

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01208
Petitioners: Virginia & Albert Stincic
Respondent: Department of Local Government Finance
Parcel #: 007-28-29-0097-0030
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held in February 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$134,600 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated September 13, 2004.
4. A hearing was held on October 13, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at: 1703 Sheridan, Whiting, North Township.
6. The subject property is a three-unit rental home on .105 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land \$25,800 Improvements \$108,800 Total \$134,600
9. Assessed Value requested by Petitioners:
Land \$4,000 Improvements \$75,000 Total \$79,000

10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
11. Persons sworn in at hearing:

For Petitioners: Virginia & Albert Stincic, Owners
For Respondent: David Depp, Representing the DLGF

Issues

12. Summary of Petitioners' contentions in support of an alleged error in the assessment:
 - a. The Petitioners contend that the subject dwelling is one hundred (100) years old and needs a new roof, windows, siding and insulation.
 - b. The Petitioners contend that the land value for the subject property is high compared to actual sales of vacant land.
13. Summary of Respondent's contentions in support of the assessment:

The Respondent testified the property is valued fairly based on actual comparable neighborhood sales, and that no change in assessment is warranted.

Record

14. The official record for this matter is made up of the following:
 - a. The Petition, and all subsequent submissions by either party.
 - b. The tape recordings of the hearing labeled Lake Co. #237 and 338.
 - c. Exhibits:

Petitioner Exhibits: None Submitted

Respondent Exhibit 1: 139L Petition

Respondent Exhibit 2: Subject property record card (2 pages)

Respondent Exhibit 3: Two photographs of the subject

Board Exhibit A: Form 139 L

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

- d. These Findings and Conclusions.

Analysis

15. The most applicable governing cases are:
 - a. A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving, by preponderance of the evidence, that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis").
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
16. The Petitioners did not provide sufficient testimony to support their contentions. This conclusion was arrived at because:
 - a. The Petitioners contend the home was built in 1900 and needs new windows, siding, roofing and insulation. *V. Stincic testimony; Board Exhibit A*. However, the Petitioners did not present any evidence to quantify the effect of those factors upon the market value-in-use of the subject property.
 - b. Moreover, under the Real Property Assessment Guidelines for 2002 – Version A, local assessing officials are directed to account for the depreciation of a dwelling through, among other things, the assignment of an effective age and a condition rating. *See REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A*, app. B at 4 (incorporated by reference at 50 IAC 2.3-1-2). The Petitioners failed to explain why the effective age and condition rating assigned to the subject dwelling by the Respondent do not adequately account for the depreciation they have described.
 - c. The Petitioners also contend that the land value is too high based on sales of vacant land in the area. *Id.* However, the Petitioners did not present any evidence of actual sales prices of lots comparable to the subject land.
 - d. Based on the foregoing, the Petitioners failed to establish a prima facie case for a reduction in assessment.

Conclusion

17. The Petitioners did not make a prima facie case. The Board finds in favor of the Respondent.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.