

DECISION

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

FILE: B-214362

DATE: August 7, 1984

MATTER OF: Edmund J. Koenke - Reimbursement
of Real Estate Commission -
Purchase of a Lot

DIGEST:

A transferred employee purchased a lot suitable for residence construction near his new duty station. His claim for reimbursement of a broker's commission for finding the lot is denied since Federal Travel Regulations (FTR) para. 2-6.2a specifically prohibits such commission in connection with the purchase of a home at the new duty station. Although the commission reimbursement prohibition in FTR para. 2-6.2a specifically relates to purchase of a home, by implication it includes the lot on which the home is to be situated. Real estate expenses for the purchase or sale of a lot are allowed only when the lot is integrated with a dwelling or used as a mobile home site.

This decision is in response to a letter from Dr. Edmund J. Koenke, requesting further consideration of the denial by our Claims Group in its Settlement Z-2844451, dated September 2, 1983, of his claim for reimbursement of a real estate commission. The commission was paid by him on the purchase of a lot incident to a permanent duty station transfer in January 1982. The claim is denied for the following reasons.

FACTS

Dr. Koenke, an employee of the Federal Aviation Administration (FAA), Department of Transportation, was transferred on a permanent change-of-station assignment from Washington, D.C., to the FAA Technical Center, Atlantic City, New Jersey, in January 1982. In May 1982, he purchased a lot in Mays Landing, New Jersey, for the purpose of constructing a residence. By voucher dated June 9, 1982, he submitted a real estate expense claim incident to that purchase totaling \$3,930.85. Of that amount, \$430.85, representing legal, mortgage lender insurance and escrow agents'

029682

fee, was administratively allowed. However, \$3,500 was disallowed by the agency since it represented payment of a broker's commission to find property suitable as a residence, and such reimbursement is prohibited by the Federal Travel Regulations.

On review, our Claims Group agreed with the agency disallowance on the same basis that the Federal Travel Regulations do not authorize such payments. On reclaim, Dr. Koenke contends that since the actual commission was paid in conjunction with his relocation for official business, and since the regulations do not prohibit reimbursement of such a commission on the purchase of a lot, it should be considered a valid relocation expense.

DECISION

Under the provisions of 5 U.S.C. § 5724a (1982), employees who are transferred from one permanent duty station to another are entitled to be reimbursed relocation expenses. Among those reimbursable expenses are real estate related expenses. Subsection (a)(4) thereof, authorizes, in part, the reimbursement of,

"(a)(4) Expenses of the sale of the residence * * * of the employee at the old station and purchase of a home at the new official station * * *. However, reimbursement for brokerage fees on the sale of the residence * * * may not exceed those customarily charged in the locality where the residence is located * * *."

The regulations implementing these provisions are contained in the Federal Travel Regulations, FPMR 101-7, (September 1981) (FTR). Paragraph 2-6.2a provides:

"a. Broker's fees and real estate commissions. A broker's fee or real estate commission paid by the employee for services in selling his residence is reimbursable but not in excess of rates generally charged for such services * * * in the locality of the

B-214362

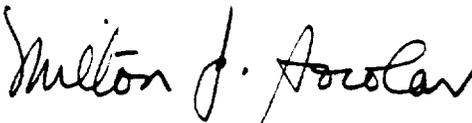
old official station. No such fee or commission is reimbursable in connection with the purchase of a home at the new official station." (Underscoring supplied.)

With regard to the above underscored prohibition, we have held that even in situations where it is the customary practice for a real estate broker to perform finder services and charge a fee, such a fee or commission paid in connection with the purchase of a home is not reimbursable. Edwin M. Wood, B-184063, June 15, 1976; and B-177632, May 18, 1973.

The focus of that prohibition is the "home" the employee is purchasing at his new duty station. Other than waterborne residences, all homes are situated on or affixed to a lot or parcel of land regardless of whether they are single family dwellings, high rise condominiums, or even mobile homes. Thus, while a lot, or parcel of land, is not a residence or home as those terms are used in the regulations, it is a normal adjunct to a residence or home. Further, to the extent real estate expenses for the purchase or sale of a lot are reimbursable, they are allowed only when the lot is integrated with a dwelling or used as a mobile home site. Donnie R. Sparks, B-213769, May 1, 1984.

Therefore, where the regulations prohibit the reimbursement of fees or commissions in connection with the purchase of a home at the new official station, by necessary implication it includes the ground on which the home is situated or to be situated.

Accordingly, the action taken by our Claims Group disallowing Dr. Koenke's claim for reimbursement of a real estate commission for the purchase of a lot is sustained.

for 
Comptroller General
of the United States