

GEORGE FREDERICKS

IBLA 83-84

Decided June 10, 1983

Appeal from decision of the Alaska State Office, Bureau of Land Management, approving lands proper for village selection. F-14936-A.

Appeal dismissed.

1. Alaska Native Claims Settlement Act: Appeals: Jurisdiction -- Alaska Native Claims Settlement Act: Conveyances: Reconveyances

The Board lacks jurisdiction to decide an appeal based on interests claimed pursuant to sec. 14(c) of the Alaska Native Claims Settlement Act. There is no administrative appeal process available to claimants under sec. 14(c), and the only recourse is to a judicial forum.

APPEARANCES: George Fredericks, pro se; John M. Allen, Esq., Office of the Regional Solicitor, Anchorage, Alaska, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

On September 30, 1982, the Alaska State Office, Bureau of Land Management (BLM), issued a decision finding certain lands proper for village selection and approving those lands for interim conveyance or patent to the Kuskokwim Corporation. Kuskokwim is the successor in interest to Sleetmute, Ltd., an Alaska Native village corporation. Sleetmute's selection application #F-14936-A, as amended, was filed on November 18, 1974, under section 12(a) of the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. §§ 1601, 1611 (1976 and Supp. V 1981). By the same decision, BLM approved the subsurface estate for conveyance to the Calista Corporation when the surface estate is conveyed to Kuskokwim. Various selection applications of the State of Alaska were rejected to the extent that Kuskokwim's selections were approved for conveyance.

George Fredericks, a resident of Sleetmute, Alaska, appeals the interim conveyance decision as to lot 6 of Survey No. 2048 in sec. 25, T. 19 N., R. 44 W., Seward meridian. Appellant asserts that he is entitled to land on lot 6, pursuant to section 14(c) of ANCSA, 43 U.S.C. § 1613(c) (1976 and

Supp. V 1981). He states that he has lived with his family in a cabin there since before December 18, 1971, except for a 2-year hiatus in the village of Crooked Creek. Appellant argues that the village of Sleetmute has encroached upon the area around the cabin in a variety of ways. He is concerned that he may not get this land from the village corporation. He enclosed with his appeal a blank copy of the application form for section 14(c) land from the Kuskokwim Corporation.

The Office of the Regional Solicitor has entered an appearance and stated that the Department of the Interior lacks jurisdiction over claims filed pursuant to section 14(c) of ANCSA, citing Theodore J. Almasy, 4 ANCAB 151, 87 I.D. 81 (1980).

Subsection 14(c) of ANCSA directs that, upon receipt of a patent, "(1) the Village Corporation shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as of December 18, 1971 * * * [.]" 43 U.S.C. § 1613(c). Departmental regulations implement this statutory requirement at 43 CFR 2651.5, and the BLM decision itself was conditioned on the subsequent conveyance of lands subject to section 14(c) of ANCSA (Decision at 10).

[1] The Board of Land Appeals has the same jurisdiction to hear appeals involving ANCSA land selections as did the Alaska Native Claims Appeal Board. Compare 43 CFR 4.1(b)(5) (1981) with 43 CFR 4.1(b)(3) (1982). As we stated in Circle Civic Community Association, Inc., 67 IBLA 376, 378 (1982):

ANCAB previously found that it lacked jurisdiction to decide an appeal based on interests claimed under section 14(c) of ANCSA because such appeals are premature when brought prior to conveyance since no dispute arises until the village corporation refuses to reconvey appropriate land and because, following conveyance, the Department has no jurisdiction over issues involving patented land. Appeal of Theodore J. Almasy, 4 ANCAB 151, 162-63, 87 I.D. 81, 86 (1980). ANCAB concluded that there is no administrative appeal process available to claimants under section 14(c) and the only recourse is to a judicial forum. *Id.* We conclude on the same basis that we lack jurisdiction to consider this appeal. [Footnote omitted.]

We note that interim conveyance and patent have equal significance in the granting of title under ANCSA. When an interim conveyance has been issued, jurisdiction over the land is also lost by the Department. James W. Lee, 3 ANCAB 334, 342 (1979).

This decision does not affect whatever right appellant may have to use and occupy the land he claims, and to receive patent to the land, pursuant to section 14(c) of ANCSA. Because it does not have jurisdiction, this Board cannot decide whether or not appellant is entitled to a conveyance pursuant to section 14(c) of ANCSA, nor can the Board decide what appellant would receive if it is determined that he has rights under section 14(c). James W. Lee, *supra* at 343.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Will A. Irwin
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Douglas E. Henriques
Administrative Judge

