

ALBERT W. BALL, SR.

IBLA 74-280

Decided October 7, 1974

Appeal from decision of Alaska State Office, Bureau of Land Management, rejecting homesite purchase application and canceling homesite claim AA-8423.

Affirmed.

1. Alaska: Homesites--Applications and Entries: Generally--Segregation: Filing of Application--Settlements on Public Lands

An Alaska homesite applicant will not be given credit for settlement or occupancy of a site prior to the segregation of the land by the filing of a State selection application when he fails to file, as required by section 5 of the Act of April 29, 1950, 43 U.S.C. § 687a-1 (1970), a notice of location or an application to purchase until long after the segregation of the land by the State selection application.

2. Alaska: Homesites--Applications and Entries: Generally--Segregation: Filing of Application

An application to purchase land which was segregated from settlement and entry before the initiation of any rights to the land by the filing of the application must be rejected.

APPEARANCES: Albert W. Ball, Sr., pro se.

## OPINION BY ADMINISTRATIVE JUDGE FISHMAN

On July 2, 1973, Albert W. Ball, Sr. (appellant), filed an application to purchase homesite AA-8423 under section 10 of the Act of May 14, 1898, as amended, 43 U.S.C. § 687a (1970). The land applied for lies in protracted section 17, T. 13 S., R. 55 W., Seward Meridian, near Dillingham, Alaska. The application to purchase asserts ownership of the improvements on the property, a cement basement and a forty-foot well with six-inch casing, since June 1960.

The Alaska State Office rejected the application on March 22, 1974, on the ground that the land has been segregated from disposal under the public land laws by a State selection filed on May 3, 1961. The State Office concluded that because the applicant did not file a notice of location within 90 days of initiating the claim, he had no rights that prevented the segregation of the land by the State selection.

In his appeal Mr. Ball does not demonstrate any error in the State Office decision. He asserts only that he has paid local taxes on the basement, that the basement and well are valuable assets, and that he would like to build over the basement.

[1] The State Office properly found that the filing of the selection application by the State of Alaska pursuant to the Act of July 7, 1958, 72 Stat. 339, 48 U.S.C. n. foll. § 21 (1970), segregated the land from disposition under the public land laws on May 3, 1961. 43 CFR 2627.4(b). The regulations implementing section 5 of the Act of April 29, 1950, 43 U.S.C. § 687a-1 (1970), require an applicant for a homesite to file a notice of location of the claim within 90 days of initiating the claim, or else no credit will be given to settlement or occupancy prior to the filing of such a notice or an application to purchase. 43 CFR 2563.2-1(a) and (c). As Mr. Ball did not so file, he initiated no right to the tract which prevented the segregation of the land by the State selection. Ralph E. Marshall, 14 IBLA 233 (1974); Lance H. Minnis, 6 IBLA 94 (1972).

[2] In such circumstances, an application to purchase land withdrawn or segregated from settlement and entry at the time of the filing of the application must be rejected. Eugene M. Witt, 15 IBLA 378, 380 (1974); Kennecott Copper Corp., 8 IBLA 21, 79 I.D. 636 (1972).

Appellant asserts that he is not a "land grabber" and would be willing to receive just the area immediately around the basement and well. Even if a homesite claim could be granted in part, it would be of no avail to appellant here. The entire tract applied for here is segregated from disposition under the public land laws, not just the unimproved portion.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Frederick Fishman  
Administrative Judge

We concur:

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Douglas E. Henriques  
Administrative Judge

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Edward W. Stuebing  
Administrative Judge

