

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01213
Petitioners: Virginia & Albert Stincic
Respondent: Department of Local Government Finance
Parcel #: 007-24-30-0449-0011
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 \$15,000 and notified the Petitioner on April 1, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties.
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: 507 School Street, East Chicago, North Township.
6. The subject property is a half duplex/townhouse.
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 \$3,800 Improvements \$11,200 Total \$15,000
9. Assessed Value requested by Petitioners: Total \$12,000
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 there are one hundred properties of the same type as the subject property in the area, and that the subject property is assessed higher than other properties on the same block. *V. Stincic testimony.*
- b. The Petitioners contend that properties in the area sell for between \$8,000 and \$12,000. *Id.*

13. Summary of Respondent's contentions in support of the assessment:

The Respondent testified the property is valued fairly based on comparable sales in the area and that no change in assessment is warranted. *Depp testimony.*

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 (PRC)

Respondent Exhibit 3: Subject photograph

Respondent Exhibit 4: Summary of two comparable sales with PRCs and photographs

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 property is assessed for a higher amount than properties of the same type as the subject property and situated on the same block as the subject property. *V. Stincic Testimony*. The Petitioners further contend that similar properties in the area sell for between \$8,000 and \$12,000. *Id.*
 - b. In making this argument, the Petitioners essentially rely on a sales comparison approach to establish the market value-in-use of the subject property. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2)(stating that the sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market."); *See also, Long v. Wayne Township Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005).
 - c. In order to effectively use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly,

the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*

- d. Here, Virginia Stincic simply asserted that the subject property is similar to other properties on the same block. *V. Stincic testimony.* However, as set forth in *Long*, such conclusory statements are not sufficient to establish the comparability of the other properties to the subject property. Moreover, Ms. Stincic provided only vague information regarding the sales of the allegedly comparable properties. For example, she did not identify any specific sale beyond the general statement that the other properties sold for amounts ranging from \$8,000 to \$12,000. *V. Stincic testimony.*
- e. Ms. Stincic provided even less information regarding the assessments of the other properties in the subject property's area. Instead, she simply alleged that the assessment of the subject property was higher than any other property in the area.
- f. Based on the foregoing, the Petitioners failed to establish a prima facie case for a change 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.