



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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March 24, 2025

CBCA 8196-RELO

In the Matter of ALEXANDRIA N.

Alexandria N., Claimant.

Major Gregory M. Swartzburg, Office of the Staff Judge Advocate, Headquarters, 633D Air Base Wing, Department of the Air Force, Langley Air Force Base, VA, appearing for Department of the Air Force.

**NEWSOM**, Board Judge.

A civilian employee of the Department of the Air Force (Air Force) who underwent a permanent change of station (PCS) seeks reimbursement for her contributions to the buyer's closing costs incurred as part of the terms for the sale of her home. We deny the claim.

Background

On November 13, 2023, the Air Force issued permanent change of station (PCS) orders to claimant requiring her to transfer duty stations from Virginia to Ohio. Incident to the transfer, claimant sold her home in Virginia. As part of the sale, claimant contributed \$9750—three percent of the home sale price—toward the buyer's closing costs. Claimant sought reimbursement for her relocation costs including this contribution. The Air Force granted reimbursement of claimant's other relocation expenses but denied reimbursement for her contribution to the buyer's closing costs. Eventually, the Air Force explained that it lacked proof that it was reasonable and customary in the area for a seller to pay part of the buyer's closing costs.

Before the Board, claimant submitted a letter from her real estate agent along with data indicating that the housing market in the area of Virginia where she sold her home was sluggish at the time she had to list the home for sale. The agent asserted that it was “common and accepted practice” for a seller to pay part of the buyer’s closing costs, stating:

Covering the buyer’s closing costs is a common and accepted practice in the . . . area, especially when sellers are under time constraints due to military or civilian PCS orders or other urgent circumstances. This was a key factor in enabling the seller to complete the sale in a timely manner.

In response to the Board’s request for more information, claimant submitted a second statement from a different realtor, which characterized it as “customary” for a seller to contribute to the buyer’s closing costs. The second statement asserted:

It is customary for a seller to give the buyer 3% in closing costs. To pay 6% in commission (3 to each agent) and normally closing costs for a seller run about 1% (outside of the 9% I just explained). So a seller should expect to pay 10% to sell in our area.

### Discussion

Title 5 of the United States Code requires the Government to reimburse the travel or transportation expenses of an employee when the employee is transferring from one permanent duty station to another. 5 U.S.C. § 5724(a)(1) (2018). The Federal Travel Regulation (FTR) set forth the standards for reimbursement of relocation expenses, 41 CFR 302-11 (2023), and the Joint Travel Regulations (JTR) implement the FTR for civilian employees of the Department of Defense. To be reimbursable, home sale closing costs must be “customarily charged to the seller of a residence in the locality of the old official station” and supported with appropriate documentation. 41 CFR 302-11.200. The parallel provision of the JTR is to the same effect. JTR 054504-D (Nov. 2023).

The Board has often explained that “[t]he term ‘customary’ must be applied strictly, for the statute on which the regulatory phrase is based makes agencies responsible for paying transferred employees’ closing costs only where those costs ‘are required to be paid.’” *Sharon J. Walker*, CBCA 3501-RELO, 14-1 BCA ¶ 35,533, at 174,133 (quoting *Monika J. Dey*, GSBCA 15662-RELO, 02-1 BCA ¶ 31,744, at 156,828 (2001)). An expense is customarily paid if “by long and unvarying habitual actions, constantly repeated, such payment has acquired the force of a tacit and common consent within a community.” *Erwin*

*Weston*, CBCA 1311-RELO, 09-1 BCA ¶ 34,055, at 168,412. We distinguish, however, between a practice that has become customary and instances in which a seller pays a buyer's closing costs in response to conditions in the housing market. A customary practice is normally "unrelated to the strength or weakness of the real estate market." *Michael K. Daniel*, CBCA 1762-RELO, 10-1 BCA ¶ 34,400, at 169,854 (quoting *Anthony J. Kress*, CBCA 877-RELO, 08-2 BCA ¶ 33,903, at 167,778).

The central issue here is whether claimant has carried her burden to prove that it was customary in her locality for a seller to pay the buyer's closing costs. While other evidence can be persuasive, claimants have successfully met this burden by submitting evidence showing (a) a high percentage of sales in which sellers have paid buyers' closing costs, and (b) that the practice of sellers contributing to buyers' closing costs has been ongoing over a period of years.

For instance, in *Charity Hope Marini*, CBCA 4760-RELO, 16-1 BCA ¶ 36,455, at 177,670, we determined that a real estate attorney's statement that sellers had contributed to buyers' closing costs "for many years . . . in virtually all transactions" was persuasive evidence of a customary practice. In *Samantha J. Ingram*, CBCA 5491-RELO, 17-1 BCA ¶ 36,894, at 179,792, we determined that realtor statements that sellers contributed to buyers' closing costs in over ninety percent of home sales over a five-year period showed a customary practice. Other decisions are in accord. See, e.g., *Brian E. Cooper*, GSBCA 14269-RELO, 98-1 BCA ¶ 29,427, at 146,148 (1997) (evidence that sellers contributed to buyers' closing costs in ninety percent of residential sales transactions for approximately five years); *Steven D. Ward*, GSBCA 14306-RELO, 98-2 BCA ¶ 29,813, at 147,635 (evidence that sellers contributed to buyers' closing costs between seventy-five to eighty percent of transactions).

In contrast, we determined that letters from professionals stating only that payment of buyers' closing costs was "common" or "customary," without any detail as to the frequency or duration of the practice over time, were insufficient to demonstrate a customary practice. *Sharon J. Walker*, 14-1 BCA at 174,134; *Monika J. Dey*, 02-1 BCA at 156,827-28. We denied the claims in these cases, concluding that the letters described a moment in time, rather than demonstrating a pattern of long and unvarying habitual actions.

The record here does not meet the standard necessary to show a customary practice. Claimant submitted two statements from real estate professionals stating that a seller's contribution to a buyer's closing costs was "common" and "customary," but they offer no specifics. The record contains no information as to the percentage of sales in which the seller contributed to the buyer's closing costs nor as to the duration of this practice. There

is, however, evidence that payment of closing costs in this instance was due at least in part to a downturn in the local market.

The Air Force correctly determined that claimant's contribution to the buyer's closing costs was not customary.

Decision

The claim is denied.

*Elizabeth W. Newsom*  
ELIZABETH W. NEWSOM  
Board Judge