



INTERIOR BOARD OF INDIAN APPEALS

Steve Yates v. Northwest Regional Director, Bureau of Indian Affairs

52 IBIA 362 (12/30/2010)

Petition for Reconsideration dismissed:

53 IBIA 90



United States Department of the Interior

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

STEVE YATES,)	Order Affirming Decision
Appellant,)	
)	
v.)	
)	Docket No. IBIA 10-036
NORTHWEST REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	December 30, 2010

On November 10, 2009, the Northwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA), affirmed the decision of the Superintendent of BIA’s Puget Sound Agency, in which the Superintendent adjusted the annual rent for Lease Number 77860443 (covering Lot 47 of the Cobahud Waterfront Tracts on the Swinomish Reservation) from \$6,395 to \$9,000.¹ We summarily affirm the Regional Director’s decision because Appellant bears the burden of proving that the Regional Director erred, and he makes only conclusory allegations that are unsupported by any argument or evidence.

In his Notice of Appeal and in a subsequent letter addressed to the Board, Appellant asserts that “[t]he decision being appealed is your methodology calculations of value and percentage of [i]ncrease.” Notice of Appeal dated Dec. 9, 2009; letter to Board from Appellant, Dec. 28, 2009. In his December 28 letter, Appellant states that “[t]he 5% increase [in annual rent] is too high.” Appellant may believe that his rent is “too high” but he is the one who must explain and show how the Regional Director erred in his decision. It simply is not enough to claim that the increase is too high or to disagree, without explanation, with the “methodology calculations of value.”

¹ The decision also included a corresponding increase in the amount of Appellant’s performance bond (or assignment of savings) to \$9,000.

Appellant bears the burden of showing that the Regional Director has committed error, factual or legal, in arriving at his decision. As the Board has held on numerous occasions, “[s]imple disagreement with or bare assertions concerning BIA’s decision are insufficient to carry this burden of proof.” *Wallowing Bull-C’Hair v. Rocky Mountain Regional Director*, 49 IBIA 120, 124 (2009), and cases cited therein. The Board will not substitute its judgment in place of BIA’s in discretionary decisions, such as rental rate decisions. *See Hawkey v. Acting Northwest Regional Director*, 52 IBIA 86, 89-90 (2010). Here, Appellant has made bare, unsupported assertions, which are insufficient to meet his burden of challenging the Regional Director’s decision.

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 Regional Director’s November 10, 2009, decision is affirmed.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge