



INTERIOR BOARD OF INDIAN APPEALS

Little Six, Inc. v. Minneapolis Area Director, Bureau of Indian Affairs

24 IBIA 50 (06/03/1993)



United States Department of the Interior

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

LITTLE SIX, INC.,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 93-88-A
MINNEAPOLIS AREA DIRECTOR	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	June 3, 1993

Appellant Little Six, Inc., seeks review of an April 15, 1993, decision of the Minneapolis Area Director, Bureau of Indian Affairs (Area Director; BIA), approving an amendment to the Shakopee Mdewakanton Sioux Community (Community) Business Corporation Ordinance (BCO).

The Board received appellant's notice of appeal on May 3, 1993. By order of the same date, the Board questioned appellant's standing to bring an appeal challenging the approval of a tribal ordinance, and requested briefing from appellant on its standing.

As general background in its response to the Board's order, appellant states that it is a tribal corporation established pursuant to the BCO, is wholly owned by the Community, and is the only corporation that has been incorporated under the BCO. It further states that the amendment at issue directly affects its ability to conduct business. Appellant asserts that the BCO provides that it can only be amended upon a finding by the tribal court, in a declaratory judgment action, that the amendment is in the best interest of the Community. According to appellant, the Community filed an ex parte petition for declaratory judgment with the tribal court and did not inform appellant of the pendency of the petition or afford it an opportunity to be heard before the court issued its order finding that the amendment was in the best interest of the Community. Appellant further states that its motion to vacate the order is currently under advisement with the tribal court.

As to the Area Director's approval of the amendment, appellant states that the Community sought approval pursuant to a provision of the tribal constitution which requires BIA approval of any ordinance which directly affects non-members. It indicates that the Area Director received the amendment on December 16, 1992, and approved it on April 15, 1993. Appellant contends that although nothing in the record suggests that the Area Director was informed of the pending tribal court litigation, the Community sought leave to file information concerning the approval in that case.

Appellant argues that it has standing to bring this appeal because, as a tribal corporation affected by the amendment, it is both a "person" and an "interested party" within the meaning of 25 CFR 2.2.

Appellant is a "person" within the meaning of section 2.2, and is undoubtedly "interested" in the application of the amendment. This does not, however, end the standing analysis. Although the Board has not previously considered the specific question of the standing of a tribal corporation under the circumstances of this case, it has considered the standing of tribal members, and has held that a tribal member lacks standing to bring an action based on a personal assessment of what is or is not in the best interest of the tribe. E.g., Stops v. Billings Area Director, 23 IBIA 282 (1993); Frease v. Sacramento Area Director, 17 IBIA 250 (1989). The basis for this holding, recognition of the tribe's sovereignty and right of self-government, applies with equal force to a tribal corporation.

Furthermore, this matter is essentially an intra-tribal dispute of precisely the type addressed by the Board in its cases involving standing of tribal members: appellant's quarrel is not really with the Area Director's approval of the amendment, but rather is with the Community's enactment of it. The Board has stated that it will refrain from interfering in an intra-tribal dispute, especially when there is a tribal forum available for resolution of the matter. E.g., Naranjo v. Albuquerque Area Director, 23 IBIA 291, recon. denied, 24 IBIA 32 (1993); Stops, supra. Appellant was pursuing its tribal remedies when the Area Director approved the amendment, possibly without knowledge of the controversy surrounding it. The Board is confident of the tribal court's ability to give appropriate weight to the Area Director's approval in its deliberations.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Minneapolis Area Director's April 15, 1993, decision is docketed and dismissed for lack of standing.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge