



INTERIOR BOARD OF INDIAN APPEALS

Tama County Board of Supervisors, Tama County, Iowa v.
Midwest Regional Director, Bureau of Indian Affairs

52 IBIA 179 (10/22/2010)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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TAMA COUNTY BOARD OF)	Order Affirming Decision
SUPERVISORS, TAMA COUNTY,)	
IOWA,)	
Appellant,)	
)	
v.)	Docket No. IBIA 10-108
)	
MIDWEST REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	October 22, 2010

The Tama County Board of Supervisors (County) of Tama County, Iowa, appealed to the Board of Indian Appeals (Board) from a May 5, 2010, decision of the Midwest Regional Director (Regional Director), Bureau of Indian Affairs. The Regional Director approved a request by the Sac & Fox Tribe of the Mississippi in Iowa (Tribe) to the Bureau of Indian Affairs to accept into trust for the Tribe four parcels of land totaling 257.7 acres, more or less, located in Tama County, Iowa.¹ Because the County has not made any arguments on appeal, we summarily affirm the Regional Director’s decision.

The County’s notice of appeal stated that it was appealing the Regional Director’s May 5, 2010, decision but did not state any basis for its disagreement with the decision. On July 7, 2010, the Board issued a Notice of Docketing and Order Setting Briefing Schedule (Order), which informed the County that it had the opportunity to file an opening brief on or before August 18, 2010. The Order also informed the County “that it bears the burden of proving error in the decision being appealed.” Order at 2.

No opening brief was received from the County. The Regional Director and the Tribe filed separate briefs to which the County did not respond. In short, the Board has not heard further from the County since the filing of its notice of appeal.

¹ The four parcels are known as the Dolash property, the Moore property, the Tesar property, and the Eberhart property, and each abuts the Tribe’s reservation.

The Board has held consistently that appellants bear the burden of establishing that the Regional Director's decision was in error or was not supported by substantial evidence. *Van Gorden v. Acting Midwest Regional Director*, 41 IBIA 195, 198 (2005). An appellant who has not made any allegations of error has not met its burden of proof. *Johnson v. Rocky Mountain Regional Director*, 38 IBIA 64, 67 (2002). The Board may affirm the Regional Director's decision where the notice of appeal does not identify any error in the decision being appealed and the appellant submits no brief or other statement of reasons in opposition to the Regional Director's decision. *DeNobrega v. Acting Northwest Regional Director*, 40 IBIA 223, 234 (2005).

The County's bare bones notice of appeal does not allege any error in the Regional Director's decision. The County did not file an opening brief or other document containing allegations of error. Based on these facts, the County has not met its burden of showing error in 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 Board summarily affirms the Regional Director's May 5, 2010, decision.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Sara B. Greenberg
Administrative Judge*

*Interior Board of Land Appeals, sitting by designation.