



INTERIOR BOARD OF INDIAN APPEALS

Big E Industries, Inc. v. Acting Anadarko Area Director, Bureau of Indian Affairs

20 IBIA 217 (08/27/1991)



United States Department of the Interior

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

BIG E INDUSTRIES, INC., : Order Affirming Decision
Appellant :
 :
v. :
 :
 : Docket No. IBIA 91-77-A
ACTING ANADARKO AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : August 27, 1991

This is an appeal from a March 12, 1991, decision of the Acting Anadarko Area Director, Bureau of Indian Affairs, denying a request for a loan guaranty in the amount of \$350,000. The Acting Area Director's decision listed eight specific reasons for the denial, based on problems with appellant's financial condition, and concluded that there did not appear to be a reasonable prospect for repayment of the loan.

Appellant's notice of appeal from this decision states in its entirety:

This letter serves as notice of our request and notice of appeal of the decision of the Anadarko Area Office's non-approval of a guaranteed loan of \$350,000. The original loan request is dated 3-23-90.

We request that all appropriate forms necessary for the appeal be sent to the above address along with any other related information.

We certify that copies of this notice of appeal have been sent to the parties noted below. [Emphasis in original.]

After receiving the administrative record, by notice of docketing dated June 11, 1991, the Board informed the parties of their right to file briefs. No briefs or other statements were filed.

In appeals arising under 25 CFR Part 2, the appellant bears the burden of proving that the agency decision complained of was erroneous or not supported by substantial evidence. With respect to appeals from decisions made under the Indian Financing Act, 25 U.S.C. §§ 1451-1543 (1988), an appellant must show that BIA's discretion was not properly exercised. E.g., Power Fuel Producers, Inc. v. Acting Anadarko Area Director, 20 IBIA 190 (1991); Gauthier v. Portland Area Director, 18 IBIA 303 (1990). In this case, the notice of appeal does not set forth any reasons for the appeal, and appellant has not filed a brief. Under these circumstances, appellant has not met its burden of proof.

