



## INTERIOR BOARD OF INDIAN APPEALS

Third Legislature of the Cheyenne and Arapaho Tribes v.  
Acting Southern Plains Regional Director, Bureau of Indian Affairs

54 IBIA 276 (03/08/2012)

### Related Board cases:

53 IBIA 121  
54 IBIA 117  
54 IBIA 167  
54 IBIA 332  
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59 IBIA 39  
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## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
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SUITE 300  
ARLINGTON, VA 22203

THIRD LEGISLATURE OF THE	)	Order Dismissing Appeal
CHEYENNE AND ARAPAHO	)	
TRIBES,	)	
Appellant,	)	
	)	
v.	)	Docket No. IBIA 11-151
	)	
ACTING SOUTHERN PLAINS	)	
REGIONAL DIRECTOR, BUREAU	)	
OF INDIAN AFFAIRS,	)	
Appellee.	)	March 8, 2012

The Third Legislature of the Cheyenne and Arapaho Tribes (Appellant) appealed to the Board of Indian Appeals (Board) from a July 21, 2011, decision (Decision) of the Acting Southern Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA), in which the Regional Director declined to approve a May 2, 2011, proposal signed by Reggie Wassana, as Executive Director of the Cheyenne-Arapaho Housing Authority, to enter into a P.L. 93-638 Indian Self-Determination and Education Assistance (ISDA) contract with BIA for the assumption and operation of the Housing Improvement Program (HIP).<sup>1</sup> The Board dismisses the appeal because Appellant has not demonstrated that it has standing to bring the appeal.

When the Board scheduled briefing on the merits of the appeal, it solicited briefing on Appellant's authority to bring this appeal. Specifically, the Board noted that the legislative authority relied upon by Wassana for submitting the proposal was Tribal Resolution No. 3L-2011-RS-02-02, which by its terms only *authorized* the submission of an ISDA HIP contract application, and which provided that "[t]he Acting Governor shall have full authority over *enforcement* of this act." See Nov. 15, 2011, Order at 3 (emphasis added). The Board also noted that the Tribe's Constitution provides that the Department of Housing is located in the Executive Branch and that the Executive power of the Tribe is

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<sup>1</sup> The Regional Director found that he was unable to determine whether the proposal had been authorized by the Cheyenne and Arapaho Tribes (Tribe), as required by ISDA. See 25 U.S.C. § 450f(a)(1) & (2).

vested in the Governor, who shall execute, administer, and enforce the laws. *See id.* (citing Constitution of the Cheyenne and Arapaho Tribes, art. VII, §§ 1(c), 4(a)). Because it was not apparent on what basis or authority Appellant would have standing to appeal from the Decision, the Board solicited briefing on the issue.<sup>2</sup>

The burden to establish standing rests with an appellant. *Voices for Rural Living v. Acting Pacific Regional Director*, 49 IBIA 222, 233 (2009). Appellant did not file an opening brief and did not respond to the Board’s order to address its authority to bring the appeal. Thus, Appellant has failed to establish that it is authorized to bring this appeal. *Cf. Yeahquo v. Southern Plains Regional Director*, 36 IBIA 11, 12 (2001) (appellants produced nothing to show that the tribe authorized them to bring the appeal); *Shoshone-Bannock Tribal Tax Comm’n v. Acting Portland Area Director*, 30 IBIA 185, 186 (1997) (tribal tax commission did not demonstrate that it was authorized to bring the appeal).

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 for failure to demonstrate standing.<sup>3</sup>

I concur:

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// original signed  
Steven K. Linscheid  
Chief Administrative Judge

\_\_\_\_\_  
// original signed  
Debora G. Luther  
Administrative Judge

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<sup>2</sup> No other party (e.g., Wassana, or an individual claiming to be the Governor or “Acting Governor” of the Tribe) appealed from the Decision.

<sup>3</sup> The Board received a brief in opposition to Appellant’s appeal from the Executive Branch of the Tribe, through Janice Prairie Chief-Boswell as Governor, and from the Tribe’s Housing Authority, through Orville Whiteskunk as Executive Director. Appellant did not file a reply. The brief in opposition raises several arguments that would require the Board to affirmatively decide several issues of tribal law, which we find unnecessary. This appeal was one of several appeals filed with the Board that involve a governance dispute within the Tribe; the other appeals remain pending. The Board expresses no view on the underlying merits of the tribal dispute nor, for purposes of resolving this appeal, does the Board express any view on the status of Prairie Chief-Boswell or Whiteskunk.