

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-01211  
**Petitioners:** Virginia & Albert Stincic  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-26-36-0176-0032  
**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 \$81,700 and notified the Petitioner 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: 2251 Indianapolis Boulevard, Whiting, North Township.
6. The subject property is a single-family rental home.
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 \$15,900    Improvements \$65,800    Total \$81,700
9. Assessed Value requested by Petitioners:  
Land \$3,250    Improvements \$60,000    Total \$63,250

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. In their 139 L Petition, the Petitioners contend that lots in Whiting measuring 50' x 125' sold for \$6,500 in 2003. *Board Exhibit A.*
  - b. The Petitioners contend the subject dwelling is fifty years old and needs new windows, new siding and a new roof. *V. Stincic testimony; Board Exhibit A.*
  - c. The Petitioners purchased the property for \$47,000 in 1995. *V. Stincic testimony.*
13. Summary of Respondent's contentions in support of the assessment:
  - a. The Respondent presented comparable sales to prove that the value of the property is fair and that no change in assessment is warranted. *Depp testimony; Respondent Exhibit 4.*
  - b. The subject property is assessed at \$69.65 per square foot; the average assessment of the comparable properties is \$70.56 per square foot. *Depp testimony; Respondent Exhibit 4.*

### **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 Exhibit 1: None Submitted

Respondent Exhibit 1: 139L Petition

Respondent Exhibit 2: Subject property record card

Respondent Exhibit 3: Subject photograph

Respondent Exhibit 4: Summary of 20 comparable sales and record cards and photographs for three most comparable

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 that the subject dwelling is fifty years old and needs new windows, new siding and a new roof. *V. Stincic testimony*. However, the Petitioners did not present any evidence to quantify the effect of those factors upon the market value 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 presented evidence that they purchased the property in 1995 for \$47,000. *V. Stincic testimony*. However, the Petitioners did not present any evidence to show how the 1994 purchase amount relates to the value of the subject property as of January 1, 1999 - the relevant valuation date for the 2002 reassessment. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471-72 (Ind. Tax Ct. 2005)(holding that an appraisal indicating a property’s value for December 10, 2003 lacked probative value in an appeal from a 2002 assessment).
- d. Finally, in their 139 L Petition, the Petitioners claim that their assessed land value exceeds the 2003 sale prices of vacant lots in Whiting. *V. Stincic testimony*. However, the Petitioners did not present any evidence concerning those vacant lots in order to establish their comparability to the subject land. *See Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004) (“[W]hen a taxpayer introduces evidence of allegedly comparable properties, the taxpayer must explain how the properties are comparable, including factors such as ‘size shape, topography, accessibility [and] use.’” (quoting *Beyer v. State*, 258 Ind. 227, 280 N.E.2d 604, 607 (1972))).
- e. Based on the foregoing, the Petitioners failed to establish a prima facie case for a change in assessment.

**Conclusion**

- 16. 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: \_\_\_\_\_

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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.**