

§ 700.335

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or one selected by the applicant and approved by the Commission. The reasonable costs of such examinations shall be paid by the Commission. The examining physician shall submit a report of his/her examination to the rating physician who shall be a physician selected by the Commission. The rating physician shall submit to the Commission a report stating his/her opinion as to whether or not the applicant is at least 50% (fifty percent) disabled and if so, the percent of disability. In addition, the rating physician shall state in his/her report the conditions or conditions of the applicant upon which the rating is based.

(c) In performing examinations and in making ratings, the physician shall follow the procedures and adopt the standards set forth in subpart I—Determination of Disability or Blindness, of the Social Security Administration, contained in title 20, Code of Federal Regulations, §§ 416.901 through 416.985, including the appendices, etc., to the extent that such procedures and standards are appropriate to this examination and rating.

(d) In making its determination as to the disability and the percentage thereof of an applicant who claims disability, the Commission shall consider the report of the rating physician and such other matters as the Commission deems relevant.

§ 700.335 Grouping and granting of applications for life estate leases.

Upon receipt of applications filed pursuant to this section, the Commission shall group and award life estate leases in the following manner:

(a) Applicants who are determined to be at least 50% (fifty percent) disabled as certified by a physician approved by the Commission. Such applicants shall be ranked in the order of the severity of their disability.

(b) Applicants who are not at least 50% (fifty percent) disabled shall be ranked in order of their age with the oldest listed first and the youngest listed last; provided that, if any applicant physically resides in Quarter Quad Numbers 78 NW, 77NE, 55SW, or 54 SE, as designated on the Quarter Quad Maps of the Former Joint Use Area prepared by the Bureau of Indian Af-

fairs Field Administrative Office, such applicant shall be given priority over another applicant of equal age.

(c) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi Partitioned Lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commission.

(d) Applicants who were not at least forty-nine (49) years of age on December 22, 1974, or are not at least 50% (fifty percent) disabled shall also be rejected by the Commission.

(e) The Commission shall award life estate leases to not more than one hundred and twenty (120) Navajo applicants with first priority being given to applicants listed pursuant to § 700.335(a) and the next priority being given to applicants listed pursuant to § 700.335(b), in order of such listing.

(f) The Commission shall award life estate leases to not more than ten (10) Hopi applicants with first priority being given to applicants listed pursuant to § 700.335(a) and the next priority being given to applicants listed pursuant to § 700.335(b) in order of such listing except that the portion of § 700.335(b) concerning residency in Quarter Quad Numbers 78 NW, 77NE, 77NW, 55 SW, 54SE, etc., shall not apply to Hopi applicants.

§ 700.337 Establishment of boundaries of life estate leases.

(a) Prior to the issuance of a life estate lease, the Commission shall, after consultation with the Tribe upon whose land the life estate lease will be located, establish the actual configuration, shape and boundaries of the land area of the life estate lease. The present residence of the life tenant shall be within the boundaries of the life estate lease and the area of the life estate lease shall not exceed ninety (90) acres.

(b) The following factors will be considered in establishing the configuration, shape, and boundaries of a life estate lease:

(1) The location of the present residence of the applicant and the traditional land use area associated with such residence.

(2) The topography and soil conditions of the land in the immediate vicinity of the applicant's present residence.

(3) The location of the nearest source of water.

(4) The proximity of roads.

(5) Such other factors may be necessary or appropriate.

§ 700.339 Residency on life estate leases.

(a) No person may reside on a life estate lease other than the life tenant, his or her spouse, and minor dependents and such persons who are necessarily present, as determined by the Commission, to provide for the care of the life tenant.

(b) In determining who is necessarily present for the care of the life tenant, the Commission shall consider the following criteria:

(1) The age of the life tenant.

(2) The nature and extent of the life tenant's disability, if any.

(3) The location of the life estate lease, including but not limited to, the following factors:

(i) Topography.

(ii) Proximity to water.

(iii) Proximity to fuel.

(iv) Proximity to shopping and medical services, and

(v) Any other factors deemed relevant to the Commission.

(4) The nature and extent of care to be provided to a disabled life tenant.

(5) Any other factors deemed relevant by the Commission.

(c) In the event it becomes necessary to change the identity of the person(s) or number of persons identified as necessarily present for the care of the life tenant, the life tenant shall make such request for change to the Commission. The Commission, upon review of the request, may grant an amended life estate lease to reflect the requested change.

§ 700.341 Access to life estate leases.

(a) Family members and other persons may enter upon the life estate lease premises for the purpose of visiting the life estate lease residents so long as such visit does not exceed thirty (30) consecutive days in any one visit or ninety (90) days total of all vis-

its within any lease year, except that grandchildren and their descendants who are not minor dependents of the life tenant and who have not attained the age of 18 (eighteen) years may visit for ninety (90) consecutive days in any lease year, the first of which shall commence on the date of issuance of the life estate lease. There shall be no limitation on visits which do not extend overnight.

(b) Visitors and residents shall use the existing road systems and access rights of way when traveling to and from life estate lease premises.

§ 700.343 Life estate leases.

The Commission shall execute a life estate lease to each applicant to whom a life estate lease is granted, which lease shall contain the following:

(a) The names of the persons entitled to reside on the life estate lease which shall be the life tenant, his or her spouse, and minor dependents and/or such persons who are necessarily present to provide for the care of life tenant.

(b) A description of the exterior boundaries of the land included in said lease.

(c) The term of the life estate lease which shall end either upon voluntary relinquishment or upon the death of the life tenant or his/her spouse, whichever occurs last.

(d) That the life tenant may feed not to exceed twenty-five (25) sheep units per year or equivalent livestock on the life estate lease premises.

(e) That no person may reside on a life estate lease other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant.

(f) That the Secretary of Interior shall pay, pursuant to 25 U.S.C. 640d-28(i), Pub. L. 96-305, section 30(i), on an annual basis, the fair market rental value of such life estate lease to the tribe to whom the lands leased were partitioned. Rental payments shall be made within thirty (30) days of the execution date of the life estate lease.

(g) That the life tenant may make reasonable improvements on the life estate lease which are related to the residence and agricultural purposes of