



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20543

B-178750

July 12, 1973 ³¹¹⁷¹

Mr. David M. Kramer
Authorized Certifying Officer
Federal Highway Administration
Region One
United States Department of Transportation

Dear Mr. Kramer:

We refer to your letter of May 25, 1973, reference 01-00.1, requesting our decision whether Mr. Gerald Kennedy, an employee of the Federal Highway Administration, is entitled to reimbursement in the amount of \$130 for a portion of the cost of an owner's title policy which he obtained on a residence he purchased in Warwick, Rhode Island, incident to his change of official duty station from Albany, New York, to Providence, Rhode Island.

The record shows that Mr. Kennedy claimed a total of \$199 as reimbursable real estate expenses resulting from the purchase of a home at his new duty station. Mr. Kennedy's bank, the Industrial National Bank of Rhode Island, listed the relevant buyer's expenses in the following manner:

\$ 50 processing fee
\$ 19 recording fee
\$275 owner's title policy charge

Mr. Kennedy claimed the first two items and \$130 of the \$275 item. You allowed the first two items as reimbursable expenses, but disallowed the \$130 of the owner's title policy charge claimed. In disallowing this item you pointed out the specific language of section 4.2d of Office of Management and Budget Circular No. A-56 which states in pertinent part:

*** 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. ***

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Mr. Kennedy contends in his reclaim voucher that the \$130 claim represents that portion of the cost of the owner's title policy which is attributable to the cost of the title work done by the bank's attorney. While he concedes that the \$145 additional charge levied by the bank at the closing when he elected an owner's title policy in lieu of a mortgagee's title policy is a nonreimbursable personal expense, Mr. Kennedy believes that the balance of \$130 is tantamount to the cost of a mortgagee's title policy which the bank requires in any case as a minimum prerequisite for financing. In support of his contention Mr. Kennedy submitted a letter from the bank's mortgage officer stating that the cost of a certificate of title to the bank, required in lieu of an owner's title policy, is \$180. This charge would be termed a "processing fee" on the closing statement but would include a charge of \$130 for the bank attorney's title work in addition to the \$50 processing fee previously allowed.

The difficulty in this area stems from the fact that title insurance, unlike other types of mortgage insurance, is more than a contract of indemnity. The essence of the title insurance transaction often involves obtaining a professional title search, opinion, and guarantee. The costs of searching title, if customarily paid by the purchaser, are reimbursable under section 4.2c of the Circular. Consequently, though our decisions consistently have held that the cost of an owner's title policy obtained for the protection of the purchaser is not reimbursable under section 4.2d of the Circular, the cost of a title policy obtained for the protection of the lender is reimbursable when incurred as a prerequisite to the transfer of property or to obtaining financing if such cost is customarily paid by the purchaser in that area. B-176663, February 20, 1973; B-164867, September 4, 1963 (copies enclosed). See also B-171041, December 24, 1970. Accordingly, if you find that the aforementioned costs are customarily paid by the purchaser of a residence in Providence, the voucher, with enclosures, which is returned herewith, may be certified for payment if otherwise correct.

Sincerely yours,

Paul G. Dembling

Acting Comptroller General
of the United States