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**DECISION**



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

**FILE:** B-219526

**DATE:** January 15, 1986

**MATTER OF:** David W. Eubank - Real Estate Expenses -  
Attorney Fees

**DIGEST:**

Employee of Department of the Interior purchased residence in Lakewood, Colorado, in April 1984, in connection with official transfer and claims attorney fees incident to the purchase. Under applicable law and regulations, necessary and reasonable legal fees and costs incurred by reason of the purchase or sale of a residence incident to a permanent change of station may be reimbursed provided that the costs are within the customary range of charges for such services within the locality of the residence transaction. Fees may be reimbursed insofar as the number of hours billed is reasonable for the particular complications involved, and the hourly rate charged is within the customary range of charges for such services.

The issue in this decision involves an employee's claim incident to a permanent change of station for reimbursement of attorney fees incurred in his purchase of a residence at the new duty station. We conclude that the employee is entitled to reimbursement of reasonable attorney fees.

This decision is in response to the request of Ms. Kathryn E. Mitchell, an authorized certifying officer of the Bureau of Reclamation, Lower Missouri Region, Department of the Interior, for a decision concerning the claim of an employee, Mr. David W. Eubank, for attorney fees incurred in connection with a permanent change of station from Minneapolis, Minnesota, to Denver, Colorado, effective March 8, 1984.

Mr. Eubank claims attorney fees in the amount of \$435 that were paid for legal services provided in connection with a house purchase at his new duty station. The circumstances necessitating the legal services revolve around the fact that Mr. Eubank signed a purchase

034270 / 128848

contract that did not explicitly grant him the right to a pre-settlement inspection. Since the sellers would not agree to allow a pre-settlement inspection, Mr. Eubank sought legal counsel and assistance in order to protect his investment. Mr. Eubank's attorney's statement indicated that his legal services included review of the purchase contract, conferences with Mr. Eubank, and contacts with representatives of the seller.

The agency disallowed the entire claim based upon regulations and decisions of our Office which specifically prohibit costs of litigation, citing para. 2-6.2c of the Federal Travel Regulations incorp. by ref., 41 C.F.R. § 101-7.003 (1984), and George W. Lay, 56 Comp. Gen. 561 (1977).

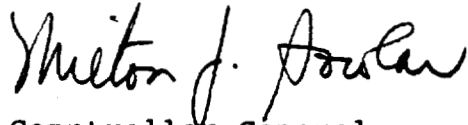
The now-settled policy of this Office concerning the extent to which legal fees may be reimbursed was established in our decision George W. Lay, 56 Comp. Gen. 561 (1977), cited above by the agency. We held in Lay that for any settlement occurring after April 27, 1977, necessary and reasonable legal fees and costs, except for the fees and cost of litigation, incurred by reason of the purchase or sale of a residence incident to a permanent change of station may be reimbursed provided that the costs are within the customary range of charges for such services within the locality of the residence transaction. See also Judy Wynkoop, B-205503, June 2, 1982. Thus, we allowed in Lay, and in subsequent cases, claims for attorney fees for representational and advisory services such as for representation and attendance at closing.

We find that the attorney fees incurred by Mr. Eubank, as noted above, were necessary and reasonable legal fees for representational and advisory services within the meaning of Lay. The record shows that the services were for review of the purchase contract, contacts with representatives of the seller and conference with Mr. Eubank. In Lay, and in numerous other cases we allowed reimbursement for these expenses. See, for example, Bob B. Myers, B-191745, September 29, 1978; Reid T. Stone, B-210604, August 24, 1983.

Accordingly, the attorney fee in question may be reimbursed to the extent the agency determines that it does not exceed the legal fees which would normally be charged in the area concerned for the services rendered. In that connection the local Office of the Department of

B-219526

Housing and Urban Development can often give an agency advice as to whether the number of hours billed is reasonable considering the complications involved and as to whether the attorney's hourly rate is within the customary range of charges for such work. Also, the total reimbursement allowed for purchase of this residence may in no case exceed the maximum prescribed by regulation.

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General  
of the United States