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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Ray F. Hunt - Real Estate Expense
Reimbursement - Residence Construction

File: B-226271

Date: November 5, 1987

DIGEST

1. A transferred employee constructed a residence at his new permanent station rather than purchase an existing residence. The expenses authorized by paragraph 2-6.2d of the Federal Travel Regulations to be reimbursed are those which are comparable to expenses incurred in connection with the purchase of an existing residence. Since the expenses incurred as a result of permanent financing of the residence are most representative of the expenses incurred to purchase an existing residence, the employee's entitlement should be primarily based on the expenses attendant to that settlement.

2. A transferred employee constructed a residence at his new permanent station. Although the expenses authorized by paragraph 2-6.2d of the Federal Travel Regulations (FTR) to be reimbursed are those usually incurred incident to the securing of permanent financing upon completion of the residence, other expenses incurred prior to permanent financing also may be reimbursed so long as they are not a duplication of an expense item already allowed incident to that permanent financing, an expense uniquely applicable to the construction process, or a nonreimbursable item listed under FTR para. 2-6.2d(2).

DECISION

This decision is in response to a request from the Corps of Engineers, Los Angeles District, Department of the Army. It concerns the entitlement of Mr. Ray F. Hunt to be reimbursed certain real estate expenses incident to a permanent change of station transfer in December 1985. We conclude that only some of the items claimed may be allowed.

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BACKGROUND

Mr. Ray F. Hunt was transferred from El Toro, California, to Edwards Air Force Base, California, with a reporting date of December 10, 1985. Incident to that transfer, Mr. Hunt purchased a lot in Helendale, California, for the purpose of building a residence. By voucher dated October 10, 1986, he submitted a real estate expense claim incident to purchase, construction, and permanent financing of the residence built on that lot, totaling \$3,070.10. Of that amount, \$2,133.60 was disallowed by the agency on the basis that the items represented nonreimbursable finance charges under Regulation Z, refinancing expenses, or expenses incurred in connection with house construction.

Mr. Hunt argues that many of the disallowed expenses were incident to the refinancing of his construction loan and that such refinancing was to secure his permanent mortgage loan. Mr. Hunt also contends that other expenses should be allowed as well. Because he purchased land, secured a construction loan, and then secured a permanent mortgage loan, he argues that expenses had to be incurred to establish three escrow accounts, secure three title insurance policies, and have two appraisals performed to support the loans.

Because the agency is not certain which expenses are reimbursable, we will examine Mr. Hunt's claim in its entirety, including reimbursements already made.

RULING

The provisions governing reimbursement for real estate expenses incident to a transfer of duty station are contained in 5 U.S.C. § 5724a (1982) and regulations issued pursuant thereto. Those regulations are contained in part 6 of chapter 2, Federal Travel Regulations, (Supp. 1, Sept. 28, 1981), incorp. by ref., 41 C.F.R. § 101-7.003 (1985) (FTR), as amended by Supp. 4, Aug. 23, 1982. Paragraph 2-6.2d of the FTR provides that where a transferred employee decides to construct a residence at his new permanent duty station rather than purchase an existing residence, the expenses for which reimbursement may be made are "those items of expense which are comparable to expenses that are reimbursable in connection with the purchase of

existing residences and will not include expenses which result from construction."

The basic issue to be resolved in residence construction cases is whether the particular real estate transaction expense claimed is one which would have been incurred by the employee had he purchased an existing residence. If the expense incurred relates particularly to the construction process, it is not allowable. Richard T. Bible, B-208302, July 17, 1984. For example, in Jack T. Brawner, B-192420, August 27, 1979, we ruled that the cost of blueprints, plot plans, a certificate of elevation, building permits, development fees, and building site trash removal were considered nonreimbursable since they related specifically to the construction process and would not have been incurred had the employee purchased an existing residence. We have also held that the intent of the regulations is to permit reimbursement to the employee for only the authorized expenses relating to one sale and one purchase of a residence. Michael D. May, B-223112, November 25, 1986. See also Douglas D. Walldorff, 57 Comp. Gen. 669 (1978), regarding expenses associated with an unconsummated contract of sale.

In the present case, the necessary expenses and mortgaging required at each stage of the building process, from purchase of land to ownership of a dwelling on that land as the employee's residence, are clearly delineated. In each stage there were expenses which could be reimbursable had the employee purchased an existing residence, e.g., mortgage title insurance, deed and other document preparation costs, State revenue stamps and recordation fees. However, the employee may be reimbursed only once for each type of expense that is allowable under the law and regulations. See May, cited above. Since the expenses incurred incident to the permanent mortgage loan are most representative of expenses an employee would incur had he purchased an existing residence, our determination of entitlement should be primarily based on an examination of that settlement summary.

Mr. Hunt secured his permanent mortgage loan and went to that settlement on October 10, 1986. According to his settlement summary sheet, that loan was used to pay off the loan previously secured from the One Central Bank for

construction. As part of that last financing, Mr. Hunt was required to pay a loan origination fee and, since it was an FHA approved loan, an appraisal fee. These fees may be reimbursed under FTR para. 2-6.2d. See Roger J. Salem, 63 Comp. Gen. 456 (1984); Mark Kroczyński, 64 Comp. Gen. 306 (1985).

The second category of charges listed in the settlement summary involved expenses associated with clearing previous encumbrances on title to the property. Mr. Hunt was required to pay a fee to the settlement agent for these services as well as an extra document preparation fee (demand fee) due to additional paperwork required by the FHA, a premium for title insurance required by his permanent mortgage lender, and a subescrow fee charged by the title company. The third category listed recording and transfer fees. It is our view that all the items charged in these two categories are properly reimbursable to Mr. Hunt.

Therefore, the items contained in the settlement summary which are reimbursable to Mr. Hunt incident to permanent financing are:

Loan origination fee	\$ 648.00
FHA appraisal fee	150.00
Settlement agent fee	288.00
FHA document preparation fee	15.00
Lenders title insurance	307.60
Title Company subescrow	50.00
Recording fees	18.00
	<u>\$1,476.60</u>

In addition, we note that Mr. Hunt was required to have a termite inspection incident to securing the permanent mortgage loan. This was performed on October 1, 1986, at a cost of \$50. Since this was a required service and not included in the settlement summary, it may also be reimbursed. See FTR para. 2-6.2f and Robert E. Grant, B-194887, August 17, 1979.

We note that no credit report expense was incurred incident to securing the permanent mortgage loan. Normally, this expense is one that is incurred where an individual seeks a mortgage loan for the purchase of an existing residence.

In the present case, it has been shown that a credit report fee of \$37 was charged Mr. Hunt, but in connection with his construction loan. Since this fee could have been charged incident to the granting of the permanent loan, it is not an expense uniquely particular to a construction loan and may be reimbursed. FTR para. 2-6.2d(1)(c). Therefore, the total expenses reimbursable to Mr. Hunt are \$1,563.60. All other expense items claimed were incurred prior to permanent mortgage financing and are either a duplication of an item allowed by this decision, an expense uniquely applicable to construction, or a nonreimbursable item under FTR para. 2-6.2d(2).

Accordingly, since \$936.50 has already been paid Mr. Hunt, his additional reimbursement for real estate expenses is limited to \$627.10.

for 
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of the United States