



INTERIOR BOARD OF INDIAN APPEALS

Howard Carlson v. Northwest Regional Director, Bureau of Indian Affairs

61 IBIA 116 (07/20/2015)



United States Department of the Interior

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

HOWARD CARLSON,)	Order Dismissing Appeal
Appellant,)	
)	
v.)	
)	Docket No. IBIA 15-062
NORTHWEST REGIONAL)	
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	July 20, 2015

Howard James Carlson (Appellant) appealed to the Board of Indian Appeals (Board) from a February 2, 2015, decision (Decision) of the Northwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA), rescinding on procedural grounds his previous January 28, 2015, decision, which in turn had reversed the Puget Sound Agency Acting Superintendent’s (Superintendent) July 8, 2014, decision to acquire land in trust for Ramona Mae Hawthorne, who was then deceased.¹ In the Decision, the Regional Director explained that he was rescinding his original decision in order to reopen the record and allow the Puyallup Tribe of Indians (Tribe) and other interested parties to file answers in that administrative appeal proceeding.

In Appellant’s notice of appeal to the Board, Appellant stated that, in light of the Regional Director’s decision to reopen the proceedings before the Regional Director, Appellant did not believe an appeal to the Board was “required or ripe at this time,” and filed the appeal only “to the extent necessary to preserve his appellate rights.” Notice of Appeal at 2. Upon receipt of the notice, the Board issued an order authorizing the Regional Director to exercise jurisdiction to issue a final merits decision on the proposed trust acquisition, and staying this appeal pending the Regional Director’s final decision. Pre-Docketing Notice, Order Staying Appeal, and Order Authorizing BIA to Exercise Jurisdiction, Feb. 13, 2015 (Order). In our Order, we also explained that, once the Regional Director issued his final decision on the matter with notice of appeal rights, we anticipated that we would dismiss this appeal.

¹ The property, which is more fully described in the Superintendent’s decision, is an approximately 0.5-acre parcel located within the Puyallup Indian Reservation, in Pierce County, Washington.

On April 27, 2015, the Board received a copy of an April 24, 2015, decision of the Acting Northwest Regional Director stating that, based on a Stipulation for Dismissal of Appeal (Stipulation),² BIA was dismissing the administrative appeal, subject to the right of appeal to the Board.³

Because it appeared that, even if Appellant's appeal before the Board had been ripe, it was now moot, the Board issued an Order Lifting Stay and Allowing Responses in which interested parties were given an opportunity to respond to the Board's suggestion that the appeal should be dismissed as moot. Notice of Assignment of Docket Number and Order Lifting Stay and Allowing Response, June 24, 2015, at 2. No responses were received.

The doctrine of mootness, to which the Board adheres, is based on the principle that an active case or controversy must be present at all stages of litigation. *Forest County Potawatomi Community v. Deputy Assistant Secretary – Indian Affairs*, 48 IBIA 259, 264 (2009), and cases cited therein. When nothing turns on the outcome of an appeal, e.g., because the requested relief can no longer be granted by the Board, an appeal is deemed to be moot. *Id.*

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.

I concur:

// original signed
Thomas A. Blaser
Administrative Judge

//original signed
Steven K. Linscheid
Chief Administrative Judge

² The Stipulation was signed by attorneys for Appellant, the Tribe, and the Administrator of the Estate of Ms. Hawthorne.

³ The Board did not receive any appeals from that decision.