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DECISION



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

FILE: B-205503

DATE: June 2, 1982

MATTER OF: Judy Wynekoop - Real Estate Expenses -
Attorney Fees

DIGEST: Employee of Department of Housing and Urban Development purchased residence in Atlanta, Georgia, in September 1980, in connection with official transfer and claims attorney fees incident to the purchase in excess of the amount customarily charged in the locality. Under applicable law and regulations, necessary and reasonable legal fees and costs incurred by reason of the purchase or sale of a residence incident to a permanent change of station may be reimbursed provided that the costs are within the customary range of charges for such services within the locality of the residence transaction. Since the employee's claim for attorney fees is in excess of maximum range established for residence transactions in her locality by Department of Housing and Urban Development, her claim is denied.

A transferred employee incurred attorney fees in connection with the purchase of a residence at her new duty station. The issue presented for our consideration here is whether the employee may be reimbursed for those costs in an amount which is greater than the customary range of charges for such services within the locality of the residence transaction. We hold that the employee is limited to the amount customarily charged in the locality.

Mr. Henry E. Rollins, Director of the Atlanta Regional Accounting Division, Department of Housing and Urban Development (HUD), has requested an advance decision concerning the reclaim voucher of Ms. Judy Wynekoop for reimbursement of attorney fees incurred in the purchase of her Atlanta residence.

Ms. Wynekoop, a HUD employee, was transferred from Coral Gables, Florida, to Atlanta, Georgia, in May 1980. Incident to her transfer Ms. Wynekoop incurred \$1,618 in attorney fees during the period from May through September 1980, in connection with her purchase of a residence at the new duty station. Ms. Wynekoop's original voucher claimed reimbursement for attorney fees totaling \$1,618 of which \$450 was approved and paid in accordance with an Atlanta Area Office memorandum of January 19, 1981. The agency determined that while many additional fees claimed were perhaps legitimate between the attorney and his client, only part of these items were reimbursable by the agency. Thus, the difference of \$1,168 was disallowed as being in excess of the amount customarily paid in the Atlanta area. Ms. Wynekoop reclaims the disallowed portion of attorney fees.

In the course of transmission to this Office, Ms. Wynekoop's reclaim voucher has been reviewed by the Director of Housing and the Area Counsel of the HUD Atlanta Area Office, and both agree that the \$450 as previously allowed is a typical and customary charge in the Atlanta area for the closing of Ms. Wynekoop's real estate transaction. They base their views on the controlling regulations from Appendix 7, paragraphs 2-6.2c and 2-6.3 of the HUD Travel Handbook 2300.2 REV-1, which restate the provisions of paragraphs 2-6.2c and 2-6.3c of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973).

The now-settled policy of this Office concerning the extent to which legal fees may be reimbursed was established in our decision George W. Lay, 56 Comp. Gen. 561 (1977). We held in Lay that for any settlement occurring after April 27, 1977, necessary and reasonable legal fees and costs, except for the fees and cost 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 the costs are within the customary range of charges for such services within the locality of the residence transaction.

We based our opinion on the specific authority provided in 5 U.S.C. § 5724a(a)(4) (1976) and implementing

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regulations promulgated by the General Services Administration and set out in the Federal Travel Regulations at paragraph 2-6.2c. And we pointed out that, in accordance with paragraph 2-6.3c of the FTR, technical assistance in determining the reasonableness of an expense, including the customary range of charges for legal fees and costs, may be obtained from the local or area office of the Department of Housing and Urban Development serving the area in which the expense occurred. See also Steven M. Calhoun, B-200207, September 29, 1981.

Accordingly, since the regulations providing for reimbursement of attorney fees incurred in residence transactions, require that the costs are to be within the customary range of charges for such services in the locality of the residence transaction, we concur with the agency's determination. Ms. Wynekoop's reclaim for additional reimbursement of attorney fees is denied.

for Milton J. Fowler
Comptroller General
of the United States