



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

June 9, 2025

CBCA 8196-RELO

In the Matter of ALEXANDRIA N.

Alexandria N., Claimant.

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

NEWSOM, Board Judge.

Claimant seeks reconsideration under Board Rule 407 (48 CFR 6104.407 (2024)) of our decision in *Alexandria N.*, CBCA 8196-RELO, 25-1 BCA ¶ 38,779. In that decision, we denied reimbursement of amounts the claimant contributed to the buyer's closing costs when the claimant sold her home as part of a permanent change of station. As part of claimant's request for reconsideration, she includes a statement from a real estate paralegal in the locale where the home was sold. According to the claimant, the paralegal asserted that "about 70%" of home sales in the area involved the seller paying the buyer's closing costs and further explains that the area was a sellers' market for "only a year or two" during the height of the COVID-19 pandemic.

We appreciate claimant's efforts in providing the Board with additional information. Even with the new information, however, the claim does not satisfy the applicable standards.

First, for the Board to consider new information submitted for the first time in a motion for reconsideration, the new information must have been unavailable prior to resolution of the matter for which reconsideration is being sought. *Tiffany B.*, CBCA 8007-RELO, 24-1 BCA ¶ 38,609, at 187,681 (citing *Delaware Valley Floral Group, Inc. v. Shaw Rose Nets, LLC*, 597 F.3d 1374, 1384 (Fed. Cir. 2010)). Here, claimant asserts that the

paralegal's statement was unavailable at the time of claimant's original filing because claimant only became aware of the applicable legal standard after the Board issued its decision denying the claim. This argument does not establish that the information provided by the paralegal was unavailable; it only indicates that the claimant was not previously aware of the applicable legal standard. Moreover, the Board issued an order on January 3, 2025, well in advance of the decision denying the claim, requesting that the claimant provide any "additional evidence demonstrating that the closing costs for which she seeks reimbursement are customarily paid in the locality." In that order, the Board also described the legal standard with citations to case law, and the Board separately emailed both parties citations to additional cases with instructions on how to find the cases on the Board's website. The claimant should have been aware of the legal standard.

Second, were we to consider the additional information submitted in the motion for reconsideration, that information would still not satisfy the exacting legal standard necessary to demonstrate that buyer's closing costs are "customarily charged to the seller of a residence." 41 CFR 302-11.200 (2023); *see also* Joint Travel Regulations 054504-D (Nov. 2023). As explained in our prior decision, 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 (quoting *Monika J. Dey*, GSBCA 15622-RELO, 02-BCA ¶ 31,744, at 156,827 (2001)).

As we explained, other claimants have successfully met their 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." *Alexandria N.*, 25-1 BCA at 188,507 (summarizing multiple Board decisions). The paralegal here asserted that 70% of home sales in the locality involve seller contributions to closing costs. There is no corroboration and no information about the duration of the practice. Were we to consider the new information, we would conclude that, combined with the evidence already in the record, our decision denying the claim was correct.

Decision

The claimant's motion for reconsideration is denied.

Elizabeth W. Newsom
ELIZABETH W. NEWSOM
Board Judge