

DECISION



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

FILE: B-184928

DATE: SEP 15 1976

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MATTER OF: Stanley S. Fancher - Relocation expenses

DIGEST:

1. Transferred employee who constructed residence at new official station may not be reimbursed for payment of that part of attorney's fee which represents conferences, telephone calls, and attendance at closing since such services are advisory in nature.
2. Transferred employee may not be reimbursed for payment of commitment fee incident to construction of residence at new official duty station since it is finance charge under Truth in Lending Act and reimbursement is precluded under FTR, para. 2-6.2d.
3. Transferred employee who constructed residence at new official station may be reimbursed for inspection expenses comparable to inspection expenses that are reimbursable in connection with purchase of existing residence, but not for cost of making inspections which result from construction.
4. Transferred employee who constructed residence at new official station and obtained both permanent mortgage loan and construction mortgage loan may not be reimbursed for cost of owner's title policy since reimbursement is prohibited by FTR, para. 2-6.2d, nor for cost of title policy on construction mortgage loan since there may be reimbursement only for expenses incident to permanent mortgage loan. However, mortgage title policy fee incident to permanent mortgage loan may be reimbursed.

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5. Transferred employee who constructed residence at new official station may not be reimbursed for expense of installation of drain since it results solely from construction and is not comparable to expenses reimbursable in connection with purchase of existing residence.

This action responds to a request dated September 11, 1975, by Ella G. Smith an authorized certifying officer of the Interstate Commerce Commission for a decision on whether a travel voucher submitted by Mr. Stanley S. Fancher may be certified for payment. Mr. Fancher claims \$1,889.78 for expenses incurred in connection with the construction of a new residence in Littleton, Colorado, incident to his transfer from Dallas, Texas, to Denver, Colorado.

Mr. Fancher claims the following expenses:

Legal and related costs	\$215.00
Lender's appraisal fee	50.00
VA application fee	168.30
Certifications	480.00
Credit report	21.50
Mortgage title policy	206.78
Mortgage taxes	118.20
Other incidental expenses	630.00

Reimbursement for expenses incurred in connection with residence transactions are governed by Federal Travel Regulations (FPMR 101-7), para. 2-6.2 (May 1973). It provides that certain enumerated legal and related expenses are reimbursable incident to the construction of a new residence to the extent they have not been included in brokers' or similar services for which reimbursement is claimed if they are customarily paid by the purchaser at the new official station and if they do not exceed amounts customarily charged in the locality of the residence.

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We have held that only those parts of an attorney's fee that represent services of the type enumerated in the regulation are reimbursable and that no reimbursement may be allowed for legal services that are of an advisory nature. B-183162, January 27, 1976. The bills for professional services submitted by the attorney representing Mr. Fancher incident to the construction of his residence show that services rendered were for conferences, telephone calls, and attendance at the closing and are of an advisory nature and may not be certified for payment.

The claim for \$50 for an appraisal fee incurred incident to the Veterans Administration loan is consistent with FTR, para. 2-6.2b, and is proper for payment. B-174106, October 21, 1971.

The claim for \$168.30, listed under the heading "FHA or VA Application Fee," represents a commitment fee paid to the Government National Mortgage Association (GNMA) to secure a mortgage loan from the Continental National Bank of Englewood, Colorado. FTR, para. 2-6.2d provides that no fee is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z, 12 C.F.R. § 226.4 (1975). Regulation Z provides that a finance charge is the sum of all charges, payable directly or indirectly by the customer and imposed directly or indirectly by the creditor, as a condition to the extension of credit. It appears that the commitment fee involved here is a finance charge within the meaning of Regulation Z. An FHA or VA application fee is reimbursable only to the extent it includes charges for a credit report, appraisal, or other specified reimbursable expenses. B-174106, supra. Since those reimbursable items are included elsewhere on the voucher, the commitment fee claimed here is not of the nature of an FHA or VA application fee.

Mr. Fancher's claim for reimbursement of certifications costs (\$480) includes the following items:

Four VA inspections	\$ 46.00
Soil inspection	225.00
Foundation design and drawing	185.00
Excavation inspection	24.00

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FTR, para. 2-6.2d permits reimbursement of construction expenses which are comparable to expenses that are reimbursable in connection with the purchase of existing residences. However, it specifically excludes expenses "which result from construction." We have held that construction loan charges, plans and engineering charges, and expenses specifically related to the construction process are not allowable. See B-170057, August 11, 1970. Accordingly, the certification costs incurred incident to the construction are not allowable.

The credit report fee of \$21.50 incurred incident to the Veterans Administration loan is reimbursable if it is customarily paid by the purchaser at the new official station. See FTR, para. 2-6.2d.

The claim listed as mortgage title policy \$206.78 consists of the cost of a title policy on the Veterans Administration permanent loan of \$155.96 and the cost of a title policy on the construction loan of \$50.82. From the information furnished we are unable to determine whether the costs are for mortgage title policies or owner's title policies. If the \$155.96 paid for on the Veterans Administration loan is for a mortgage title policy paid for by the employee it is reimbursable. If it is an owner's title policy it is not reimbursable. See FTR, para. 2-6.2d. Also, the sum of \$50.82 claimed for the title policy cost on a construction loan may not be paid since we have held that when there are expenses incurred relating to a construction mortgage loan and a permanent mortgage loan, there may be reimbursement only for the expenses relating to the permanent mortgage loan. B-182412, April 18, 1975.

The sum of \$118.20 for mortgage taxes on the construction loan would be for disallowance, B-182412, supra.

The claim for reimbursement of other incidental expenses (\$630) includes the following items:

Abstract and recording fees	\$21.00
Survey fees (3)	153.25
Certificate of taxes due	5.00
State documentary fee	1.05
Installation of drain	450.00

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It is noted that the employee is claiming \$630 for incidental expenses. However, the breakdown of the incidental expenses as furnished by him show a total of \$630.30.

The \$13 recording fees incident to the Veterans Administration loan and the \$2 recording fee incident to the purchase of the lot may be paid. However, the balance of the recording fees are incident to the construction loan and may not be paid. Also, the survey fees (3) totaling \$153.50, and the certificate of taxes due, \$5, were incurred as the result of the construction loan and may not be paid. The state documentary fee, \$1.05, resulting from the purchase of the lot on which the residence was constructed may be allowed. The fee for installation of a drain, \$450, apparently required by the Veterans Administration in order to obtain financing, is not reimbursable since it is an expense which results solely from construction and is not comparable to expenses reimbursable in connection with the purchase of existing residences. B-182412, April 18, 1975.

R.F. KELLER

Deputy Comptroller General
of the United States