



INTERIOR BOARD OF INDIAN APPEALS

Charles and Mary Nelson v. Acting Portland Area Director, Bureau of Indian Affairs

26 IBIA 85 (06/30/1994)



# United States Department of the Interior

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

CHARLES and MARY NELSON,	:	Order Affirming Decision
Appellants	:	
	:	
v.	:	
	:	Docket No. IBIA 94-57-A
ACTING PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	June 30, 1994

Appellants Charles and Mary Nelson seek review of a November 23, 1993, decision of the Acting Portland Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning a rental rate adjustment for Hermosa Point Lease 8039, Lot 104A, Block 1 (lease), located on the Tulalip Reservation. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision. 1/

The lease has a term of 10 years, beginning January 18, 1988. The initial rent was \$2,187 per year. The lease provided for a rental rate adjustment as of January 19, 1993. In a decision dated September 17, 1993, the Acting Superintendent, Puget Sound Agency, BIA, notified appellants that the adjusted rental rate would be \$6,800 per year.

Appellants appealed the adjustment to the Area Director, arguing that BIA failed to consider a tribal moratorium on water and sewer hookups which had prevented them from erecting a cabin on the lot. The Area Director directed that the appraisal be reviewed based upon appellants' contentions. A November 17, 1993, memorandum from the Portland Area Chief Appraiser stated: "The revised appraisal report indicates a rental adjustment of \$3,400 until the moratorium is withdrawn. If the existing restrictions and limitations for development are removed, it is recommended that the Fair Annual Rent be adjusted to the full rental value of \$6,800." Based on this revised appraisal, the Area Director reduced the rental rate to \$3,400 on November 23, 1993, but indicated that "[o]nce the moratorium is lifted, the rent shall revert to the \$6,800.00 annual figure."

Appellants then appealed to the Board. In their notice of appeal, appellants repeat that they do not have any indication of when they might be able to obtain water and sewer hookups, and add that they are "asking \* \* \* to have someone from the Pacific Northwest visit the site to see the lack of

1/ Although the Board initially questioned whether this appeal was timely filed, the Area Director was unable to furnish proof of the date appellants received his decision. Accordingly, the appeal is considered to be timely.

