



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 25, 2008

CBCA 1200-RELO

In the Matter of TERRY L. PATRICK

Terry L. Patrick, Goldendale, WA, Claimant.

Ron D. Musser, Chief, Real Estate Division, Army Corps of Engineers, Portland, OR,
appearing for Department of the Army.

STERN, Board Judge.

Claimant, Terry L. Patrick, is a civilian employee of the Department of the Army, Corps of Engineers (Army). Claimant asks the Board to review the Army's denial of reimbursement of a certain expense he incurred as a result of a permanent change of station move.

Background

Mr. Patrick was relocated by the Army and, as a result, moved his residence from Silverdale, Washington, to Goldendale, Washington. Travel orders, dated June 20, 2006, approved reimbursement for real estate expenses to be incurred by claimant.

Mr. Patrick had a home built at his new location. According to the record, in accordance with the laws of the State of Washington, as construction was underway, sales taxes were assessed on claimant by the builder, on materials purchased for incorporation into Mr. Patrick's new home. The builder, under these laws, collected the sales taxes from Mr. Patrick on the cost of the materials at the time of their purchase. These sales taxes, totaling

\$10,487.26, were paid during the course of construction from a construction loan. Mr. Patrick claims entitlement to reimbursement of these taxes on the basis that an employee in the real estate division of the Army at claimant's old duty station assured him that the sales tax expenses were reimbursable.

Discussion

The Federal Travel Regulation (FTR) applies to civilian employees of the Department of Defense. The FTR provides for the reimbursement of the expenses of purchasing a new residence when an employee moves his residence as a result of a permanent change of station. 41 CFR 302-11.1, 11.2, 11.6 (2005). The FTR generally does not allow the payment of expenses that result from the construction of a residence. *Id.* 302-11.202(h). However, expenses incurred in the construction of a new house that are comparable to expenses paid by a purchaser of an existing residence are reimbursable. *Id.* 302-11.200.

The sales taxes paid by claimant were levied on personal property as those materials were incorporated into the new construction. Taxes that are generally reimbursable under the regulations are those imposed due to the conveyance of the real estate. The sales tax expense incurred by Mr. Patrick was an expense that resulted from the construction of his residence, not from the conveyance of the property. There are no comparable expenses paid by purchasers of existing homes. Therefore, under the regulations, the sales taxes are not reimbursable. *See Ernest B. Fitzpatrick, III*, GSBICA 15629-RELO, 02-1 BCA ¶ 31,679 (2001).

Claimant argues, however, that he is entitled to payment for the sales taxes paid since he was assured at the beginning of the construction project, by a representative of the Army's real estate division, that he would be reimbursed for sales taxes that he would pay. We have stated that erroneous advice by government employees forms no basis for us to grant relief to a claimant. It is well-established that the Government is not bound by the erroneous advice of its officials. Only the expenses that are authorized by statute and regulations may be reimbursed. *Bruce Bryant*, CBCA 901-RELO (Dec. 11, 2007); *Flordeliza Velasco-Walden*, CBCA 740-RELO, 07-2 BCA ¶ 33,634, and cases cited therein.

Decision

The sales taxes sought by Mr. Patrick are not reimbursable. The claim is denied.

JAMES L. STERN
Board Judge