

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

November 30, 2001

GSBCA 15529-RELO

In the Matter of KENNETH E. LEY

Kenneth E. Ley, Clermont, FL, Claimant.

Linda Tragakis, Real Estate Officer, Defense Contract Management District East, Defense Contract Management Agency, Boston, MA, appearing for Department of Defense.

WILLIAMS, Board Judge.

Claimant, Kenneth E. Ley, a civilian employee with the Defense Contract Management Agency, seeks reimbursement of \$363.50 in real estate expenses incurred in connection with the sale of his residence when he was transferred. Claimant may be reimbursed for the appraisal fee.

Background

In connection with his permanent change of station on May 10, 1999, claimant sold his residence in Celina, Ohio, on February 5, 2001. Claimant sought reimbursement of expenses in the amount of \$6274.80 and the agency granted \$5886.30. At issue here are the following expenses:

Deed Preparation	\$ 25.00
Processing Fee	\$ 75.00
Recording Fee	\$ 88.50
Appraisal Fee	\$175.00 ¹

The settlement agent at the title agency which handled the transaction advised the agency that these costs are customarily paid by the buyer in this locale.

¹Claimant had the appraisal done to assist him in establishing the market value of the home.

Discussion

The Federal Travel Regulation (FTR) and the Department of Defense's (DoD's) Joint Travel Regulations (JTR) specify the types of expenses incurred in connection with residence transactions that are reimbursable. 41 CFR 302-6.2 (1999); JTR C14002.

Both the FTR and JTR permit recovery of certain selling expenses not already included in the broker's commission and expressly provide that customary costs of appraisal are reimbursable. 41 CFR 302-6.2(b); C14002-A.2; see Dawn S. Daugherty, GSBCA 14065-RELO, 97-2 BCA ¶ 29,050. The qualification that these be expenses "customarily" paid by the seller is not set forth in this provision of the regulation. Albert L. Van Tuinen, GSBCA 14492-RELO, 98-2 BCA ¶ 30,091. Rather, if the seller paid the cost, it is reimbursable. Under the clear terms of these regulations, Mr. Ley may recover the appraisal fee to the extent the amount is customary for this area.

Claimant is not entitled to be reimbursed for the deed preparation or the processing and recording fees. FTR 302-6.2(c) provides that the "costs of preparing conveyances, other instruments, and contracts and related notary fees and recording fees" are reimbursable if customarily paid by the seller of the residence at the old duty station to the extent they have not already been reimbursed. 41 CFR 302-6.2(c); Brent T. Wahlquist, GSBCA 13721-RELO, 97-2 BCA ¶ 29,094. Since the only evidence of record indicates that the deed preparation fee, the processing fee, and the recording fee are customarily paid by the buyer in this locale, claimant is not entitled to reimbursement of these items. Laura A. Cushler, GSBCA 14210-RELO, 98-2 BCA ¶ 29,792; Pierre S. Ware, GSBCA 14150-RELO, 97-2 BCA ¶ 29,061; Christopher L. Chretien, GSBCA 13704-RELO, 97-1 BCA ¶ 28,701.

Even if the processing fee were customarily paid by the seller in this area, to the extent that it is incident to an extension of credit, it is not recoverable. Aman B. Kay, GSBCA 15543-RELO, 01-2 BCA ¶ 31,508; S. K. Datta, GSBCA 13888-RELO, 97-1 BCA ¶ 28,929.

Decision

The claim is granted in part. Claimant may be reimbursed for the appraisal fee of \$175 to the extent that amount is customary for appraisals in Celina, Ohio.

MARY ELLEN COSTER WILLIAMS
Board Judge