

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01203
Petitioners: Virginia & Albert Stincic
Respondent: Department of Local Government Finance
Parcel #: 007-28-29-0097-0033
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 \$13,600 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: 1711 Sheridan, Whiting, 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 \$13,600 Improvements \$0 Total \$13,600
9. Assessed Value requested by Petitioners:
Land \$3,250 Improvements \$0 Total \$3,250
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 the Petitioners' contentions in support of an alleged error in the assessment:

The Petitioners contend that vacant land in the area is selling for much less than the assessed value of the subject property. A developer purchased 50 ft. x125 ft. lots for \$6,500 whereas the subject lot is only 25 ft. x 125ft. *V. Stincic testimony.*

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

The Respondent testified the property is valued fairly as compared to other vacant land parcels 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 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 regulations and 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 vacant lots in the area measuring 50'x125 were sold to a developer in 2003 for \$6,500 per lot. *V. Stincic Testimony*.
 - b. However, the Petitioners did not explain how those lots purchased by the developer were comparable to the subject property in terms of location, shape, topography, accessibility and use. The Petitioners therefore failed to establish that the properties bought by the developer were comparable to the subject property. *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))).
 - c. In addition, the Petitioners did not present any evidence to show how the 2003 sale prices of the allegedly comparable properties relate to the values of those properties 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. 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.