

OPAL H. LOFQUIST

IBLA 75-188 Decided November 15, 1976

Appeal from decision of Colorado State Office, Bureau of Land Management, establishing rental for a 5-year small tract lease C-1868.

Affirmed.

1. Small Tract Act: Appraisals

Where an applicant for a small tract lease contends the rental set by the Bureau of Land Management is too high, the burden is upon him to prove by positive and substantial evidence that the appraisal is in error.

APPEARANCES: Harriet Weller, Fairfax, Virginia, for appellant.

OPINION BY ADMINISTRATIVE JUDGE RITVO

Opal H. Lofquist has appealed from a decision of the Colorado State Office, Bureau of Land Management, allowing her application for renewal of a lease issued pursuant to the Small Tract Act, as amended, 43 U.S.C. § 682(a)-682(c) (1970), subject to payment of rental of \$2,450 for a 5-year term running from April 25, 1972, to April 24, 1977.

The appellant contends that the rental requested is too high.

The tract in question contains 1.5 acres and is situated on the shore of the west side of Lake San Cristobal near Lake City, Colorado. It has good access from both state and county roads and has an excellent view of Lake San Cristobal and a panoramic view of the mountains to the east.

The tract is in an area the Bureau of Land Management desires to develop for public recreation purposes, but which has been leased to appellant, pending availability of funds. Mrs. Lofquist, or

her predecessors in interest, occupied the land for many years under a mining claim, since declared invalid.

In an appraisal made to determine the fair rental value, the appraiser compared the property with three tracts in the area. Due to high demand for recreational property, land values have increased rapidly in the last few years. On the basis of the value established by comparing this tract with these sales, the rental value was computed to be \$2,450 for a 5-year term.

The appellant contends that the rent is exorbitant but offers no evidence in support of her contention. ^{1/}

She also states that the delay of 3 years in acting on her application caused hardship in meeting the total payments within the remaining life of the entry, the appellant having been paying the former rental of \$150.00 per year while her renewal application was pending.

[1] We find that the rental of the land set by the Bureau reflects a reasonable estimate of the value of the tract.

If an appellant contends that the rental is erroneous, the burden is on her to prove by substantial and positive evidence that the appraisal is in error. Henry O. Woodruff, 24 IBLA 190 (1976); Harold Kyllonen, 16 IBLA 86, 91, 81 I.D. 364, 366 (1974). The appellant has not offered any evidence to the contrary, nor has she shown that the appraisal does not comport with the Bureau or professional standards.

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.

Martin Ritvo
Administrative Judge

We concur.

Joan B. Thompson
Administrative Judge

Joseph W. Coss
Administrative Judge

^{1/} She also adverts to other issues relative to the long occupancy of the claim by Mrs. Lofquist and her predecessors. These, however, are not material here.

