

DECISION

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

FILE: **B-183102**DATE: ⁷¹
~~6096~~
JUN 9 1976MATTER OF: **Joe J. Baca - Real Estate Expenses -
Attorney's Fees**

98851

DIGEST: Transferred employee discovered cloud on title to home he was purchasing at new duty station in New Orleans, and brought attorney from California to New Orleans. He may be reimbursed only for that portion of attorney's fee that was attributable to preparation of new contract of sale for property. There is no authority for reimbursement of attorney's travel expenses, or of attorney's charges for research and negotiation which are in nature of charges for general advisory services.

This matter arises from a request for an advance decision submitted by D. F. Sloan, an authorized certifying officer of the United States Department of Justice, concerning the authority for reimbursing Mr. Joe J. Baca, a special agent of the Drug Enforcement Administration, for certain attorney's fees incurred at the time he purchased his home at his new duty station.

Under the authority of Travel Authorization No. 486 dated June 14, 1974, Mr. Baca was transferred from Los Angeles, California, to New Orleans, Louisiana. On July 2, 1974, Mr. Baca signed an agreement to purchase a home located at 2621 Metairie Heights Avenue, Metairie, Louisiana, with the closing to take place on or before August 1, 1974, unless otherwise agreed. During the title search prior to the closing, it was discovered that the seller did not possess clear title to all of the property. The house was built on a piece of land that was made up of four lots, each approximately 25 feet by 120 feet, that were created when the property was subdivided. The seller apparently held clear title to three of the four lots (numbers 439, 441, and 443) forming an area approximately 75 feet by 120 feet, with the house and swimming pool totally contained in that area. The seller did not hold clear record title to the fourth lot (number 437). Under the terms of the July 2, 1974 contract, since the seller could not deliver clear title to all of the property, Mr. Baca could have terminated the contract without further liability, if he had chosen to do so.

Instead of terminating the contract, Mr. Baca retained the services of an attorney, Mr. Ronald S. Morrow, of Beverly Hills, California. Mr. Morrow went to Louisiana, where he performed various services for Mr. Baca. His statement for professional services rendered is set forth below:

"8/6	Research regarding Louisiana law of immovables	6.0
"8/7	Negotiations with Vivian Nesser, David Warner, Esquire., Robert Early, Esquire	8.0
"8/8	Research, negotiations with George V. Baus Esquire, and staff at Adams and Reese	8.0
"8/9	Drafting of sale document regarding house	5.0
		<hr/>
		27 hours
"27 hours at \$65 per hour, exclusive of travel time		\$1755.00
"Travel and living expenses		325.00
		<hr/>
"NOW DUE AND PAYABLE		<u>\$2080.00"</u>

On August 9, 1974, Mr. Baca signed two new contracts for the same property. In the main contract the original agreement of July 2, 1974, was incorporated by reference except for the specific changes contained in the new agreement. In one of the new contracts Mr. Baca agreed to purchase the house and lots 439, 441 and 443 for a total of \$66,375. In the other, he agreed to purchase lot 437 for \$5,625. The total purchase price remained the same as it had been under the July 2, 1974 agreement, \$72,000. On August 19, 1974, the settlement for lots 439, 441, and 443, and the house occurred. On January 29, 1975, the settlement for lot 437 took place. The record before us does not detail what actions were taken to clear the title to lot 437, nor does it explain what actual services Mr. Morrow performed other than the drafting of the new contracts of sale.

In his claim for reimbursement of expenses relating to the purchase of his new home, Mr. Baca claimed, inter alia, the full attorney's fee of \$2,080 along with \$500 for what is described on the settlement sheet as "examination of title" which apparently includes title insurance. The \$500 item was allowed, but the \$2,080 for attorney's fees was not. The disallowance was based on a finding by the agency that the fee was an expense of litigation. In his submission, the certifying officer concedes that the fee was not a litigation expense, but still questions the propriety of reimbursing Mr. Baca for the attorney's fees claimed.

The controlling regulation is paragraph 2-6.2c of the Federal Travel Regulations, FPMR 101-7 (May 1973), which provides that:

"Legal and related expenses. To the extent such costs have not been included in brokers' or similar services for which reimbursement is claimed under other categories, the following expenses are reimbursable with respect to the sale and purchase of residences if they are customarily paid by the seller of a residence at the old official station or if customarily paid by the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily charged in the locality of the residence: costs of (1) searching title, preparing abstract, and legal fees for a title opinion or (2) where customarily furnished by the seller, the cost of a title insurance policy; costs of preparing conveyances, other instruments, and contracts and related notary fees and recording fees; costs of making surveys, preparing drawings or plats when required for legal or financing purposes; and similar expenses. Costs of litigation are not reimbursable."

