



INTERIOR BOARD OF INDIAN APPEALS

Estate of Ada Thompson

38 IBIA 164 (10/25/2002)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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ESTATE OF ADA THOMPSON : Order Affirming Decision  
:   
: Docket No. IBIA 02-164  
:   
: October 25, 2002

On September 26, 2002, the Board of Indian Appeals (Board) received a notice of appeal from the Realty Director for the Native Village of Barrow Inupiat Traditional Government (Village). The Realty Director states that the Village performs realty services pursuant to an Indian Self-Determination Act (ISDA) contract. She seeks review of an August 9, 2002, order denying reopening issued in the estate of Decedent Ada Thompson by Administrative Law Judge James H. Heffernan. IP SL 057G 96-F6. For the reasons discussed below, the Board affirms that decision.

Ada Thompson died on October 28, 1976. For reasons not appearing in the materials before the Board, her estate was not probated for some time. A decision determining her intestate heirs was issued on April 7, 1997, by Judge Heffernan. The Judge found that Decedent's heir, as determined under the Alaska State laws of intestate succession, was her surviving spouse, Gordon Thompson. Although Gordon was deceased when the Judge issued the decision, he had survived Decedent.

By letter dated June 19, 2002, Decedent's son, Elmer Thompson, Sr., appealed the April 7, 1997, decision. The letter was transmitted to Judge Heffernan by the Fairbanks Field Office, Bureau of Indian Affairs (BIA), where it had been filed. Because the letter was filed more than three years after the entry of the decision in Decedent's estate, Judge Heffernan treated it as a petition for reopening. In the August 9, 2002, order under review, the Judge found that Elmer failed to make the showings necessary under 43 C.F.R. § 4.242(h) to reopen an estate. Elmer has not filed a timely appeal from the Judge's denial of reopening.

As mentioned above, the appeal presently before the Board was filed by the Realty Director. The Board has previously held that a BIA Superintendent or Regional Director is a proper party to appeal a probate decision. See, e.g., Estate of Thomas Nicholas Black Elk, 34 IBIA 212 (2000); Estate of Santana Nailor, 30 IBIA 150 (1996); Estate of Walter A.

