



INTERIOR BOARD OF INDIAN APPEALS

Estate of Ruby Maldonado

46 IBIA 314 (03/25/2008)

Related Board cases:

36 IBIA 8

36 IBIA 267

Reconsideration denied, 36 IBIA 295

38 IBIA 196



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

ESTATE OF RUBY MALDONADO) Order Dismissing Appeal
)
) Docket No. IBIA 06-31
)
) March 25, 2008

Appellant Rudy L. Maldonado appealed to the Board of Indian Appeals (Board) from a Decision on Fair Market Value (Decision) entered on November 9, 2005, by Administrative Law Judge Robert G. Holt in the estate of Appellant's mother, Ruby Maldonado (Decedent), deceased Yakama Indian, Probate No. SA-237-N-98. Decedent's estate included interests in The Dalles Public Domain Allotments Nos. A-22, M-23, and M-2264, located in the State of Oregon, which are subject to a statutory purchase option by the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribe).¹ Because the Tribe had stated its intent to exercise its statutory purchase rights pursuant to the Act of August 10, 1972, Pub. L. No. 92-377, 86 Stat. 530 (1972) (Warm Springs Act), BIA appraised Decedent's allotment interests, which were then contested by the Tribe and the heirs. Pursuant to 43 C.F.R. § 4.305, Judge Holt then held a hearing to determine the fair market value of these interests and issued his Decision, from which Appellant appealed.

The Board dismisses Appellant's appeal as moot because the only issue before the Board is the valuation of Decedent's interests for purposes of sale to the Tribe and the Tribe has now confirmed to the Board that it no longer intends to exercise its statutory purchase rights as to Decedent's interests in the subject allotments. *See* Tribe's Motion for Correction of Error in Order of February 11, 2008.² Thus, because nothing turns on the outcome of

¹ Decedent owned a 50% interest in both the surface and subsurface of Allotment No. A-22 and a 25% interest in the subsurface mineral interests of Allotment Nos. M-23 and M-2264.

² In its motion, the Tribe agreed that this appeal is moot, but requested a correction in the Board's February 11, 2008, Order for Briefing on Mootness. The Board's order had sought *inter alia* confirmation that the Tribe still intended to exercise its statutory purchase rights as to Decedent's interests in the allotments and contained an inadvertent reference to the Yakama Nation as holding the purchase right rather than the Tribe. The Tribe's motion is granted. *See Estate of Ruby Ruth Maldonado*, 38 IBIA 196, 201 (2002) (Tribe holds right of purchase under the Warm Springs Act).

this appeal, we conclude that the appeal is moot. *See Parker v. Southern Plains Regional Director*, 45 IBIA 310, 316-17 (2007) (Board follows mootness doctrine as a matter of prudence); *Pueblo of Tesuque v. Acting Southwest Regional Director*, 40 IBIA 273, 274 (2005) (appeal is moot when nothing turns on its outcome).

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 Board dismisses this appeal as moot.³

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

³ Although the Tribe has declined to exercise its statutory right under the Warm Springs Act to purchase Decedent's interests, the heirs and the Tribe remain free to come to an agreement concerning the sale of Decedent's interests to the Tribe pursuant to 25 C.F.R. Part 152. Of course, nothing in this decision affects the Tribe's future statutory purchase rights, if any, in the subject allotments upon the deaths of Decedent's heirs or their assignees.