

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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June 17, 2004

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GSBCA 16394-RELO

In the Matter of JEANETTE H. WALSH

Jeanette H. Walsh, Chesapeake, VA, Claimant.

Maj. Michael G. Vecera, Office of the Staff Judge Advocate, Air Force Reserve Command, Department of the Air Force, Dobbins Air Reserve Base, GA, appearing for Department of the Air Force.

**DeGRAFF**, Board Judge.

The agency decided to deny the employee's claim for reimbursement of an amount she paid to fund a down payment assistance program when she sold her house at her old duty station. The agency also denied the employee's claim for reimbursement of an amount she paid for owner's title insurance when she sold her house. As explained below, we agree with the agency's decision.

## Background

In 2003, the Department of Defense (DoD) transferred Jeanette H. Walsh from Georgia to Virginia, where she reported for duty on November 16. In connection with the transfer, DoD authorized Ms. Walsh to incur reimbursable real estate sales transaction expenses. Ms. Walsh sold her house in Georgia, and DoD reimbursed her for many of her sales transaction expenses. DoD did not reimburse her, however, for expenses labeled "Home Ownership Providers" on her settlement statement. Information provided to us by Ms. Walsh explains these expenses consist of a contribution she made to a charitable organization that made a gift to the purchaser of Ms. Walsh's house equal to the amount of Ms. Walsh's contribution to the fund, plus a processing fee she paid to the fund. Also, Ms. Walsh paid for owner's title insurance when she sold her house, and DoD did not reimburse her for this expense. Ms. Walsh asks us to review DoD's decision to deny reimbursement of these expenses.

According to Ms. Walsh's real estate agent, programs such as Home Ownership Providers are designed to assist potential purchasers who, due to low interest rates, can make the required monthly payments on a mortgage, but lack the money for a down payment or closing costs. She says it is "commonplace" in the Atlanta, Georgia, area to expect a

purchaser to ask for such assistance and notes the market in Atlanta at this time favors purchasers. DoD says it has no record of paying such expenses in the past, so it doubts such payments are customary in the Atlanta area. Regarding the owner's title insurance, DoD says it cannot reimburse this expense because Ms. Walsh has not established the expense was a prerequisite to financing or transfer of the property, or inseparable from other insurance which was a prerequisite to financing or transfer of the property.

### Discussion

The resolution of Ms. Walsh's claim is governed by the Federal Travel Regulation (FTR), which applies to civilian employees of the Federal Government, and the Joint Travel Regulations (JTR), which supplement the FTR for civilian employees of DoD. The regulations contain a list of the types of real estate transaction expenses which agencies can reimburse, so long as the expenses are customarily paid by the seller. 41 CFR 302-11.200 (2003); JTR C14002.

In Monica Alexander, GSBCA 15615-RELO, 01-2 BCA ¶ 31,606, we decided payments made to an organization similar to Home Ownership Providers were not reimbursable expenses, according to the regulations. We reach the same conclusion here. The contribution made by Ms. Walsh and the processing fee she paid to Home Ownership Providers are not included in the list of reimbursable expenses set out in the regulations. The regulations do not allow agencies to reimburse employees for making charitable contributions and for paying processing fees associated with making such contributions. In addition, like DoD, we do not believe Ms. Walsh has provided persuasive evidence that the expenses of making such a contribution and paying the associated processing fee were customarily paid by sellers in the Atlanta area. Although Ms. Walsh's real estate agent says it is commonplace for sellers to incur such expenses, this seems from the agent's statement to be true only when interest rates are low and when the market favors purchasers. In DoD's experience, such expenses are not customarily incurred by sellers. Even if it is common for sellers to incur an expense during particular market conditions, this does not establish payment of such expenses is customary. James E. Miller, GSBCA 16123-RELO, 04-1 BCA ¶ 32,450 (2003). The amounts Ms. Walsh paid to Home Ownership Providers are not reimbursable because they are not among the expenses listed as reimbursable in the regulations and because the expenses she incurred are not customarily paid by sellers in the Atlanta area.

According to the regulations, the amount Ms. Walsh paid for owner's title insurance is not reimbursable unless it is customary for sellers in the Atlanta area to pay for such insurance, and the payment is a prerequisite to financing or transfer of the property, or the cost of the insurance is inseparable from the cost of other insurance which is a prerequisite to financing or transfer of the property. 41 CFR 302-11.200(f)(9); JTR C14002-A4a(9). The amount Ms. Walsh paid for owner's title insurance is not reimbursable because she has not established the insurance she purchased meets these requirements.

The claim is denied.

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MARTHA H. DeGRAFF  
Board Judge