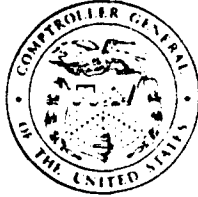


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DECISION



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

50538

FILE: B-168914

DATE: FEB 12 1975

MATTER OF: John E. Thomas - Time limitation on settlement dates in real estate transactions

DIGEST: Employee who was transferred from Cincinnati to Washington on August 20, 1972, and was unable to sell or enter into contract for sale of residence at old official station during initial 1-year period due to illness in family is entitled, where request is made in writing, to extension of 1 year, not to exceed 2 years from the effective date of his transfer, to settle sale of residence under provisions of FPMR A-40, section 2-6.1e, which became effective on May 1, 1973, within the initial year of his transfer. See B-181983, January 3, 1975 (54 Comp. Gen. ___).

This action is submitted for decision by the Chief, Accounting Branch (HFA-120), Department of Health, Education and Welfare, Public Health Service, Food and Drug Administration, as to whether under the circumstances described herein the extension of the 1-year time limitation relating to the completion of a real estate transaction may be approved.

The record indicates that Mr. John E. Thomas' official duty station was transferred from Cincinnati, Ohio, to Washington, D.C., effective August 20, 1972. On June 5, 1974, Mr. Thomas requested the limitation on settlement dates for real estate transactions be extended because of illness of his mother-in-law who lived with him. He did not take any action during the initial 1-year period for the sale of his residence at the old official duty station which was occupied by members of his family until July 1973. The record does not disclose that any contract was entered into by Mr. Thomas for the sale of the residence in Cincinnati, nor that there was any litigation concerning the sale of the property which would have justified extension of the 1-year period under the pertinent regulation applicable at the time of Mr. Thomas' transfer. See section 4.1e, Office of Management and Budget (OMB) Circular No. A-56, revised August 17, 1971.

During the initial 1-year period, however, the provisions of OMB Circular No. A-56 were superseded by General Services

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Administration (GSA) Bulletin FPMR A-40, effective May 1, 1973, and the requirements for extension of the initial 1-year period for settling real estate transactions were liberalized by section 2-6.1e which provides as follows:

"Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year, regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station." (Emphasis added.)

In that connection GSA, the agency given authority under Executive Order No. 11609, July 22, 1971, to issue regulations concerning the relocation benefits of employees of the Federal Government, commenting on the background of this regulation, stated:

"Background. The pertinent regulations in OMB Circular No. A-56 originally permitted an exception to the time limitation of 1 year for the completion of the sale or purchase of a residence only when settlement was delayed because of litigation. In 1969 the regulations were amended to permit an extension of time for reasons other than litigation when a valid contract of sale/purchase had been executed within the initial 1-year period from the time an employee reported to his new duty station. Experience has shown that there are instances in which employees, acting in good faith, do not possess valid contracts of sale/purchase at the expiration of the initial 1-year period due to reasons beyond their control. Therefore, the

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regulations are being amended to authorized heads of agencies or their designees to grant extensions of the 1-year period when they are justified." (Emphasis added.) Federal Register, Vol 37, No. 209 Saturday, October 28, 1972.

Our previous interpretation of these provisions has been that the regulations thus amended permit an extension of an additional 1 year "to be granted at the discretion of the agency for any justifiable reason as long as the transaction is reasonably related to the employee's transfer," and "the request has been made in writing within the time limitation as required by the regulation." See B-181983, January 3, 1975 (54 Comp. Gen. ___).

Accordingly, we have no objection to the administrative approval of Mr. Thomas' request for a 1-year extension for the sale of his residence in Cincinnati not to exceed 2 years from the effective date of his transfer to Washington, D.C.

R.F.KELLER

Acting Comptroller General
of the United States