



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 18, 2018

CBCA 5889-RELO

In the Matter of YONGPING YUAN

Yongping Yuan, Chapel Hill, NC, Claimant.

James Barnes, Relocation Specialist, Federal Employee Relocation Center, Environmental Protection Agency, Norwood, OH, appearing for Environmental Protection Agency.

SULLIVAN, Board Judge.

Claimant, Yongping Yuan, seeks review of the agency's denial of reimbursement of two costs incurred in the sale of her house when she was relocated by the agency from Nevada to North Carolina. The Environmental Protection Agency (EPA) denied Ms. Yuan's claim for owner's title insurance and an additional real estate commission fee of 1%. We deny Ms. Yuan's claim.

Owner's Title Insurance

The Federal Travel Regulation (FTR) provides that an employee may be reimbursed owner's title insurance costs if one of two possible conditions is met:

Owner's title insurance policy, provided it is a prerequisite to financing or the transfer of the property; or if the cost of the owner's title insurance is inseparable from the cost of other insurance which is a prerequisite.

41 CFR 302-11.200(f)(9) (2016). It is the claimant's burden to provide proof of the financing requirements. *Jeffrey B. Hicks*, GSBICA 15860-RELO, 03-1 BCA ¶ 32,083, at 158,607.

Ms. Yuan provided a two-page settlement statement in support of her claim, which includes a single line item under title charges for an owner's policy in the amount of \$1580. Ms. Yuan also included an email from the title company indicating that the seller was required to provide title insurance to the new owner to ensure that the property is free and clear of any encumbrances.

EPA denied the claim for the owner's title policy premium because lender's title insurance and owner's insurance are two separate items in Nevada and Nevada law does not require parties to obtain an owner's policy. Nev. Rev. Stat. § 692A.210 (2016); State of Nevada Department of Business & Industry, *Consumer's Guide to Title Insurance*. Although it is customary in Nevada for the seller to pay for the owner's insurance policy, *Consumer's Guide*, Ms. Yuan did not show that she was required to obtain the owner's policy as part of the financing arrangement for the sale of her house. The agency properly denied her request for reimbursement of the policy premium on this basis.

Real Estate Commission

The FTR provides that an employee will be reimbursed real estate transaction expenses that are "customarily charged to the seller of a residence in the locality of the old official station." 41 CFR 302-11.200. The FTR does not allow for reimbursement for any real estate commission that exceeds the customary rate. *Theresa M. Grimm*, CBCA 1743-RELO, 10-1 BCA ¶ 34,428, at 169,934. The claimant bears the burden to proving what is customary. *Bradley N. McDonald*, CBCA 5025-RELO, 16-1 BCA ¶ 36,345, at 177,205.

Ms. Yuan sought reimbursement of \$28,000 in real estate commission paid, 7% on the sale price of \$400,000. EPA reimbursed Ms. Yuan \$24,000, 6% of the sale price, explaining that the national average was 5.4% and a standard rate was 6%. EPA also submitted evidence that average commissions in the Las Vegas area, where Ms. Yuan's house was located, are below 6%. EPA also noted that the sales commission is negotiable in Nevada. Ms. Yuan did not provide any evidence that 7% is a customary sales commission in Las Vegas, but explained that no one informed her that the agency would only reimburse a commission of 6% of the sale price.

The agency properly denied Ms. Yuan's request for reimbursement of the additional 1% sales commission.

Decision

The claim is denied.

MARIAN E. SULLIVAN
Board Judge