

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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May 31, 2006

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GSBCA 16829-RELO

In the Matter of LISA B. BALLARD

Lisa B. Ballard, Goose Creek, SC, Claimant.

Shawn Pompian, Attorney-Adviser, Office of the Legal Adviser, Department of State,  
Washington, DC, appearing for Department of State.

**DeGRAFF**, Board Judge.

In March 2005, Lisa B. Ballard, an employee of the Department of State, transferred from Massachusetts to South Carolina. Legal title to Ms. Ballard's residence in Massachusetts was held by a revocable trust created by Ms. Ballard's parents, and the trust document gave Ms. Ballard's parents, as trustees, the power to dispose of the property. When Ms. Ballard transferred to South Carolina, the Massachusetts property was sold and her parents signed the deed and the settlement statement as the sellers. Although State reimbursed some of Ms. Ballard's relocation expenses, it decided not to reimburse her claimed real estate sales transaction expenses because it determined she did not hold either legal or equitable title to the real property she occupied when she lived in Massachusetts. Ms. Ballard asked us to review State's decision.

By statute, when a federal civilian employee transfers from one official duty station to another and incurs real estate sales transaction expenses in connection with the sale of a residence at the old duty station, the employee is entitled to be reimbursed, provided several requirements are met. One such requirement concerns title to the property. The statute says title must be held in the name of the employee alone, jointly by the employee and a member of the employee's immediate family, or by a member of the employee's immediate family alone. 5 U.S.C. § 5724a (2000).

The regulations which implement the statute explain that agencies will determine who holds title based upon the name which appears on the deed, or based upon who has an equitable title interest in the property. 41 CFR 302-11.102 (2005). In order to have equitable title to property held in trust, the employee and/or a member of the employee's immediate family must retain the right to distribute the property during their lifetimes, and the employee and/or a member of the employee's immediate family either must be the only grantor/settlor of the trust or must retain the right to direct distribution of the property upon dissolution of the trust. 41 CFR 302-11.105(a). The regulations define "immediate family" as including, among others, dependent parents who are members of the employee's household at the time the employee reports for duty at the new permanent duty station. 41 CFR 300-3.1.

Applying the provisions of the regulations to the facts presented by Ms. Ballard's claim, we conclude she does not meet the requirements for being reimbursed. She did not hold legal title to the property in Massachusetts, because her name did not appear on the deed. She did not have an equitable title interest in the property because she was not a grantor of the trust and had no right to dispose of or distribute the property. Although Ms. Ballard's parents were the grantors of the trust and had the right to dispose of or distribute the property, they were not members of her immediate family. Because Ms. Ballard does not meet the requirements set out in the regulations for reimbursement of real estate sales transaction expenses, State correctly decided to deny her claim.

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MARTHA H. DeGRAFF  
Board Judge