida Statutes, would not be implicated.

You state that a number of counties have been conducting orientation sessions for the special magistrates contracted to hear value adjustment board petitions. The question has arisen whether these local orientations are subject to the open meeting requirements in section 286.011, Florida Statutes. There is no apparent board or commission that would be represented

at the orientation sessions. Moreover, no Florida Statute has been brought to the attention of this office that makes such orientations a public meeting. Absent a meeting of two or more members of a board or commission at which matters upon which foreseeable action will be taken are discussed, the orientation sessions held by local governments would not be subject to section 286.011, Florida Statutes.

In the legislative history attendant to the 2008 changes to section 194.035, Florida Statutes, reference is made to Auditor General's Report Number 2006-007 evaluating the performance of fourteen county value adjustment boards. In the report, several findings and recommendations were made, including the need to improve written procedures in a manual to be used by all value adjustment boards, special masters and the public; thereby providing consistent and uniform procedures statewide.[4] The report also commented upon the training of special masters by counties and how such training was generally not considered to be a meeting subject to public notice requirements. Noting that petitioners choosing to represent themselves were often not adequately prepared to present their cases, it was suggested that providing notice of the training sessions to citizens and encouraging their attendance would be beneficial.[5]

While not directly addressed by the statute, it is clear that the Legislature’s concern was to provide citizen access to the training sessions for special magistrates conducting hearings for value adjustment boards. The requirement that training sessions for special magistrates conducted by the Department of Revenue be open to the public cannot be extended by this office to training sessions held by counties.[6] Nothing, however, would preclude a county from allowing public attendance at such orientation sessions in order to facilitate better citizen education of the value adjustment board process and to carry out the Legislature’s intent.

Accordingly, it is my opinion that section 286.011, Florida Statutes, does not apply to orientations given by local county officials for special magistrates hired to hear value adjustment board petitions. However, nothing would preclude a county from allowing the public to attend such orientations in order to enhance the knowledge of citizens who appear before value adjustment boards.

Sincerely,

Bill McCollum
Attorney General

BM/tals

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[1] Section 194.035(1), Fla. Stat.

[2] *See* s. 5, Ch. 2008-197, Laws of Fla., amending s. 194.035, Fla. Stat., by adding subsection (3).

[3] *See* House of Representatives Staff Analysis, CS/HB 909, April 15, 2008. *See also* Senate Bill Analysis and Fiscal Impact Statement, CS/CS/SB 2080 (related bill for comparison), April 22,

2008, requiring the Department of Revenue (DOR) to develop uniform policies and procedures manual for use by value adjustment boards; requiring appointment of special magistrates, regardless of population; and requiring DOR to provide and conduct training for special magistrates at least once each fiscal year in at least five locations, with such training open to the public. The analysis states that training sessions are not considered by counties as meetings subject to the public notice requirements, but to better prepare potential petitioners for hearings, it would be beneficial to provide citizens the opportunity to attend (Finding No. 12). It also reports no impact on public records or open meetings issues.

I would note that as originally filed, HB 909, stated: "The training shall be open to the public. Value adjustment boards that provide training for special magistrates shall advertise the training sessions and allow taxpayers to attend the training sessions." The first committee substitute for HB 909 deleted the second sentence.

[4] Finding No. 2, Auditor General's Report No. 2006-007.

[5] Finding No. 12, Auditor General’s Report No. 2006-007.

[6] *See* Op. Att'y Gen. Fla. 82-20 (1982).