



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Bradley M. James - Real Estate Expenses -  
Closing Costs

**File:** B-227567

**Date:** August 26, 1988

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### **DIGEST**

A transferred employee may not be reimbursed for the buyer's closing costs he paid in the sale of his residence in the absence of evidence that such costs were customarily paid by the seller in the locality at that time.

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### **DECISION**

Mr. Bradley M. James, an employee of the Army Corps of Engineers,<sup>1/</sup> transferred to a new duty station in September 1983, and he attempted to sell his residence located in Savannah, Georgia. Mr. James states that due to depressed real estate market conditions in Savannah, he was unable to sell the property until May 1986, that he only received one offer of purchase during this 2-1/2-year period, and that the purchaser was insistent that Mr. James absorb the closing costs. In order to complete the sale of his residence prior to the 3-year period allowed for reimbursement of real estate expenses, Mr. James paid all closing costs at settlement.

The Corps of Engineers disallowed those expenses normally paid by the buyer (title search, title insurance, lender's appraisal fee, credit report, and loan origination fee) based upon a survey of the Savannah area which showed that although sellers were beginning to agree to pay closing costs, it was still the custom for the purchaser to pay such costs under a conventional loan financing agreement.

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<sup>1/</sup> This decision is in response to a request by Mr. Carnage B. Harrison, Finance and Accounting Officer, Corps of Engineers, Department of the Army. The Per Diem, Travel and Transportation Allowance Committee assigned control number PDTATAC 87-8 to the case.

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Information provided by the United States Department of Housing and Urban Development (HUD) in Atlanta, Georgia, stated that all settlement costs, except prepaid items, are negotiable, but that when one is forced to act within limited time constraints, one party may have to bear a disproportionate share of the costs. Information provided by the Savannah Board of Realtors revealed that in May 1986, it was the custom in Savannah for purchasers (in more than 50 percent of the cases) to pay closing costs on conventional loans but that the trend was shifting. The Board reported that it is not uncommon for sellers to pay the closing costs.

Under the statutes and regulations governing the reimbursement of real estate expenses for transferred employees,<sup>2/</sup> certain real estate expenses are reimbursable if they are "customarily" paid by the seller of a residence at the old official station. Paragraph 2-6.3c of the FTR states that an agency may rely on technical assistance provided by the local area office of HUD in determining whether closing costs are customarily paid by the seller or purchaser. In the absence of substantial evidence to the contrary, the information provided by HUD is controlling. Christopher S. Werner, B-210351, May 10, 1983.

With regard to what expenses are customarily paid by the seller or purchaser, our Office has held that even though it may be common for a seller to assume a purchaser's closing costs by contract, that does not mean that such practice is customary. James C. Steckbeck, B-196263, Feb. 13, 1980; Burton Newmark, B-190715, Mar. 24, 1978. The evidence before us in this case does not clearly establish that it was customary in the locality at that time for the seller to pay all of the closing costs. Accordingly, we must deny the employee's claim for reimbursement of the buyer's closing costs.

*for*   
Comptroller General  
of the United States

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<sup>2/</sup> 5 U.S.C. § 5724a (1982); Federal Travel Regulations (FTR), para. 2-6.2 (Supp. 4, Aug. 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.003 (1983).