



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

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number
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D-178531

July 16, 1973

Mr. Francis A. Headley
932 North Patrick Henry Drive
Arlington, Virginia 22205

Dear Mr. Headley:

Further reference is made to your letter dated March 19, 1973, requesting reconsideration of our Transportation and Claims Division settlement of February 6, 1973, which suspended a portion of the brokerage fee and disallowed the advertising expenses incurred by you in connection with the sale of your residence incident to your change of official station from Philadelphia, Pennsylvania, to Washington, D. C.

Incident to your transfer, you sold your residence in Woodbury, Gloucester County, New Jersey. In connection with the sale of your residence, you paid a broker's fee of 7 percent of the sale price. However, since you had experienced difficulty in obtaining a buyer for the house, you also paid \$74.07 for newspaper advertising independently of any broker during a period in which you did not have a contract with a broker for the sale of your residence.

The settlement letter of February 6, 1973, allowed reimbursement for a broker's fee based on 6 percent of the sale price but pending receipt of evidence that the real estate commission customarily paid in Maryland was 7 percent during this period \$370 of your claim was suspended representing the difference between the amount allowed and the 7 percent broker's fee claimed by you. On the basis of our interpretation 4.2b of Office of Management and Budget Circular No. A-50, Revised, authorizes reimbursement of advertising expenses only when the employee has not paid for such services in the form of a broker's fee, our decision further disallowed the advertising expenses incurred by you since you had paid for the services of a broker in connection with the sale of your residence.

In regard to the 7 percent broker's fee claimed, you have now submitted statements of various people familiar with real estate transactions in Gloucester County which indicate that a 7 percent real estate commission is a normal fee in this area. With respect to the advertising expenses, you have submitted a letter from the broker who obtained a buyer for your residence stating that you were not reimbursed by him for the advertising

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expenses in question. You also state that at the time you placed the newspaper advertisements you did not have a contract with a real estate agent for the sale of your residence.

With respect to reimbursement for brokerage fees, subsection 4.2a of Circular No. A-56 provides in pertinent part:

a. 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 by brokers in the locality of the old official station. * * *

By a letter dated June 7, 1973, the Assistant Director for Single Family Operations, Camden Area Office of the Department of Housing and Urban Development, advised our Office that a fee of 7 percent of the sale price has been the prevailing rate for brokerage commissions in Gloucester County for some time. The letter also advised us that a past president of the Gloucester County Board of Realtors indicated that the 7 percent brokerage fee was recommended by the Board of Realtors around May 1970 and that most brokers in the area have adopted this as a basic fee. Accordingly, we conclude that for the purposes of subsection 4.2a of Circular No. A-56 the 7 percent brokerage fee paid by you in connection with the sale of your residence in Gloucester County was not in excess of the rates generally charged for such services in this area.

Subsection 4.2b of Circular No. A-56 provides with respect to reimbursement for newspaper advertising as follows:

* * * Costs of newspaper * * * advertising for sale of the residence at the old official station are reimbursable if the employee has not paid for such services in the form of a broker's fee or real estate agent's commission. * * *

In 46 Comp. Gen. 812 (1967), we held that this provision does not authorize reimbursement for advertising expenses incurred by an employee if he is reimbursed, in connection with the sale of the same residence, a broker's fee which includes advertising costs. See also 4-161527, July 21, 1967, copy enclosed. Accordingly, we conclude that you are not entitled to reimbursement for the advertising expenses you personally

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incurred since you are being reimbursed for the full broker's fee you paid which is presumed to represent payment for all costs and services including advertising connected with procuring a purchaser for the residence. b-159592, June 25, 1970, copy enclosed.

In view of the above, a settlement will be issued by our Transportation and Claims Division in your favor representing the 1 percent differential previously suspended from your claim for a 7 percent brokerage fee. The settlement of February 6, 1973, is sustained with respect to your claim for advertising expenses.

Sincerely yours,

Paul G. Donbling

For the Comptroller General
of the United States