

11174 PLM-1

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-193578

DATE: August 20, 1979

MATTER OF: John D. Garrity - Reimbursement of Incidental Real Estate Expenses *[Claim for]*

- DIGEST:
1. Department of Housing and Urban Development employee claims cost for gas line inspection incurred prior to sale of home incident to transfer from Columbus, Ohio, to Washington, D.C. Fee may not be authorized for payment since record does not show inspection was required for sale of the residence.
  2. Department of Housing and Urban Development employee may not be reimbursed cost of 1-year Homegard Home Maintenance Service Contract incident to transfer from Columbus, Ohio, to Washington, D.C. Homegard Contract is insurance against seller's contingent liability for defects in home and hence is not allowable under para. 2-6.2d, Federal Travel Regulations, which precludes reimbursement of insurance expenses. Also, Homegard Contract is intended to protect against future maintenance costs and regulation precludes payment of maintenance costs.  
Philip R. Rosen, B-187493, April 1, 1977, modified.

Ms. Lena M. Jones, an authorized certifying officer of the Department of Housing and Urban Development (HUD), requests an advance decision whether she may certify for payment a reclaim voucher for \$268 submitted by Mr. John D. Garrity, an employee of HUD. The voucher covers items disallowed by HUD when Mr. Garrity claimed reimbursement of expenses incurred in connection with the sale of his home incident to a transfer from Columbus, Ohio, to Washington, D.C. There are two items on the voucher, one for \$18 representing a gas line inspection fee and one for \$250 representing the cost of a 1-year Homegard Home Maintenance Contract.

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Mr. Garrity reclaims reimbursement of the expenses under the provisions of Federal Travel Regulations (FPMR 101-7) paragraph 2-6.2f (March 1973). That regulation provides for reimbursement of incidental charges made for required services in selling residences if they are customarily paid by the seller of a residence at the old official station. For the reasons stated below neither item is allowable.

Mr. Garrity claims that he is entitled to reimbursement for the gas line inspection because a gas line inspection is statutorily required by the city of Columbus, Ohio. Specifically, he states that Ordinance No. 75-1278 requires that the seller provide evidence of such inspection prior to the sale of the home and that the customary rate for a gas line inspection in single family homes is \$18. The City Attorney's Office of Columbus, Ohio, has informally advised us that City Ordinance No. 1278-75 has nothing to do with gas line inspections and there is no ordinance requiring a seller to provide evidence of a gas line inspection prior to the sale of a house. Therefore, the cost of the inspection may not be allowed on the basis that it is required by statute.

We note that the inspection is required by a standard clause in the realtor's printed sales contract form. But there is no evidence that it is customary to require a gas line inspection in Columbus. Thus, the cost of the inspection may not be allowed on the present record. Nevertheless, if Mr. Garrity can furnish evidence to HUD that it is customary in Columbus to require a gas line inspection upon sale of a residence, the cost thereof may be certified for payment.

Mr. Garrity asserts that he is entitled to reimbursement for the cost of the 1-year Homegard Service Contract protection for the following two reasons. First, Mr. Garrity claims that the purchase of Homegard in the Columbus, Ohio, area has become an expected and routine procedure and that a survey of the Columbus Board of Realtors stated that in 1977, prior to the date of sale of his residence, 71 percent of all single family real estates sales in the Columbus area included the provision of a home warranty policy by the seller for the purchaser. Second, Mr. Garrity contends that the purchaser required as a condition of sale that Mr. Garrity purchase Homegard protection and that the sale of his residence would not have occurred without the purchase of Homegard. In connection with the

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above an examination of the sales contract shows Mr. Garrity, after negotiating with the purchaser, agreed to provide the home maintenance contract.

In Philip R. Rosen, B-187493, April 1, 1977, we established a test to determine whether a Homegard Maintenance Service Contract was allowable in connection with the sale of a home in accordance with FTR paragraphs 2-3.1 and 2-6.2f. The test involved a determination whether a Homegard contract was required by law or custom or by lending institutions in the area. However, after further consideration, we conclude that a Homegard Maintenance Service Contract is an insurance contract to provide maintenance services and that the provisions of FTR paragraph 2-6.2d are directly controlling as to the claimed expenditure. This paragraph states the following regarding reimbursement of insurance and maintenance costs:

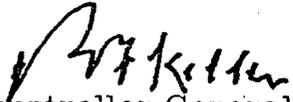
"d. Miscellaneous expenses. \* \* \* The cost of a mortgage title policy paid for by the employee on a residence purchased by him is reimbursable but costs of other types of insurance paid for by him, such as an owner's title policy, a 'record title' policy, mortgage insurance, and insurance against damage or loss of property, are not reimbursable items of expense. \* \* \* Property taxes and operating or maintenance costs also are not reimbursable. \* \* \*"

The regulation specifically precludes reimbursing the purchaser for insurance expenses, including insurance against damage or loss of property. The purchase of Homegard is a separate charge for buying insurance to eliminate the seller's contingent liability to the buyer for defects in the home. Although in this case it is the seller who is purchasing the insurance contract, we construe the intent of the prohibition in FTR 2-6.2d to be applicable to the seller as well as the purchaser. Hence, the insurance expenses for purchasing Homegard may not be reimbursed to the seller. Moreover, since the insurance in question is to provide protection against future maintenance costs, reimbursement is also precluded by the provision in FTR 2-6.2d excluding the reimbursement of maintenance costs to either the seller or purchaser. See Vincent A. Crovetti, B-189662, October 4, 1977. In this connection we point out that the cost of the Homegard contract may not be allowed as a miscellaneous expense under FTR chapter 2, part 3, since FTR 2-3.1c provides

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that the allowance shall not be used to reimburse the employee for expenses that he incurred but which are disallowed elsewhere in the FTR. Therefore, the test established in Rosen is no longer controlling concerning Homegard and similar contracts and Rosen is modified accordingly.

In view of the above, the reclaim voucher may not be certified for payment.

  
Deputy Comptroller General  
of the United States