

DECISION

13554 PLMI
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-197523

DATE: April 25, 1980

MATTER OF: Ivan V. Faucon - Owner's Title Insurance Policy

DIGEST: Transferred employee who purchased residence at new official station seeks reimbursement of \$404 for the cost of owner's title. Employee was charged \$404 for the owner's title policy and \$30 for the mortgagee's title policy, total \$434. Employee may be reimbursed \$319 since mortgagee title policy is allowable under the Federal Travel Regulations (FPMR 101-7) para. 2-6.2d and such policy would have cost \$319 if purchased separately. Claim for remaining \$115, allocable to cost of owner's title insurance, is disallowed.

This action is in response to a request for reconsideration of the claim of Mr. Ivan V. Faucon for reimbursement of the costs of title insurance incurred in connection with the purchase of a residence incident to a permanent duty transfer to Fort Hood, Texas, as an employee of the Department of the Army. Mr. Faucon's claim was disallowed by our Claims Division by settlement dated September 18, 1979.

The record shows that Mr. Faucon was required by the lender to purchase mortgage title insurance. There is no indication that an owner's title policy was similarly required for the completion of Mr. Faucon's purchase of his residence at Copperas Cove, Texas. Mr. Faucon incurred costs in the total amount of \$434 for title insurance. The amount includes a charge of \$404 for an owner's policy and a charge of \$30 for a mortgagee's (lender's) policy. Our Office has been advised by the title company which issued both policies, that if the lender's policy had not been purchased in conjunction with the owner's policy, the cost of the lender's policy alone would have been \$319.

Section 5724(a)(4) of title 5, United States Code (1976), provides for reimbursement, under such regulations as the President may prescribe, of the expenses incurred by an employee in the sale of his or her residence at the old official station and purchase of a home at

~~009997~~

112163

the new station. The Federal Travel Regulations (FTR) (FPMR 101-7) (1973), part 2-6 implements section 5724a(a)(4). FTR para. 2-6.2d provides in pertinent part:

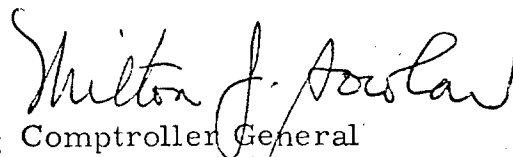
"The following expenses are reimbursable with respect to the * * * purchase of residences if they are customarily paid by * * * the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily paid in the locality of the residence: * * *. The cost of a mortgage 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, * * * are not reimbursable items of expense."

In William E. Harris, B-181074, August 27, 1974, we considered a situation similar to Mr. Faucon's where the transferred employee, incident to the purchase of a residence, bought both a mortgagee's title policy and an owner's title policy with \$175 apportioned to the owner's policy and \$15 apportioned to the mortgagee's title policy. Had he purchased just the mortgagee's title insurance policy, its cost, reimbursable under FTR, para. 2-6 2d, quoted above, would have been \$170. We there held that the employee should be reimbursed the \$170 amount allocable to the cost of the mortgagee's title insurance policy if purchased separately, regardless of how the cost of the policies nominally might be apportioned. Accordingly, since \$319 represents the cost of the mortgagee's title policy if purchased separately, Mr. Faucon may be allowed \$319, minus the amount of \$30 for mortgagee's title insurance which appears to have already been reimbursed him, if otherwise proper. A settlement will be issued in the amount found due.

As for the remaining \$115, that amount represents the cost of owner's title insurance which is specifically nonreimbursable under FTR para. 2-6.2d. Limited exceptions have been recognized when such cost is necessarily incurred by the seller to prove or guarantee marketable title, 46 Comp. Gen. 884 (1967), or by the buyer as a legal prerequisite to the transfer of the property or to obtaining financing in connection with the transfer of property, Carl F. Wilson, B-186579, October 28, 1976. Neither exception is applicable here. Since the cost of the owner's title policy in this case was not necessary

B-197523

to consummation of the real estate transaction and was incurred primarily for the personal benefit of the purchaser, the remaining \$115 of Mr. Faucon's claim must be disallowed. See Alex Kale, 55 Comp. Gen. 779 (1976).



Acting Comptroller General
of the United States