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

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B-177947 June 7, 1973

Mr. Ronald R. Chronister
Authorized Certifying Officer
Department of Housing and Urban Development
Arcade Plaza Building, 1321 Second Avenue
Seattle, Washington 98101

Dear Mr. Chronister:

This is in reply to your letter dated February 1, 1973, reference 10AP, requesting a decision as to the certification of a reclaim voucher submitted by Mr. Floyd B. Arms, an employee of the Department of Housing and Urban Development, for reimbursement for real estate expenses incurred by him in connection with the sale of his residence at his old official station incident to his transfer.

At the time Mr. Arms received his authorization to transfer from Washington, D. C., to Portland, Oregon, he owned and held a membership in a cooperative housing project in Washington. His membership entitled him to occupy one of the units in the project for residential purposes. Mr. Arms resided in this unit and incident to his transfer he sold his membership in the cooperative. In connection with the sale of his interest in the cooperative, Mr. Arms incurred the following expenses for which he claims reimbursement:

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| Brokerage | $550 |
| Inspection fee | $ 50 |
| Settlement fee | $100 |
| Redecoration fee | $275 |
| Carrying charges | $631 |

Although you allowed reimbursement for the brokerage fee incurred by Mr. Arms in selling his interest in the cooperative, you administratively disallowed reimbursement for the other expenses on the basis that they were not supported by specific services rendered or that they were not the type of expenses for which reimbursement is authorized under section 4 of Office of Management and Budget (OMB) Circular No. A-56. Mr. Arms states that he was legally required to pay these fees and that such fees are customarily paid by a person selling an interest in a cooperative, but that Circular No. A-56 fails to specifically provide for such expenses which are required in connection with the sale of an interest in a cooperative as

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distinguished from the cost of selling a single family residence. However, he does state that the expenses associated with the sale of an interest in a cooperative involve certain similarities with the expenses for which reimbursement is authorized under section 4 of Circular No. A-56. In this regard he states that the $100 settlement fee paid to the cooperative is for the cooperative's cost of preparing the documents required to sell and transfer a membership and that the $50 inspection fee is for the cooperative's expense in inspecting the unit to insure that it was in an acceptable condition for transfer and for supervising any repairs necessary to the unit. Mr. Arms believes that the inspection fee is allowable as an incidental charge for services in selling a residence under section 4.2f of Circular No. A-56 and that the settlement fee is allowable as a cost of preparing conveyances and other instruments under section 4.2c of Circular No. A-56. Moreover he apparently feels that the redecoration fee could be regarded as an incidental charge under section 4.2f of Circular No. A-56 and that the carrying charges are similar to the expenses allowed for the settlement of an unexpired lease under section 4.2h.

Reimbursement for the expenses incurred by a transferred employee in connection with the sale of his residence at his old official station under 5 U.S.C. 5724a(a)(4) is governed by the provisions of section 4 of OMB Circular No. A-56, revised September 1, 1971. Subsection 4.1c of Circular No. A-56 specifically refers to an interest in a cooperatively owned dwelling as being a form of ownership of a residence for which the expenses incurred in selling the interest may be reimbursed. However the expenses for which reimbursement is authorized are limited to those set forth in section 4.2 of Circular No. A-56. In this regard section 4.2 describes reimbursable expenses in general terms applicable to all real estate transactions regardless of the form of ownership held by the employee.

In the present case, the brokerage fee of $550 paid by Mr. Arms was computed on the basis of 10 percent of his equity value in the property. Subsection 4.2a of Circular No. A-56 authorizes reimbursement for a broker's fee paid by the employee to the extent that the fee does not exceed the rates generally charged for such services in the locality of the old official station. By a letter dated April 16, 1973, the Director of the Washington Area Office, Department of Housing and Urban Development (HUD), advised our Office that the charges and costs of selling cooperative units vary considerably, but that the $550 brokerage fee in this case is in line with charges on comparably priced cooperative units in the Washington area. Accordingly, we conclude that reimbursement for the broker's fee paid by Mr. Arms in connection with the sale of his membership in the cooperative may be allowed.

