



INTERIOR BOARD OF INDIAN APPEALS

Roberts County, South Dakota; and City of Sisseton, South Dakota v. Great Plains
Regional Director, Bureau of Indian Affairs

58 IBIA 267 (05/23/2014)



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

ROBERTS COUNTY, SOUTH)	Order Dismissing Appeal in Docket
DAKOTA; AND CITY OF SISSETON,)	No. IBIA 13-097 and Affirming
SOUTH DAKOTA,)	Decisions in Docket Nos. IBIA 13-
Appellants,)	096, 13-098 and 13-100
)	
v.)	Docket Nos. IBIA 13-096
)	13-097
GREAT PLAINS REGIONAL)	13-098
DIRECTOR, BUREAU OF INDIAN)	13-100
AFFAIRS,)	
Appellee.)	May 23, 2014

Roberts County, South Dakota (County), appealed to the Board of Indian Appeals (Board) from three decisions, each dated April 3, 2013, of the Great Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA), to accept, into trust for the Sisseton-Wahpeton Oyate, three properties located in Roberts County, South Dakota. The properties are referred to as the “Brooks 2 Property,” the “Drive In Property,” and the “Birch 2 Property.” The City of Sisseton, South Dakota (City), appealed to the Board from the Regional Director’s decision to accept the Drive In Property into trust.¹

On May 16, 2014, the Board received a letter from the County, through Roger George, Chairman, County Board of Commissioners, advising the Board that the County withdraws its appeal of the decision to accept the Drive In Property into trust.² Accordingly, the Board dismisses the appeal in Docket No. IBIA 13-097.

In addition, upon review of the appeal record for these consolidated appeals, the Board finds that briefing is complete and that the remaining appeals are ripe for a decision.

¹ The County’s appeals were assigned Docket Nos. IBIA 13-096 (Brooks 2), 13-097 (Drive In), and 13-098 (Birch 2). The City’s appeal was assigned Docket No. IBIA 13-100. We refer to the County and the City collectively as “Appellants.”

² Although the letter is dated December 5, 2013, and addressed to the Board, the Board did not receive it in the mail. The Board’s staff spoke with Roger George on May 6, 2014, and gave him permission to file a copy of the letter with the Board by fax.

Because Appellants have not asserted any error in the decisions, we summarily affirm the Regional Director's decisions in Docket Nos. IBIA 13-096, 13-098, and 13-100.

The County's notices of appeal state that it is appealing the Regional Director's decisions pertaining to the Brooks 2 Property and the Birch 2 Property, but do not assert any basis for its disagreement with the decisions. The City's notice of appeal states that it is appealing the decision pertaining to the Drive In Property, but likewise does not assert any error in the decision. On June 17, 2013, the Board issued a Notice of Docketing and Order Setting Briefing Schedule (Order), which informed Appellants that they could submit an opening brief on or before July 26, 2013. The Board advised Appellants "that they bear the burden of proving error in the decisions being appealed." Order at 3.

No opening brief was received from Appellants. The Regional Director filed a brief on August 19, 2013, to which Appellants did not respond. Other than the notices of appeal, the Board has not heard from Appellants in the remaining appeals.

The Board has consistently held that appellants bear the burden of establishing that a 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 a 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. *Scudder v. Southern Plains Regional Director*, 56 IBIA 206, 207 (2013), and cases cited therein.

Appellants' notices of appeal contain no allegations of error or argument concerning the decisions, and Appellants have filed no briefs on the merits of their appeal(s). Consequently, Appellants have not met their burden of proof.

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 the appeal in Docket No. IBIA 13-097 and affirms the Regional Director's April 3, 2013, decisions in Docket Nos. IBIA 13-096, 13-098 and 13-100.

I concur:

// original signed
Thomas A. Blaser
Administrative Judge

//original signed
Steven K. Linscheid
Chief Administrative Judge