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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Norbert P. David

File: B-245650

Date: March 5, 1992

DIGEST

A transferred employee who sold his residence at his old duty station may not be reimbursed the amount he agreed to pay of the purchaser's closing costs since section 302-6.2(d) and (f) of the federal travel regulations only authorize reimbursement of the seller's closing costs. By contributing towards the purchaser's closing costs, the seller in effect reduced the selling price of his residence. To allow reimbursement would be tantamount to allowing the employee to be reimbursed for a decrease in the value of his residence due to market conditions. See 41 C.F.R. § 302-6.2(e).

DECISION

This decision responds to a request from the Department of Housing and Urban Development (HUD),[1] concerning the entitlement of Mr. Norbert P. David to be reimbursed certain real estate related expenses incident to a permanent change of station. The agency initially disallowed that expense and Mr. David has appealed that disallowance. We concur with the agency action for the following reasons.

In September 1990, Mr. David was transferred from Norfolk, Virginia, to Richmond, Virginia. In October 1990, he executed an agreement to sell his residence, wherein he agreed to pay part of the purchaser's closing costs. He thereafter submitted a claim for $2,000 representing his share of those costs.

Under the provisions of 41 C.F.R. § 302-6.2(d) and (f) (1990), real estate expenses may be reimbursed to an employee as the seller if the otherwise allowable expenses are "customarily paid by the seller" in the locality of the old official station. Section 302-6.3(c) states that the local offices of HUD will provide information regarding

[1]Mr. William H. Eargle, Jr., Administration Comptroller - Director, Office of Finance and Accounting.

local custom and practices with respect to charging of closing costs, including information as to whether such costs are customarily paid by the seller or purchaser.

Decision James C. Steckbeck, B-196263, Feb. 13, 1980, involved a similar claim by an employee, also in the lower Tidewater area of Virginia. It was argued in the case that although it was not uncommon for a seller to pay all or part of the purchaser's closing costs, information received from HUD pointed out that it did not constitute the custom in Virginia. We concluded therein, that since the practice was only in response to a "buyer's market" then existing, it was not customary and denied reimbursement.[2]

In the present case, the information received from the local HUD office, while suggesting that the practice of sellers paying a portion of the closing costs for their purchases has become customary as a "sales tool" in the area in a "buyers market" atmosphere, has not demonstrated that the practice is prevalent in the Tidewater area of Virginia regardless of specific market conditions.[3] By contributing $2,000 towards the purchaser's closing costs, Mr. David, in effect, reduced the selling price of his residence in response to the prevailing buyer's market and made the sale more attractive to the purchaser. To allow reimbursement in this circumstance would be tantamount to allowing the employee to be reimbursed for a decrease in the value of his residence due to the market conditions. See 41 C.F.R. § 302-6.2(e). Accordingly, Mr. David's claim may not be allowed.

James F. Hinchman
General Counsel

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[2]See also Roger D. Wenger, B-199888, Mar. 25, 1981; Burton Newmark, B-190715, Mar. 24, 1978; Wayne E. Holt, B-189295, Aug. 16, 1977; Albert C. Logan, B-184993, Sept. 20, 1976; and B-161637, July 21, 1967.

[3]Edward M. Weglarz, B-236362, Nov. 9, 1989.