



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

JUN 20 1973

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B-178638

Mr. Leonard J. Krasnicki
105 Hemlock Hall
Middletown, Pennsylvania 17057

Dear Mr. Krasnicki:

We refer to your letter of April 23, 1973, which will be viewed as an appeal from the settlement of our Transportation and Claims Division dated January 29, 1973, disallowing your claim for expenses incurred in connection with the sale of your residence incident to a permanent change of station from Olmsted Air Force Base, Pennsylvania, to Camoron Station, Alexandria, Virginia, as an employee of the Department of the Air Force. You request advice as to the procedure of bringing civil suit and information as to attorneys specializing in this type of action.

Your claim for \$1,245.77 was disallowed on the ground that the settlement date for the sale of your residence occurred more than 2 years after you reported for duty at your new official station.

The record indicates that the delay of the sale of your residence was caused by unfavorable market conditions. In your letter of January 9, 1972, to the Finance Officer, Headquarters AMC you state, in part, as follows:

I concede that my final settlement date was approximately 2 years and 5 months, however my residence was up for sale from the moment of transfer. There were no buyers except at ridiculous offers. At no time was I informed that a limitation of one year existed for this type of transaction, nor was I informed that there was provision for an extension under unusual circumstances.
* * *

In that connection we point out that the Office of Management and Budget Circular No. A-56, revised October 12, 1966, which was applicable at the time of your transfer is statutory in nature and has the force and effect of law and, therefore, the 1-year limitation within which the sale of the residence must be settled as set forth in section 4.1d of the Circular may not be waived in an individual case. 49 Comp. Gen. 145, 147 (1969).

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Circular No. A-56 was amended on June 26, 1969, to include circumstances other than litigation, acceptable to the head of an agency or his designee for extension not in excess of one additional year of the period within which settlement must occur, but such extensions could only be granted in those cases where the sale/purchase contracts had been entered into within the initial one-year period. This amendment was not retroactive and, therefore, not applicable to your case. However, even had it been applicable, reimbursement could not have been made in your case since your settlement date occurred more than 3 years after your transfer.

As to your statement that you were not informed by your supervisors of the one-year limitation, as set forth by the statutory regulations, you are chargeable with constructive notice of the provisions thereof and your lack of knowledge cannot form a basis for reimbursement of your claim.

There is no legal basis upon which reimbursement may be made in your case and, therefore, the action taken by our Transportation and Claims Division on January 28, 1973, in disallowing your claim is hereby sustained.

In regard to your request for guidance as to procedure for bringing a civil action in the courts and for a list of attorneys who specialize in civil actions against the United States, the procedure is set forth in title 28, United States Code, and as to a list of attorneys, it is suggested you contact the local bar association. A copy of your settlement statement showing selling costs in connection with the sale of your residence is enclosed herewith as you requested.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States