

FLSA-634

January 28, 1981

This is in reply to your letter requesting a determination of the reasonable cost of housing furnished to employees by your client.

Employers taking credit as part of wages for housing must show that the amount charged meets "reasonable cost" as defined in Section 531.3(a) of the enclosed copy of 29 CFR Part 531 as "not more than the actual cost to the employer." As further provided in the Regulations, if the actual cost "is more than the fair rental value..., the fair rental value... shall be the reasonable cost" (29 CFR Part 531.3(c)). The "actual cost to the employer" generally involves the following factors:

Investment

1. Cost of land that the house is situated on, not the entire area, plus
2. Cost of house structure, plus
3. Cost of capital improvements,
4. Less depreciation on house and improvements
5. Equals depreciated investment

If the house (land, structure, and capital improvements) have been fully depreciated, no credit can be taken for investment.

Cost of Operation (per annum)

1. Interest on depreciated investment at 5 1/2%
2. Depreciation
3. Taxes
4. Repairs and maintenance
5. Insurance
6. Water
7. Electricity and fuel

All such costs are to be allocated over the entire working season, divided by total weeks comprising the season, and then divided by the number of employees per week. It is this actual cost of operation which the employer is entitled to claim as "reasonable cost" of furnishing housing.

However, as the regulations make clear, even if the costs to your client as outlined above are part of the "reasonable cost" under section 3(m), it would still be necessary to determine whether the fair rental or fair price of the facilities in question is lower than the reasonable cost. If so, those measures of value rather than the reasonable cost are to be counted towards the employer's wage obligation.

Applying the criteria set forth above, it is believed you will be able to determine the "reasonable cost" or "fair value" of the facilities your client furnished his or her employees. However, if you find you are unable to make these determinations, you may wish to furnish the required data to this office.

Sincerely,

Brooks N. Sipes, Chief
Branch of Wage and Hour Standards

Enclosure