

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE COMMISSIONER OF REVENUE**

In the Matter of)
)
INTERIOR ALASKA LAND TRUST) OAH No. 21-1745-PFC
_____)

DECISION

I. Introduction

Interior Alaska Land Trust (Interior Alaska) is an Alaskan non-profit that applied to receive charitable contributions from the Alaska Permanent Fund Dividend’s (PFD) “Pick.Click.Give” program. Its application was denied. Interior Alaska appealed on May 20, 2021. The Division referred the case to this office for hearing on July 6, 2021.¹

Interior Alaska’s appeal was heard in a telephonic hearing on August 2, 2021. Martha Reynolds, Interior Alaska’s treasurer represented Interior Alaska and testified on its behalf. Peter Scott, a PFD Specialist employed by the Division, represented the Division.

The undisputed evidence presented at hearing established that Interior Alaska did not submit its application fee, which was required as part of the application process, by the application deadline of March 31, 2021. As a result, Interior Alaska’s application was properly denied. The Division’s denial is therefore AFFIRMED.

II. Facts²

The relevant facts in this case are undisputed. Interior Alaska is a non-profit funded by charitable contributions, including those provided by the PFD Pick.Click.Give program.

The Pick.Click.Give program has a list of eligible educational organizations, community foundations, and charitable organizations, and it allows Alaska residents to donate all or a portion of their permanent fund dividend payments as charitable contributions to any organization on the list.³ The application deadline for inclusion on the list of eligible

¹ Pursuant to 7 AAC 23.340(c), this case was to have been heard and “a proposed decision [will] be ready for final action by the department within 45 days after receiving the appeal.” That 45-day deadline fell on July 6, 2021 (the 45th day fell on July 4. July 4 was on a weekend. July 5 was a state holiday). The Division referred the case for hearing on July 6, 2021.

² These facts are proven by a preponderance of the evidence. Unless otherwise provided, they are based upon Ms. Reynolds’ hearing testimony.

³ AS 43.23.130.

organizations is March 31 of the qualifying year.⁴ The qualifying year for the 2022 PFD was 2021.⁵

Interior Alaska applied for inclusion in the Pick.Click.Give program for the 2022 PFD year. Its application was filed with the Division on or about February 15, 2021.⁶ The \$250 application fee was not included with the application.

Interior Alaska did not submit its \$250 application fee by March 31, 2021. On April 13, 2021, Interior Alaska was notified by email that its application was missing the application fee and would be denied.⁷ Its application was formally denied on May 17, 2021 because it did not include the \$250 application fee.⁸ Interior Alaska requested an appeal of that denial on May 24, 2021. In its written appeal request, Interior Alaska admitted that the filing fee had not been paid due to an oversight.⁹

III. Discussion

Alaska Statute 43.23.130 instructs the Department of Revenue to allow applicants who file electronically for the Alaska permanent fund dividend to direct that money be deducted from their dividend payment and contributed to one or more of the educational organizations, community foundations or charitable organizations that appear on the contribution list.¹⁰ The Department of Revenue has named this program Pick.Click.Give.¹¹

Under AS 43.23.130, the Department of Revenue may include a charitable organization on the Pick.Click.Give contribution list *only if* a series of requirements are satisfied. The first requirement is that the organization must file an application for inclusion on the list before March 31 of the qualifying year.¹² Another is that the applicant organization must pay a \$250 application fee.¹³ Division regulation, 15 AAC 23.263(e), states that the application “must be accompanied by a nonrefundable fee of \$250.”¹⁴ The regulations further provide that charitable organization has filed an application to participate in Pick.Click.Give "only if that application is

⁴ AS 43.23.130(d)(1).

⁵ AS 43.23.095(6).

⁶ Ex. 1.

⁷ Ex. 7, p. 3

⁸ Ex. 4.

⁹ Ex. 5, p. 2.

¹⁰ AS 43.23.130(a).

¹¹ See Pick.Click.Give. (pickclickgive.org)

¹² AS 43.23.130(d).

¹³ AS 43.23.130(f).

¹⁴ 15 AAC 23.263(e).

complete and timely."¹⁵ The application is "timely" if it is postmarked on or before March 31 of the qualifying year.¹⁶ The applicable regulation, 15 AAC 23.310(c)(2), provides that an application is "complete if, when considered along with documents submitted with an application that established eligibility for a prior dividend year, it contains all the information required for the department to make the determinations required by AS 43.23.130(d)(2)-(9), including copies of documents necessary to determine eligibility."¹⁷

The Division maintains that in order for an application to be timely and complete, both the application and the filing fee must be submitted by the application deadline of March 31 of the qualifying year. The issue in this case is whether an applicant must file its application fee in order for the application to be deemed "complete." Regulation 15 AAC 23.310(c)(2) does not specifically address this question. However, regulation 15 AAC 23.263(e) resolves this issue:

Each application for inclusion on the list of beneficiary organizations to be included within the online permanent fund dividend application **must be accompanied** by a nonrefundable fee of \$250.¹⁸

This regulation mandates that the application must be accompanied by the fee. This means that the application fee is an integral part of the application. Consequently, for an application to be both timely and complete, it must contain the completed application form, the necessary documents to satisfy the requirements of 15 AAC 23.310, **and** the application fee required by 15 AAC 23.263(e), by March 31 of the qualifying year. To hold otherwise would negate the regulatory requirement that the application fee must accompany the application.

It is undisputed that Interior Alaska's application fee was not provided with its application, nor was it submitted by the deadline of March 31, 2021. This means that the application must be denied. Interior Alaska argued that the result in this case was harsh, and that instead it should have been allowed to file the application fee late along with a penalty charge. Absent either statutory or regulatory authorization, that is not an option for Interior Alaska. The PFD statutes and regulations, however, do not provide that as a remedy. The Division does not have the discretion to relax the statutory and regulatory

¹⁵ 15 AAC 23.310(c).

¹⁶ 15 AAC 23.310(c)(1).

¹⁷ 15 AAC 23.310(c)(2).

¹⁸ 15 AAC 23.263(d) (emphasis supplied).

requirements. “Administrative agencies are bound by their regulations just as the public is bound by them.”¹⁹ Consequently, the denial of Interior Alaska’s application is supported by the applicable statutory and regulatory authority.

IV. Conclusion

The denial of Interior Alaska’s application to be included in the Pick.Click.Give program for the 2022 PFD year is AFFIRMED.

Dated: August 3, 2021.

Signed

Lawrence A. Pederson
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 30th day of August, 2021.

By: *Signed*

Lucinda Mahoney
Commissioner, Department of Revenue

[This document has been modified to conform to the technical standards for publication.]

¹⁹ *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).