



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Steve Alarid
File: B-257518
Date: November 15, 1994

DIGEST

A transferred employee secured the services of a real estate firm to assist him in selling his residence in the vicinity of his old duty station. Instead of the traditional way of charging a commission, the firm allowed the employee to participate in some of the work involved and charged him an hourly fee for the services the firm performed. The firm helped set the sales price, negotiate the sale, prepare contracts, open escrow, and review closing documents. Under 41 C.F.R. 302-6.2(a), a broker's fee or real estate commission may be reimbursed to an employee for services performed in selling his residence, but not in excess of the rates generally charged by brokers in the locality. In Oregon, any firm which engages in the activities performed on behalf of the employee must be licensed to perform any professional real estate activity. If the consulting firm is so licensed and the fee charged does not exceed the amount generally charged for selling a residence by brokers in the area, the fee may be reimbursed.

DECISION

This decision is in response to a request from an Authorized Certifying Officer, Department of Agriculture.¹ It involves the entitlement of an employee to be reimbursed as a real estate expense certain charges paid to a real estate consulting firm for services rendered in connection with the sale of his residence incident to a permanent change of station in July 1993. We conclude he may be reimbursed these charges, for the following reasons.

Mr. Steven Alarid, an employee of the Forest Service, Department of Agriculture, stationed in Oregon, was transferred to Petersburg, Alaska. He sold his residence in Corvallis, Oregon, and used the services of Northwest Realty Consultants to assist him in completing its sale. Northwest Realty Consultants advised the Forest Service that it is a

¹Ms. Jeanne DiGange, Office of Financial Management, National Finance Center, reference: FSD-1 RJP.

full service realty office, but gives clients the option to participate in some of the work involved and to pay an hourly fee for the services they actually need from the firm. The consulting firm helped Mr. Alarid set a sale price, assisted in negotiating a sale when a buyer was found, prepared contracts and addendum, opened escrow, and reviewed closing documents before they were signed. The consulting firm charged \$510 (8-1/2 hours @ \$60 per hour) instead of the traditional real estate commission based on a percentage of the sales price.

In view of the similarity between the services performed by the consulting firm and those normally performed by a broker, the agency asks whether the fee of the consulting firm may be paid in lieu of the traditional fee charged by a broker, even though Mr. Alarid did much of the work.

The statutory authority for reimbursing real estate expenses is contained in 5 U.S.C. § 5724a(a)(4) (1988). That provision authorizes reimbursement of expenses incurred in selling the employee's residence at his old duty station, but limits reimbursement for brokerage fees to those customarily charged in the area. Section 302-6.2(a) of the Federal Travel Regulation (FTR),² which implements that provision, states that a broker's fee or real estate commission paid by the employee "for services in selling his/her residence" is reimbursable, but not in excess of the rates generally charged for services in selling a residence by brokers in the locality of the old official station.

In the State of Oregon, a person or organization who engages in the activities described as having been performed on behalf of Mr. Alarid, and for which a fee is charged is deemed to be engaged in a "professional real estate activity"³ and the person or organization is required to be licensed.⁴

Therefore, if the consulting firm is licensed to perform real estate activity in the State of Oregon, and the fee charged does not exceed the rates customarily charged in the area by brokers for services in selling a residence, the employee may be reimbursed the fee he paid for the services rendered to him by the consulting firm.

/s/ Seymour Efros
for Robert P. Murphy
Acting General Counsel

²41 C.F.R. § 302-6.2(a).

³Or. Rev. Stat. § 696.010(12) (1993).

⁴Or. Rev. Stat. § 696.020 and § 696.025 (1993).