



INTERIOR BOARD OF INDIAN APPEALS

Village of Hobart, Wisconsin v. Midwest Regional Director, Bureau of Indian Affairs

54 IBIA 18 (08/08/2011)

Denying Reconsideration of:
53 IBIA 221



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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VILLAGE OF HOBART, WISCONSIN,)	Order Denying Reconsideration
Appellant,)	
)	
v.)	
)	Docket No. IBIA 11-083-1
MIDWEST REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	August 8, 2011

On June 21, 2011, in response to the request of the Midwest Regional Director (Regional Director), Bureau of Indian Affairs, the Board of Indian Appeals (Board) vacated the Regional Director's decision of February 2, 2011, remanded the matter to the Regional Director for further consideration, and dismissed the appeal from the February 2 decision filed by the Village of Hobart, Wisconsin (Village). 53 IBIA 221. The Regional Director's February 2 decision had agreed to take fee property — identified by tax parcel numbers HB-1480 (formerly known as the American General Finance property), HB-1415-1 (formerly known as the Danforth property), HB-1371-7 (formerly known as the Gray property), and HB-543-3 (formerly known as the Hock property), all located in the Town of Hobart, Brown County, Wisconsin — into trust for the Oneida Tribe of Indians of Wisconsin (Tribe). On June 22, 2011, the Board received a brief from the Village in opposition to the Regional Director's request for remand. We construe the Village's motion as a petition for reconsideration, and deny the petition. The Village does not identify any extraordinary circumstances that would justify reconsideration.

Reconsideration of a Board decision will be granted only in extraordinary circumstances. 43 C.F.R. § 4.315(a); *Gardner v. Acting Western Regional Director*, 46 IBIA 105 (2007); *Jacobs v. Great Plains Regional Director*, 43 IBIA 272 (2006). The Village maintains that the "fee to trust application process has been completed," the Village has expended time, effort, and money in briefing the appeal, and therefore the Village is entitled to a decision from this Board. In essence, the Village argues that the Regional Director should not be able to benefit from the "illumination" provided by the Village in its pleadings and should not have "endless opportunities" to revisit her decision, especially in

the absence of any explanation for requesting remand. Pet. for Recons. at 2. The Village asserts that it will incur additional expense on remand to continue its opposition to the trust acquisition of these four properties.¹

The Village cites no law in support of its arguments, and we find them unpersuasive. As we explained in *Village of Hobart v. Acting Midwest Regional Director*, 53 IBIA 269, 270 (2011) (*Village of Hobart*), the Regional Director is entitled in her discretion to revisit her decision. 53 IBIA at 270 (citing *Eifler v. Office of Workers' Compensation Programs*, 926 F.2d 663, 666 (7th Cir. 1991); *Trujillo v. General Electric Co.*, 621 F.2d 1084, 1086 (10th Cir. 1980) (“Administrative agencies have an inherent authority to reconsider their own decisions, since the power to decide in the first instance carries with it the power to reconsider. *Albertson v. FCC*, 182 F.2d 397, 399 (D.C.Cir. 1950).”). To the extent the Village may incur additional expense, this argument is speculative and it assumes that the Regional Director will reach the same conclusion on remand. Even assuming the Village were to incur further expense, this circumstance would not be extraordinary, when considered against the Regional Director’s inherent right to reconsider her decisions, to justify reconsideration of our decision to remand this matter. Thus we conclude that the Village has not shown the requisite extraordinary circumstances warranting reconsideration.²

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 denies the petition for reconsideration of 53 IBIA 221.

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

¹ In the alternative, the Village contends that the Regional Director’s February 2 decision should be vacated. Consistent with its practice, the Board did vacate the February 2 decision. 53 IBIA at 221. Therefore, this portion of the Village’s opposition is moot.

² Even if the Board considered the Village’s petition as a brief in opposition to the motion for remand, we would still grant the motion for the reasons set forth in *Village of Hobart*.