



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 18, 2016

CBCA 5082-RELO

In the Matter of THOMAS D. MARTIN

Thomas D. Martin, San Diego, CA, Claimant.

Kim A. Darling, Director, Finance Office/Comptroller, National Oceanic and Atmospheric Administration, Department of Commerce, Germantown, MD, appearing for Department of Commerce.

DRUMMOND, Board Judge.

Thomas D. Martin, an employee of the National Oceanic and Atmospheric Administration, seeks reconsideration of our decision in *Thomas D. Martin*, CBCA 5082-RELO, 16-1 BCA ¶ 36,324. In *Martin*, claimant sought reimbursement for \$9000 paid towards the buyer's closing costs pursuant to a permanent change of station. Those costs included:

Line #803	Adjustment Origination	\$6275.00
Line #805	Credit Report	\$ 36.12
Line #1101	Title Service & Lenders Title Insurance	<u>\$2688.88</u>
Total		\$9000.00

The agency denied the claimed costs as not customarily paid by the seller, and we sustained the agency's decision.

On reconsideration, Mr. Martin has submitted a comparative market analysis prepared by his realtor which shows that it is customary for sellers in his old neighborhood and the surrounding neighborhoods to pay up to 3% towards the buyer's closing costs. The agency now states that it no longer contests claimant's entitlement to the claimed costs.

Under the Federal Travel Regulation (FTR), which is applicable in this case, the seller of a residence is entitled to reimbursement for those costs that are “customarily charged to the seller of a residence in the locality of the old official station.” 41 CFR 302-11.200 (2015). The burden is on the claimant to establish by a preponderance of the evidence that it is customary for the seller to assume some or all of the buyer’s costs in the locality where the residence is located. *Charity Hope Marini*, CBCA 4760-RELO, 16-1 BCA ¶ 36,192 (2015), at 176,574. This burden may be met by showing “specific evidence of the number and percentage of sales in the same community, over a substantial period of time, that involved seller contributions to buyer’s closing costs” *Id.*

We find that Mr. Martin has demonstrated that the claimed costs are customarily paid by the seller in Virginia Beach. The Board, therefore, finds that he is entitled to be reimbursed the \$9000.

Decision

Mr. Martin’s request for reconsideration is **GRANTED**.

JEROME M. DRUMMOND
Board Judge