



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 15, 2014

CBCA 3462-RELO

In the Matter of DAVID HARBOUR

David Harbour, Arlington, VA, Claimant.

John T. Park, Deputy Director, Force Management Policy, Manpower Personnel and Services, Department of the Air Force, Washington, DC, appearing for Department of the Air Force.

STERN, Board Judge.

The United States Air Force (Air Force) issued permanent change of station orders for the transfer of claimant from Hawaii to the vicinity of the Pentagon in Washington, D.C. Claimant was eligible and authorized to enroll in the Department of Defense National Relocation Program (DNRP) as part of his transfer.

The guaranteed home sales services (GHS) program is part of the DNRP and provides an alternative to the standard real estate expense reimbursement to someone being transferred by the Department of Defense. Numerous criteria must be satisfied to be eligible to participate in the GHS program. Each participant receives a guaranteed price offer for the sale of his home.

The Joint Travel Regulations (JTR) provide, “[T]he maximum value which home sales services are payable is \$750,000, unless waived by the funding activity.” JTR C5810-D.1. If a home is sold for a price greater than \$750,000, the employee is responsible for any additional cost unless the maximum is waived. JTR C5810-D.2. Pending enrollment in the DNRP program, the Air Force appraised claimant’s property to determine whether to waive the \$750,000 limit if claimant chose to enroll.

Claimant's home in Hawaii is located on a 29.33 acre parcel of land. Based on prior sales in the area, claimant maintains that the value of his home and property is \$1,492,202. The agency valued the property using a different methodology. The Hawaii tax assessment records show the property had two land grants, one of approximately nine acres and one of about twenty-nine acres. The agency maintains that the Hawaii tax records value the residence at \$629,600 and the land at \$423,300. The Air Force used the \$629,600 figure for the value of the residence and used the proportionate value of land representing nine of the twenty-nine acres of land on which the house sits, or \$129,798. The Air Force thus granted a waiver of the \$750,000 JTR limit to \$759,398. The parties quarrel over whether the excess property is part of the main property or whether it is excess land. The Air Force submits that claimant has admitted that 10.36 acres were used as an active hardwood plantation.

Claimant argues that the Board should direct the Air Force either to use his (or a similar) methodology to value the property, or to use a home appraiser to determine the property value. The Air Force argues that different methodologies can be used to determine the value of a property for its consideration in whether to waive the \$750,000 regulatory limit.

Regardless of the method used to value claimant's property, the JTR clearly leaves the waiver of the \$750,000 maximum to the agency's discretion. We have held that when regulations vest discretion in an agency regarding the reimbursement of expenses, the agency's judgment will not be disturbed unless the determination is arbitrary, capricious, or clearly erroneous. *William F. Brooks, Jr.*, CBCA 2595-RELO, 12-2 BCA ¶ 35,064, and cases cited therein.

Here, the Air Force used a method of valuation different from that proposed by claimant. Based on this evaluation the Air Force, in its discretion, waived the valuation limits set forth in the JTR, but not up to the amount sought by claimant. We find that the method used by the Air Force in determining the valuation and the amount of waiver granted by the Air Force were not arbitrary, capricious, or clearly erroneous. We therefore uphold the determination as made by the Air Force.

Decision

The claim is denied.

JAMES L. STERN
Board Judge