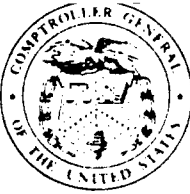


DECISION

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

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DATE: JUN 15 1976

FILE: B-184063

DATE: JUN 15 1976

MATTER OF: Edwin M. Wood - Real estate purchase - Fee
of buyer's agent

DIGEST: Employee claims reimbursement for real estate broker's fee paid incident to purchase of residence at new duty station. Portion of fee for acting as purchaser's agent during negotiations and final preparation of earnest money agreement, negotiating assumption of mortgage, and negotiating with bank to obtain deed and clear title is not reimbursable since broker's fee is not allowable for real estate purchase and these services are customarily performed by real estate brokers. Portion of fee attributable to notary fees, preliminary title search and opinion, and setting up escrow account are reimbursable to extent that they are costs which are separable from broker services and are otherwise allowable.

This decision is rendered at the request dated May 23, 1975, of D. Goldstein, Authorized Certifying Officer, Federal Highway Administration, Department of Transportation, for an advance decision as to whether a voucher for \$700 may be certified for payment. The question presented is whether fees paid to a real estate broker by Edwin M. Wood, an employee of the Department of Transportation, incident to his transfer from San Francisco, California, to Boise, Idaho, are reimbursable.

Mr. Wood entered into an agreement with a real estate broker incident to the purchase of a home in the vicinity of his new official station. The real estate broker agreed to act as the agent of Mr. Wood and to negotiate the purchase of a house from a private party in return for a fee of one percent of the selling price. Mr. Wood submitted a bill from the real estate broker dated December 31, 1974, which included the following brief description of the services performed without any dollar value attributed to each service:

- "1) Acted as agent for you in the negotiations and final preparation of the Earnest Money Agreement.

- "2) Performed Notary Public functions on all necessary documents.
- "3) Preliminary title search and opinion.
- "4) Set up escrow account.
- "5) Negotiated the assumption of existing mortgage through Idaho Bank & Trust.
- "6) Follow-up negotiations with Idaho First National Bank - Trust Department to obtain deed and clear title."

Federal Travel Regulations (FPMR 101-7) para. 2-6.2a (May 1973) provides as follows:

"3. Broker's fees and real estate commissions.

"A broker's fee or real estate commission paid by the employee for services in selling his residence is reimbursable but not in excess of rates generally charged for such services by the broker or brokers in the locality of the old official station. No such fee or commission is reimbursable in connection with the purchase of a home at the new official station." (Under-scoring supplied.)

The above provision precludes reimbursement of the fee charged by the real estate agent except to the extent, if any, that the services performed are separable from brokerage services and otherwise reimbursable.

The portion of the fee attributable to items 1, 5, and 6 is clearly non-reimbursable. Acting as an agent during negotiations and final preparation of the earnest money agreement, negotiating the assumption of the mortgage, and negotiating with the bank to obtain the deed and clear title are services customarily performed by real estate brokers and are non-reimbursable.

Federal Travel Regulations para. 2-6.2c (1973) provides that notary fees related to conveyances and contracts are reimbursable.

Accordingly, if evidence is submitted indicating the amount of the fee allocable to notary functions in item 2, reimbursement for that portion of the fee may be allowable.

With respect to the preliminary title search and opinion, FTR para. 2-6.2c (May 1973) provides that legal expenses for title searches and opinions are reimbursable. However, we are uncertain as to whether item 3 refers to a title examination and opinion rendered by a person duly authorized to examine titles and render opinions thereon or to merely a preliminary examination of real property records incident to the performance of services as a real estate broker. Therefore, unless evidence is presented indicating that the fee includes legal expenses for title examination and opinion, and the amount of the fee allocable thereto, reimbursement for the services described in item 3 is not allowable.

With respect to item 4, we are uncertain as to whether the charge described is for the services of the escrow agent or merely a charge by the real estate broker for negotiations with the escrow agent for the purpose of setting up an escrow account. If evidence is submitted to indicate that part of the fee was for services performed by the escrow agent, and the amount of the fee allocable thereto, reimbursement for that portion of the fee is allowable.

Accordingly, reimbursement for the services described in items 2, 3, and 4 is allowable, if otherwise proper, upon submission of evidence establishing that payment would be in accordance with this decision. Reimbursement of any part of the fee attributable to items 1, 5, and 6 may not be allowed.

The voucher which is returned may be certified only in accordance with the above.

R.F. KELLER

Added

Comptroller General
of the United States