

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-01210  
**Petitioners:** Virginia & Albert Stincic  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-28-29-0097-0032  
**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 \$129,600 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: 1709 Sheridan, Whiting, North Township.
6. The subject property is a single-family residence on .069 acres 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 \$17,000 Improvements \$112,600 Total \$129,600
9. Assessed Value requested by Petitioners:  
Land \$3,250 Improvements \$73,500 Total \$76,750
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 the subject dwelling is one-hundred (100) years old and that a larger, newer home could be purchased elsewhere in the county for \$159,000. *V. Stincic testimony.*
- b. The Petitioners will probably sell the subject property next year and plan to list it at \$80,000. *V. Stincic testimony.* That is the same as the amount for which a similar property in the subject neighborhood was listed. *Id.*
- c. The Petitioners further contend that the subject property's location near steel mills and an oil refinery detract from its value. *V. Stincic testimony.*

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

The Respondent testified that the property is valued fairly based on actual comparable neighborhood sales, and that no change in assessment is warranted.

**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: 3 Comparable sales, PRCs & 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 the Petitioners' contentions. This conclusion was arrived at because:
- a. The Petitioners contend the subject dwelling was built in 1900, and that a newer larger home could be purchased in southern Lake County for \$159,000. *V. Stincic Testimony*. The Petitioners further contend that a similar home on the block was listed for sale at \$80,000 and that when they sell the subject property they will list it at \$80,000. *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, the Petitioners did not provide any evidence regarding the characteristics of the purportedly similar property that was listed for sale for \$80,000 beyond Virginia Stincic's assertion that the house on that property is similar to the subject dwelling. This is insufficient to establish comparability under *Long*. The Petitioners provided even less information about any newer or larger homes in southern Lake County that were purportedly selling for \$159,000.
- e. The Petitioners also contend that the subject property's location near steel mills and an oil refinery detracts from its value. Even if that were true, the Petitioners did not present any evidence to quantify the extent to which the subject property's undesirable location affects its the market value.
- f. Finally, the Petitioners contended on their 139 L petition that the city purchased vacant lots for \$6,500. However, the Petitioners did not explain at the hearing how those lots 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))).
- g. 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: \_\_\_\_\_

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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.**