Clearly any legal costs associated with litigation would not be reimbursable. However, we do not believe that the expenses claimed by Mr. Baca are litigation expenses.

In reviewing claims for reimbursement of relocation expenses it must be remembered that the basic philosophy of the regulations

is not that all expenses are reimbursable. Instead there must be specific authority for the reimbursement of each claimed expense. This Office has consistently held that only legal services of the type enumerated in the regulation quoted above may be reimbursed, and that a bill for attorney's fees must be itemized with sufficient specificity to permit a determination that the particular item is reimbursable under the regulation. B-183443, July 14, 1975; B-175328, September 21, 1972; and B-183037, March 21, 1975. If the bill for legal services is a lump-sum bill, or if the information is not specific enough then there may be no reimbursement. 54 Comp. Gen. 67 (1974). There can be no reimbursement for legal services that are advisory in nature. 48 Comp. Gen. 469 (1969); B-178399, June 13, 1973; and E-175716, July 5, 1972.

Mr. Morrow's bill to Mr. Baca includes \$325 for "Travel and living expenses." We have specifically held that there is no authority for the reimbursement of an attorney's travel expenses. B-183792, August 4, 1975, and B-183694, November 24, 1975. Therefore, there may be no reimbursement of that portion of Mr. Morrow's bill.

In a letter to Mr. Baca dated January 6, 1975, Mr. Morrow states that:

"Washington must be made to understand that the title and sale practices of Louisiana are unlike those of the normal situation in the rest of the country. While not being disrespectful of the fine state of Louisiana, there is no standard method by which one obtains real estate, or 'immovables', as they say. It is all done by and through attorneys. The old title search now abandoned by nearly all the states, is conducted by attorneys in either their role as attorney or notary. To go on with the technicalities involved would not be productive at this point."

We agree with Mr. Morrow that Louisiana is unique in that it is the only state whose law is based on the French Civil Code instead of the English Common Law. We do not agree that title searches are now rare in other states. Performing a title search at the time real property is transferred seems to be the rule rather than the exception throughout most of the country, although it is true that the title search is not always done by an attorney.

The different origin of Louisiana law makes it difficult to understand why Mr. Baca brought an attorney from California to Louisiana to advise him regarding a legal system of the latter state. It would seem that it would have been less expensive and quicker for Mr. Baca to have hired an attorney practicing in the area and no explanation is given for his failure to do so.

The reimbursement of transfer related real estate expenses for Federal employees is keyed to local custom. Expenses, which are reimbursable, are reimbursable only when customarily paid by the seller in the area of the old duty station or by the buyer in the area of the new duty station, and reimbursement is limited to the amounts customarily paid in the area where the transaction occurred.

A review of Mr. Morrow's bill shows that charges for 3 of the 4 days are for "research" or "research and negotiations." Neither of these two categories is enumerated in the regulations as a reimbursable expense. Research, either regarding a specific point or in order to gain general familiarity with the law in an area, and negotiations are most properly characterized within the category of general advisory services, and are not reimbursable. B-175710, July 17, 1972. The fact that a transaction is complex or unexpected difficulties are encountered does not create an exception to the general rule. B-178482, March 21, 1974.

We have informally been advised by the Department of Housing and Urban Development office in New Orleans that the cost of curing any defects in the title to property is generally included in the fee charged for "evidence of title." In the instant case, Mr. Baca has already been reimbursed in the amount of \$500 for "examination of title" (apparently the same category as "evidence of title") for the August 19, 1974 settlement. Therefore, it would appear that any further reimbursement relating to the clearing of title would be duplicative and not reimbursable. However, because the problems encountered were cured by the preparation of new contracts of sale and there was no reimbursement for the preparation of the original contract Mr. Baca may be reimbursed for that portion of Mr. Morrow's bill that is allocated to "8/9 Drafting of sale document regarding house 5.0."

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Accordingly, Mr. Baca's voucher may be certified for payment only for the one item, 5 hours at \$65 per hour, or a total of \$325.

R.F.KELLER

Deputy Comptroller General
 of the United States