

DECISION

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

FILE: B-206051

DATE: September 29, 1982

MATTER OF: Dennis R. Smetana - Survey Fees

- DIGEST:**
1. Employee was transferred to Roundup, Montana, and incurred fees for a survey of a one-acre tract of land before he could get financing to construct his residence. Claim was originally denied since travel regulations prohibit reimbursement for construction costs. However, if the survey was also required in order to get permanent mortgage financing for the employee's residence, reimbursement for the survey fees may be allowed.
 2. Employee claimed \$600 for survey fees since surveyor had to go to property three times as the original survey pins were incorrect. The agency contacted the Department of Housing and Urban Development and was informed that normal survey costs for that area were \$75. Employee may only be reimbursed \$75 for survey costs since travel regulations limit reimbursement for survey costs to those customarily charged in that locality.

Anita R. Smith, an authorized certifying officer of the United States Department of Agriculture, requests an opinion on the claim of Mr. Dennis R. Smetana for reimbursement of real estate expenses incurred incident to the construction of a residence at his new duty station. The issue presented is whether he may be reimbursed for all or part of his survey fees. Our review indicates that Mr. Smetana may be entitled to be reimbursed for part of his survey fees.

The record reveals that Mr. Smetana, an employee of the Soil Conservation Service, was authorized a change of station from Wolf Point, Montana, to Roundup, Montana. In connection with his move, Mr. Smetana purchased a 23-acre tract upon which he planned to have his home

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constructed. Mr. Smetana claimed \$600 for a survey fee stating that the survey was required before the Evans Corporation, the builder of the home, would allow construction to begin. Mr. Smetana had a survey prepared on a one-acre tract of land within the larger tract which he had purchased. According to the Contract for Deed the purpose of the survey was as follows:

"It is understood and agreed that Buyers need a release of a one acre tract located in the above described larger tract for the purpose of financing a home to be constructed thereon. Sellers agree to convey said one acre tract or release one acre from this contract so that Buyers can obtain financing for the new home and give a first mortgage to any lending institution for the home. * * * If it is necessary to survey out said one acre tract for the purpose of completing the release of said acre and the obtaining of a first mortgage on said premises, Buyers agree to pay the costs of the surveying necessary. * * *"

Mr. Smetana's claim was denied by his agency on the basis of paragraph 2-6.2d of the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR), and our decision Stanley S. Fancher, B-184928, September 15, 1976, which held that in cases involving construction of a residence, expenses which result from construction are not reimbursable. By memorandum dated November 19, 1981, Mr. Smetana clarified his reason for having the survey performed. He stated that the survey was necessary for obtaining legal title to the home site of one acre and to support the mortgage title insurance policy. He states that once he obtained clear title to the property he could obtain a loan to construct the house. Therefore, he claims that the expenses were not incident to the construction of his home, but were reimbursable under paragraph 2-6.2c of the FTR.

Paragraph 2-6.2c provides that the costs of making surveys are reimbursable to the extent that

they have not been included in broker's and similar services for which reimbursement is claimed if they are customarily paid by the purchaser of a residence at the new official duty station and to the extent they do not exceed amounts customarily charged in the locality of the residence. However, FTR paragraph 2-6.2d states that in cases involving construction of a residence, reimbursement of expenses would include 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 first issue is whether the survey expenses were incurred by reason of the construction of the home.

In Stanley S. Fancher, above, we denied reimbursement of survey fees to an employee who had his home constructed incident to his transfer to a new official station because the survey fees were incurred as the result of the construction loan. There seems little doubt from the above-quoted portion of the Contract for Deed and from Mr. Smetana's own admission that in his case the survey was required in order that he could obtain construction financing for his home.

However, although the record is not clear on this point, both the Contract for Deed and Mr. Smetana's statements indicate that the survey was also needed to obtain permanent mortgage financing. We have held that where an employee incurs expenses relating to both a construction loan and a permanent mortgage loan, reimbursement may be made only for the expenses relating to the permanent mortgage loan. Gerald T. Haudek, B-186923, October 13, 1976. If, therefore, Mr. Smetana can show that the survey was also required in order that he obtain permanent mortgage financing, the fee may be paid under the restriction set out below.

The certifying officer also questions the excessive cost of the survey. Mr. Smetana's explanation for the high cost is that there were no local surveyors in Roundup, Montana. It was necessary to bring in a surveyor from Billings, Montana, which is 55 miles

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from the home site. Also, due to incorrect survey pins, the surveyor had to make three trips to Roundup and consult the engineering firm that originally surveyed the larger 23-acre tract parcel in order to obtain the correct calculations. However, the certifying officer states that he contacted the Housing and Urban Development (HUD) Office for that area and HUD stated that the customary charge for a survey was \$75. Mr. Smetana states that he contacted two other surveyors who stated that the \$600 fee was more than reasonable considering all the factors involved.

As stated above, costs of surveys are reimbursable under FTR paragraph 2-6.2c only to the extent that they do not exceed amounts customarily charged in that area. Although Mr. Smetana may have had legitimate reasons to incur high surveying costs, the travel regulations do not allow reimbursement for such high costs. See generally B-165200, September 23, 1968, and B-166764, May 21, 1969, concerning excess real estate commission fees. Here the agency has contacted the local HUD office and was informed that the customary surveying fee in that area was \$75. Therefore, Mr. Smetana may be reimbursed for survey fees of \$75 if the fee is shown to have been required to obtain permanent mortgage financing.

Henry K. Canine
For Comptroller General
of the United States