

DECISION



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

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FILE:

B-183251

DATE: MAY 29 1975

MATTER OF:

Charles L. Putnam and Billie L. Verble - Real
estate expenses - second trusts

DIGEST:

1. Employee, incident to transfer of station, sold residence and incurred expense for prepaying second deed of trust incurred after initial financing of house. Expenses connected with second mortgage transaction may be reimbursed since they are not precluded by either 5 U.S.C. 5724a(a)(4) or Federal Travel Regulations.
2. Employee, incident to transfer, sold residence and incurred expenses for recording and a trustee's fee in connection with second deed of trust. Federal Housing Administration's Schedule of Closing Costs for Virginia did not list charges related to second mortgage transactions. Omission does not preclude payment of expenses since expenses incident to second mortgage transactions are payable and schedule showed only more common charges. Therefore, payment may be made when additional information is obtained as to reasonableness of expenses.

By letter of February 18, 1975, Mr. Gary E. Schroeder, Authorized Certifying Officer, General Services Administration, requested our decision regarding the reimbursement of certain real estate expenses to two employees upon transfer of station. Each of the employees sold his residence and incurred expenses related to a second deed of trust.

Mr. Schroeder's letter reads in pertinent part as follows:

"Mr. Charles L. Putnam, Jr., under GSA Authorization No. OP4GT084 dated August 24, 1973, covering relocation from Washington, D.C. (residence: Arlington, Virginia) to Roanoke, Virginia submitted a claim for sales expenses which included recording fees of \$17.34 and a Trustees Fee of \$42.00 in connection with a second deed of trust. The second deed of trust was incurred at the time Mr. Putnam purchased the residence. We suspended payment of these charges, as the Federal

Housing Administration's Schedule of Closing Costs for Virginia shows customary charges relating to a first trust only.

"Mr. Billie L. Verble, under GSA Authorization No. OF4DT061 dated February 19, 1974, covering relocation from Stockton, California (residence: Modesto) to Arlington, Virginia, submitted a claim for sales expenses which included a prepayment penalty of \$420.00 and a trustee's reconveyance fee of \$50.00 in connection with a second deed of trust made on August 29, 1973. Mr. Verble's first deed of trust was recorded on April 6, 1967. We question any expense related to the second deed of trust, as this lien against the property was not incurred at the time of purchase.

"Our specific question, therefore, is whether any charges allowed in connection with a second mortgage are contingent upon the condition that the second mortgage was incurred at the time of - and necessary to - the original purchase of a residence."

Section 5724a of title 5, United States Code, states, in pertinent part, that:

"(a) * * * appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

* * * * *

"(4) Expenses of the sale of the residence * * * of the employee at the old station * * * required to be paid by him * * *. However, reimbursement for brokerage fees on the sale of the residence and other expenses under this paragraph may not exceed those customarily charged in the locality where the residence is located * * *."

Under the authority of 5 U.S.C. § 5724a(a), and Executive Order No. 11609, July 22, 1971, the General Services Administration issued the Federal Travel Regulations (FPMR 101-7) chapter 2 (Relocation Allowances), part 6 (Allowance for expenses incurred in connection with residence transactions) (1973). These regulations provide in pertinent part:

"2-6.1. Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station * * *; Provided, That: * * *.

"2-6.2. Reimbursable and nonreimbursable expenses.

* * * * *

"d. Miscellaneous expenses. The following expenses are reimbursable with respect to the sale * * * of residences if they are customarily paid by the seller of a residence at the old official station * * * to the extent they do not exceed amounts customarily paid in the locality of the residence * * * mortgage and transfer taxes * * *. A charge made for prepayment of a mortgage or other security instrument in connection with the sale of a residence at the old official station is reimbursable to the extent the terms in the mortgage or other security instrument provide for such cost. This prepayment penalty is also reimbursable when the mortgage or other security instrument does not specifically provide for prepayment, provided such penalty is customarily charged by the lender, but in that case the reimbursement may not exceed 3 months' prevailing interest on the loan balance. * * *

"2-6.3. Procedural and control requirements.

* * * * *

"c. Assistance provided by local offices of the Department of Housing and Urban Development. Technical

assistance in determining the reasonableness of an expense may be obtained from the local or area office of the Department of Housing and Urban Development (HUD) serving the area in which the expense occurred. The local office maintains and can furnish upon request a current FHA Form 2496, Schedule of Closing Costs, applicable to the area. This is a schedule of closing costs typically encountered in connection with the purchase and sale of single family properties in the locality. For the purpose of determining whether the expenses claimed are reasonable and may be approved for reimbursement, these closing costs should be used as guidelines and not as rigid limitations. The local office will also furnish upon request information concerning local custom and practices with respect to charging of closing costs related to either a sale or purchase, including information as to whether such costs are customarily paid by the seller or purchaser and the local terminology used to describe them. * * *

Our decisions have held that expenses incurred incident to second mortgage transactions, if otherwise proper, may be reimbursed to the same extent that transactions connected with first mortgages are reimbursable. B-166698, May 27, 1969; B-167605, August 21, 1969. We find no language in 5 U.S.C. § 5724a(a)(4) or the Federal Travel Regulations that indicates that the terms "mortgage" or "mortgage or other security instrument" means only a lien incurred at the time of the initial financing of a private residence. Accordingly, the reimbursement of charges connected with a second mortgage are not contingent upon the condition that such mortgage was incurred at the time of--and necessary to--the original purchase of a residence. Therefore, the amounts claimed by Messrs. Putnam and Verble may be certified for payment if otherwise proper.

Regarding Mr. Putnam's claim, the record indicates that charges relating to second mortgages are not shown on the Federal Housing Administration's (FHA) Schedule of Closing Costs for Virginia. We do not believe that the omission operates to preclude reimbursement of expenses connected with such mortgages since the schedule appears to list only the more common expenses incident to the sale of a residence. In this connection, GSA regulations cited supra, provide that the FHA schedule of closing costs is to "be used as guidelines

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and not as rigid limitations" in determining the reasonableness of such costs. Therefore, expenses incident to the closing of a mortgage and the recording of the related release are reimbursable, but payment should not be made until further information is obtained from the FIA as to whether the costs incurred incident to the closing of the second deeds of trust were reasonable.

R.F. KELLER

Deputy Comptroller General
of the United States