



## INTERIOR BOARD OF INDIAN APPEALS

Pomari-Awte, LLC v. Pacific Regional Director, Bureau of Indian Affairs

63 IBIA 290 (08/05/2016)



# 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

POMARI-AWTE, LLC,	)	Order Dismissing Appeal
Appellant,	)	
	)	
v.	)	Docket No. IBIA 15-109
	)	
PACIFIC REGIONAL DIRECTOR,	)	
BUREAU OF INDIAN AFFAIRS,	)	
Appellee.	)	August 5, 2016

This appeal to the Board of Indian Appeals (Board) was filed by Darcie L. Houck, Esq. (Houck), of Fredericks Peebles & Morgan LLP, on behalf of Pomari-Awte, LLC (Appellant). The notice of appeal asserted that Appellant would “more fully explain” in an opening brief why Appellant contends that the Pacific Regional Director (Regional Director), Bureau of Indian Affairs (BIA), erroneously concluded that a Land Use Permit issued by the Pit River Tribe to Appellant would convey a legal interest in trust land, thus requiring a lease approved by BIA.<sup>1</sup>

Appellant did not file an opening brief, and by letter to the Board dated December 10, 2015, Houck advised the Board that she “does not represent” Appellant in relation to this litigation. On January 2, 2016, the Board received from the Regional Director an answer brief styled as a motion to dismiss, although it addressed the merits of the Regional Director’s decision. Appellant did not file a reply brief. In the absence of an opening brief from Appellant, Houck’s withdrawal, and Appellant’s failure to file a reply brief, it was not apparent to the Board whether Appellant wished to pursue this appeal, or had abandoned it. The Board therefore solicited from Appellant a statement as to whether it wished to have the appeal decided by the Board based on the merits. Order of July 13, 2016. Appellant was required to provide that statement on or before July 22, 2016, and we cautioned Appellant that failure to respond to that order would result in dismissal of the appeal for failure to prosecute. *Id.* at 1-2. See *Mitchell v. Acting Northwest Regional Director*, 58 IBIA 246, 247 (2014).

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<sup>1</sup> The Regional Director’s decision that is the subject of this appeal was issued on July 22, 2015. The Regional Director also concluded that BIA cannot approve a lease for the uses provided in the permit (production, processing, and distribution of medical marijuana) because the uses are not allowed under Federal law.

The Board has received no response from Appellant.

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 prosecute.

I concur:

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// original signed  
Robert E. Hall  
Administrative Judge

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//original signed  
Thomas A. Blaser  
Administrative Judge