

VALLEY MOBILE COMMUNICATIONS, INC.

IBLA 78-538

Decided December 29, 1978

Appeal from determination of charges for communication site right-of-way by California State Office, Bureau of Land Management. CA 4482.

Affirmed.

1. Appeals--Rights-of-Way: Generally--Rules of Practice: Appeals: Statement of Reasons

An appeal from an appraisal of a communication site right-of-way will not be accorded favorable consideration where it does not with some particularity show adequate reason for appeal and support the allegations with evidence showing error.

APPEARANCES: Robert L. Curry, Secretary-Treasurer, Valley Mobile Communications, Inc.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

By letter dated June 28, 1978, to the California State Office, Bureau of Land Management (BLM), Valley Mobile Communications, Inc., responded to the June 8, 1978, determination of charges for a right-of-way for a communications site, CA 4482. The State Office accepted the letter as a notice of appeal under 43 CFR 4.411(a). By letter dated September 12, 1978, this Board informed appellant of the necessity of showing adequate reasons why the decision is in error and, pursuant to 43 CFR 4.412, granted appellant 30 days to file an additional statement of reasons pointing out all the reasons, factual and legal, showing error. Appellant has not responded to this letter.

[1] In its letter of June 28, 1978, the "notice of appeal," appellant states that "we are extremely unhappy" with the notice of the appraised rental. It points to the construction cost of the

improvements on the site and states: "[w]e consider a rent of almost 1/4 its construction cost per year * * * to be grossly exorbitant." ^{1/}

The mere fact appellant thinks the appraised charge is too high does not demonstrate that the appraisal is wrong. Likewise, the fact the rental approaches one-fourth the amount of the construction cost of the improvements it placed on the site does not demonstrate error. The appraisal was based on a market data approach comparing appellant's communication site with other communication sites deemed comparable, with adjustments for differences. Nothing that appellant has stated shows error in the appraisal. It is the obligation of an appellant to show error. Therefore, where a statement of reasons does not with some particularity show adequate reason for appeal and support the allegations with evidence showing error, the appeal cannot be afforded favorable consideration. United States v. Richard and Beverly Weigel, 26 IBLA 183 (1976). See also Park Center Water District and the Canon Heights Irrigation and Reservoir Co., 28 IBLA 368, 84 I.D. 87 (1977); Four States Television, Inc., 32 IBLA 205 (1977). Cf. James G. Macy, 26 IBLA 191 (1976). Appellant was advised of the necessity to support his appeal with sufficient reasons, but he has not done so. Accordingly, we see no basis for disturbing the decision below.

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.

Joan B. Thompson
Administrative Judge

We concur.

Newton Frishberg
Chief Administrative Judge

James L. Burski
Administrative Judge

^{1/} The communication site right-of-way was granted January 4, 1978, at an estimated \$1,200 annual rent "subject to adjustment upon completion of the formal appraisal." The formal appraised annual charge is \$3,000.

