

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01214
Petitioners: Virginia & Albert Stincic
Respondent: Department of Local Government Finance
Parcel #: 007-26-36-0202-0022
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 \$8,500 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: 4413 Sheffield, Hammond, North Township.
6. The subject property is a vacant parcel 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 \$8,500 Improvements \$0 Total \$8,500
9. Assessed Value requested by Petitioners: Not provided
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 improvements cannot be constructed on the subject property. *V. Stincic testimony*. The City of Hammond requires lots to be 60 feet wide for purposes of construction. *Id.* The subject lot is only 25 feet wide and therefore, has no value. *Id.*
- b. The Petitioners contend that property values are very low on this block. *Id.*

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

- a. The Respondent testified the land is valued fairly compared to other parcels in the neighborhood and that no change in assessment is warranted. *Depp testimony*.
- b. The subject lot would be sold with the adjacent lot containing a dwelling. *Id.*

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 Exhibits: None Submitted

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 assessed value is too high for the neighborhood, which has low property values. *V. Stincic testimony*. However, the Petitioners did not present any probative evidence to quantify the effect of the neighborhood on the subject property's market value-in-use. Without supporting evidence, the Petitioners' testimony regarding the property values in the neighborhood amounts to little more than a conclusory statement. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998).
 - b. The Petitioners also contend that they cannot construct improvements on the subject property because the City of Hammond requires a property to be 60 feet wide for purposes of construction, and the subject lot is only 25 feet wide. *V. Stincic testimony*.
 - c. Even if the Petitioners were correct in their contention that they cannot construct improvements upon the subject property due to its size, they did not introduce any evidence to quantify the effect of that limitation on the market value-in-use of the property.
 - d. Based on the foregoing, the Petitioners did not 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.