We have been informally advised by the cooperative that the $50 inspection fee is for the cooperative's cost of inspecting the unit to insure that it was in good condition and to supervise repair work on the unit and that the $100 settlement fee covers the cooperative's cost of preparing documents related to the sale and transfer of Mr. Arms' interest plus an unspecified amount of profit. As to the inspection fee, the only provision under which reimbursement could be allowed is subsection 4.2f of Circular No. A-56 which provides for reimbursement for incidental charges for services in selling a residence if such charges are customarily paid by a seller of a residence at the old official station. However we have been advised by HUD that an inspection fee is not a customary charge in connection with the sale of an interest in a cooperative in the Washington area and thus it would not be allowable under the regulations. However, the record indicates that this fee included the cost of the cooperative's personnel in supervising any necessary repair work which would be considered a cost of maintenance rather than an expense incident to the sale of a residence and therefore not reimbursable under the regulations. Cf. B-163801, May 1, 1968. Since the record indicates that the settlement fee paid by Mr. Arms to the cooperative was for its cost of preparing the documents and reports required for the transfer of ownership, it is the type of expense for which reimbursement is authorized under subsections 4.2c and d of Circular No. A-56. However subsections 4.2c and d limit reimbursement to expenses customarily paid by a seller in the area and to an amount not to exceed amounts customarily charged in the locality. In this regard HUD has advised our Office that such fees are customarily charged to the purchaser and the seller and that $50 would be the maximum amount that could be considered a reasonable charge to the seller for such services in the Washington area. Accordingly we conclude that Mr. Arms may be properly reimbursed for only $50 of the $100 settlement fee paid by him.

The record indicates that the redecoration fee of $275 was for the expense incurred by the cooperative in reconditioning the unit occupied by Mr. Arms. It appears that the reconditioning consisted of cleaning, painting, and repairing the unit for the purpose of assuring the overall maintenance of the property. The expense of cleaning, painting, and repairing a residence are the costs of maintaining a residence in good condition. Although the standards of maintenance required of a cooperative member may be higher or more specific than for other forms of ownership such expenses are obligations which the employee would have incurred regardless of any change of station incident to his Government service. This is supported by Mr. Arms' statement that he personally performed this type of reconditioning twice during his occupancy in the cooperative and that these were not related to a sale. Merely because such maintenance

is often performed prior to offering a residence for sale, required to be performed by the sales contract, or, as in this case required by the regulations of a cooperative does not mean that such costs are a result of the sale. Accordingly, we do not regard such expenses as the type for which reimbursement is authorized under the regulations. See B-176079, November 16, 1972, and B-163801, supra.

The record indicates that the carrying charges required to be paid to the cooperative by Mr. Ams were his share of the cooperative's expenses for the period after he was transferred until the settlement date for the sale. The expenses of the cooperative included in the carrying charges are items such as interest and principle payments on the mortgage, insurance, utilities, cost of management, and maintenance. Regardless of the form of ownership held in a residence, expenses of this type cannot be considered a cost incident to the sale of a residence for which reimbursement is authorized under section 4 of Circular No. A-56. The portion of the carrying charges representing the principle payments on the mortgage result in an increase in a cooperative member's equity and would not be an expense. Furthermore, reimbursement of the portion representing interest payments is specifically precluded by section 4.2d of Circular No. A-56. See 46 Comp. Gen. 677 (1967). The remaining types of expenses covered by the carrying charges are those incurred by the owner of a residence regardless of the form of ownership for the cost of operating, maintaining, and protecting his property during the period of his ownership. Since such expenses are an incident of the ownership of a residence rather than a result of the sale of the residence, reimbursement of these expenses is not allowable under the regulations.

The voucher is returned herewith and may be certified for payment in accordance with the foregoing.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States

Enclosure

cc: Terry C. Chisholm, Area Director
Department of Housing and Urban Development
1875 Connecticut Avenue, N.W.
Washington, D. C. 20009