



INTERIOR BOARD OF INDIAN APPEALS

Leonard and Ellen Pueblo v. Acting Sacramento Area Director,  
Bureau of Indian Affairs

18 IBIA 350 (07/06/1990)



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

LEONARD AND ELLEN PUEBLO

v.

ACTING SACRAMENTO AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS

IBIA 90-22-A

Decided July 6, 1990

Appeal from a denial of a loan application under the Indian Revolving Loan Program.

Affirmed.

1. Administrative Procedure: Burden of Proof--Indians: Financial Matters: Financial Assistance

In appeals arising under 25 CFR Part 2, the appellant bears the burden of proving that the agency action complained of was erroneous or not supported by substantial evidence.

APPEARANCES: Leonard and Ellen Pueblo, pro se.

## OPINION BY ADMINISTRATIVE JUDGE VOGT

Appellants Leonard and Ellen Pueblo challenge an August 29, 1989, decision of the Acting Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA), denying their application for a direct loan under the Indian Revolving Loan program. For the reasons discussed below, the Board affirms the Area Director's decision.

### Background

On February 2, 1989, appellants applied to the Central California Agency, BIA, for a direct loan in the amount of \$260,000 for the purpose of purchasing a coin-operated laundry, retrofitting it with solar energy improvements, and providing a working capital cushion. Appellants stated that Ellen Pueblo is an Aleut and a member of the Bristol Bay Native Corporation. <sup>1/</sup> On April 1 and May 18, 1989, appellants submitted additional

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<sup>1/</sup> For purposes of this decision, the Board assumes that Ellen Pueblo meets the definition of "Indian" and/or "Native" in 25 CFR 101.1(c) and (d).

information pursuant to requests from the Area Office credit officer. On August 29, 1989, the Area Director advised appellants that their application had been rejected. He stated:

Our current policy requires applicants to contribute a minimum of twenty percent (20%) equity to the project when applying for a loan. The equity contribution can be cash or assets that are part of the business; previous investments do not satisfy this requirement. We reviewed your application and it did not meet this requirement.

Appellants' appeal from this decision was received by the Board on November 1, 1989. <sup>2/</sup> The appeal was docketed on February 2, 1990, upon receipt of the administrative record. No briefs were filed.

#### Discussion and Conclusions

Appellants' notice of appeal states in its entirety:

This letter serves to appeal the decision of the Director, Sacramento Area Office, Bureau of Indian Affairs, in which our loan application for the purchase of the Wash Tub Coin-Op Laundry was denied.

A copy of the letter of denial is attached as is a copy of the envelope which contained it.

We understand that we have an additional 30 days in which to prepare the reasons for our appeal.

They filed nothing further.

[1] Appellants have not alleged, much less shown, that the Area Director committed error in reviewing their application. In appeals arising under 25 CFR Part 2, the appellant bears the burden of proving that the agency action complained of was erroneous or not supported by substantial evidence. An appellant who gives no reason for his/her appeal cannot sustain that burden of proof. Peall v. Acting Portland Area Director, 16 IBIA 163 (1988), and cases cited therein. Appellants here have not sustained their burden of proof.

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<sup>2/</sup> Although the notice of appeal was untimely under 43 CFR 4.332 (a), the Board accepted it because the Area Director incorrectly advised appellants that the time to file a notice of appeal was 60 days, rather than 30 days.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Acting Sacramento Area Director's August 29, 1989, decision is affirmed.

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//original signed  
Anita Vogt  
Administrative Judge

I concur:

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge