

DOCUMENT RESUME

02601 - [A1882935]

[Real Estate Expenses, Time Limitation]. B-189043. July 1, 1977.
2 pp.

Decision re: Michael J. Mahoney; by Robert F. Keller, Deputy
Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation
(305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel
Management (805).

Organization Concerned: Federal Bureau of Investigation.

Authority: 5 U.S.C. 5724a. P.T.R. (FPMR 101-7), para. 2-6.1e. 49
Comp. Gen. 145. 49 Comp. Gen. 147. B-187677 (1976).

D. E. Cox, an Authorized Certifying Officer of the
Department of Justice, Federal Bureau of Investigation,
requested a decision with regard to a claim for reimbursement of
residence transaction expenses incurred incident to a permanent
change of station. The real estate expenses for purchase of a
new residence may not be reimbursed since settlement did not
occur until more than 2 years after the date of reporting to the
new duty station. This time limitation may not be waived in any
individual case. (Author/SC)

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20549**

FILE: B-189043

DATE: July 1, 1977

MATTER OF: Michael J. Mahoney - Real Estate Expenses -
Time Limitation

DIGEST: Employee who transferred from Philadelphia, Pennsylvania, to San Francisco, California, and reported for duty on November 13, 1974, may not be reimbursed for real estate expenses for purchase of new residence since settlement did not occur until February 16, 1977, more than 2 years after date of reporting. Time limitation imposed by FTR para. 2-6.1e has force and effect of law and may not be waived in any individual case. See 49 Comp. Gen. 145, 147 (1969).

By a letter dated May 5, 1977, Mr. D. E. Cox, an authorized certifying officer of the Department of Justice, Federal Bureau of Investigation (FBI), requested our decision concerning a voucher submitted by Mr. Michael J. Mahoney, an FBI employee, for reimbursement of residence transaction expenses incurred in connection with the purchase of a new residence incident to a permanent change of station.

The record indicates that Mr. Mahoney was transferred from Philadelphia, Pennsylvania, to San Francisco, California, effective November 13, 1974. On February 16, 1977, more than 2 years later, Mr. Mahoney completed settlement on a residence purchased in San Francisco by himself and two other persons. Mr. Mahoney presently claims reimbursement of \$223.53, representing one-third of the residence transaction expenses.

The certifying officer states that Mr. Mahoney had previously requested and was granted an extension of time for the real estate transaction. In that regard, it is stated that Mr. Mahoney was advised at that time that final settlement was required to be completed on or before November 11, 1976, in order to be eligible for reimbursement, and that the applicable regulations do not allow for an extension of time beyond 2 years from the effective date of the transfer.

In requesting reimbursement notwithstanding Mr. Mahoney's failure to complete settlement within 2 years, it is stated that while stationed in Philadelphia, Mr. Mahoney was given a special

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assignment in an undercover capacity. After being transferred to San Francisco, Mr. Mahoney continued to function in the special assignment until September 13, 1976. We are told that the special assignment demanded from the claimant a continuous commitment which did not permit him to engage in the customary search for a private residence. In view of the above facts, we are asked whether Mr. Mahoney's claim may be paid.

At the time of Mr. Mahoney's transfer the regulations governing time limitations on residence transactions were contained in para. 2-6.1e of the Federal Travel Regulations (FPMR 101-7, May 1973) and provided 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."

The above-quoted regulation was promulgated under the specific statutory authority of 5 U.S.C. 5724a (1970) and has the force and effect of law. Therefore, the regulation may not be waived in an individual case. See 49 Comp. Gen. 145, 147 (1969). While it is unfortunate that the purchase of Mr. Mahoney's residence may have been delayed in part due to his duty assignment, it is undisputed that settlement did not occur until February 16, 1977, beyond the maximum time limit permitted by the regulations. See Matter of Robert J. Dion, B-187677, December 3, 1976.

Accordingly, the voucher submitted by Mr. Mahoney may not be certified for payment.

R. J. K. 114
Deputy Comptroller General
of the United States