

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-01205
Petitioners: Virginia & Albert Stincic
Respondent: Department of Local Government Finance
Parcel #: 007-24-30-0449-0018
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 \$15,400 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: 514 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 \$4,000 Improvements \$11,400 Total \$15,400
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 its block. *V. Stincic testimony.*
- b. The Petitioners contend properties in the area sell for between \$8,000 and \$12,000. They purchased both sides of the duplex type dwelling on the subject property for \$12,000 in 1994. *Id.*

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

The Respondent contends that 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 there are one hundred properties in the area that are of the same type as the subject property, yet the subject property is assessed higher than other properties on the same block. *V. Stincic Testimony*. The Petitioners further contend that properties in the neighborhood of a size and type similar to the subject property sell for between \$8,000 and \$12,000. *V. Stincic Testimony*
 - 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 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 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.