



INTERIOR BOARD OF INDIAN APPEALS

Kevin H. Loveland v. Portland Area Director, Bureau of Indian Affairs

33 IBIA 172 (02/23/1999)



United States Department of the Interior

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

KEVIN H. LOVELAND,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 97-147-A
ACTING PORTLAND AREA	:	
DIRECTOR, BUREAU OF	:	
INDIAN AFFAIRS,	:	
Appellee	:	February 23, 1999

This is an appeal from a June 12, 1997, decision issued by the Acting Portland Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning an increase in rent for Fort Hall Lease No. 92-24, under which Appellant is the lessee. For the reasons discussed below, the Board affirms the Area Director's decision.

Appellant's lease covers 436.72 acres of tribal and allotted land on the Fort Hall Reservation and was approved by the Superintendent, Fort Hall Agency, BIA, on September 11, 1991. As originally approved, the lease had a term of five years. It was subsequently modified to provide for a ten-year term expiring December 31, 2001.

The modification to Appellant's lease made it subject to the rental adjustment provision in the lease (Special Lease Provision No. 8), as well as to 25 C.F.R. § 162.8, which provides:

Except for those leases authorized by Sec. 162.5(b)(1) and (2), unless the consideration for the lease is based primarily on percentages of income produced by the land, the lease shall provide for periodic review, at not less than five-year intervals, of the equities involved. Such review shall give consideration to the economic conditions at the time, exclusive of improvement or development required by the contract or the contribution value of such improvements.

In November 1996, BIA prepared an appraisal for the purpose of conducting the rental review required by this provision. On March 21, 1997, the Superintendent notified Appellant that his rent would be increased from \$17,998.74 to \$29,893.98 per year for the last five years of the lease term.

Appellant appealed to the Area Director, who affirmed the increase in a decision dated June 12, 1997. Appellant then appealed to the Board.

On appeal to the Board, Appellant contends that "economic conditions" were not addressed in the BIA decisions. He states that, from his perspective, economic conditions do not justify an increase in his rent because his expenses for fuel, equipment, and fertilizer have increased while the prices he receives for his crops have decreased.

BIA based its determination of fair annual rent upon an analysis of the rental rates paid for comparable properties. The Board has held that this methodology is a reasonable one. Kelly v. Acting Deputy Assistant Secretary--Indian Affairs (Operations), 15 IBIA 249 (1987). Contrary to Appellant's assertion, BIA's methodology took economic conditions into account, through analysis of those economic values, i.e., rental rates, most relevant to the determination to be made.

While Appellant might prefer a different methodology, his task here was to show that BIA's chosen methodology produced an unreasonable result. Wapato Orchard Partnership v. Portland Area Director, 18 IBIA 254, 256 (1990). He has not made such a showing.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Area Director's June 12, 1997, decision is affirmed.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge