

**DECISION**

*A. Golden*  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20543  
*PLM I*  
*7897*

FILE: B-191745

DATE: September 29, 1978

MATTER OF: Bob B. Myers - Real Estate Expenses -  
Attorney's Fees

**DIGEST:** Employee claims reimbursement for fees for advisory legal services incurred incident to purchase of new residence on November 22, 1977, in connection with permanent change of station. Pursuant to decision in Matter of George W. Lay, 56 Comp. Gen. 561 (1977), employee is entitled to reimbursement to extent that fees are both customarily paid and are within the customary range of charges in locality of residence.

This action is in response to an April 20, 1978, request by James E. Lewis, Chief, Finance Division, Department of Transportation, for an advance decision concerning a claim by Mr. Bob B. Myers, an employee of the Federal Highway Administration (FHWA), for legal fees incurred incident to the purchase of a new residence in connection with a permanent change of station.

The record indicates that in January 1977 Mr. Myers was authorized relocation expenses incident to his transfer from Denver, Colorado, to Washington, D.C. Mr. Myers purchased a residence in Arnold, Maryland, outside Washington, D.C., and settlement was made on November 22, 1977. He has claimed reimbursement for legal fees incurred for advisory services in connection with this purchase. We are asked whether the claim may be paid in accordance with 56 Comp. Gen. 561 (1977).

Statutory authority for reimbursement of the legal expenses of residence transactions of transferred employees is found at 5 U.S.C. 5724a (1976). Regulations implementing that authority at the time of Mr. Myers' transfer are found in para. 2-6.2c of the Federal Travel Regulations (FPMR 101-7, May 1973). In Matter of George W. Lay, 56 Comp. Gen. 561 (1977), we reviewed our past policy concerning the extent to which legal fees may be reimbursed. We held that necessary and reasonable legal fees and costs, excluding fees and costs of litigation, incurred by reason of the purchase or sale of a residence incident to a permanent change of station may be reimbursed provided that such costs are customarily paid by the seller of the old official station or the purchaser at the new official station and are within the customary range of charges for such

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services within the locality of the residence transaction. That decision represents a departure from our prior decisions which held that no reimbursement could be made for legal services which are advisory in nature and that itemization of the legal fees was necessary to ensure that only certain enumerated services were reimbursed. See also B-185548, July 19, 1977; B-183970, October 13, 1977. The Lay holding applies to residence transactions in which settlement occurs on or after April 27, 1977.

In the present case, settlement occurred on November 22, 1977. Legal services performed by Mr. Myers' attorney were advisory in nature and included review of the contract of sale and addendum to contract of sale, advice and negotiations with seller, review of settlement and mortgage documents, and attendance at the settlement. Therefore, under the Lay decision, supra, Mr. Myers may be reimbursed for advisory legal expenses incurred incident to the purchase of his new residence, provided the "customarily paid" and "do not exceed amounts customarily charged" conditions of para 2-6.2c of the Federal Travel Regulations are met. We understand that technical assistance in making those determinations is available at the local or area office of the Department of Housing and Urban Development serving the area in which the expense occurred. See FTR para. 2-6.3c.

Accordingly, the voucher may be certified for payment only in an amount that is determined by the certifying officer to be both reasonable and customary for the advisory legal services performed.

  
Acting Comptroller General  
of the United States