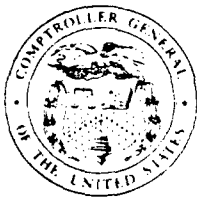


DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

50948

FILE: B-184016

DATE: September 16, 1975

MATTER OF: Claim of Cameron - Brown Company

97578

DIGEST:

Lender's claim on Government-insured mobile home loan in default may properly be certified for payment based on "bulk sale" price of mobile home, notwithstanding that regulation calls for use of higher of sale price or appraised value, if "book" value cannot be ascertained after diligent effort and sale price is determined reasonable, as lender complied with regulations and acted consistently with Government's interest and where, through no fault of lender, actual appraised value cannot be determined. However, amendment of regulation is recommended.

This is in response to a letter dated May 22, 1975, from an authorized certifying officer of the Department of Housing and Urban Development (HUD), requesting advice as to whether it is proper to certify a voucher payable to Cameron-Brown Co., Raleigh, North Carolina, in the amount of \$9,246.35. The voucher covers a claim on a loan made by Willquest, Inc., an insured lending institution, to Avery James and Brenda Brown Frye for the purchase of a mobile home. Willquest was insured by HUD with respect to this loan pursuant to section 2 of title I of the National Housing Act, as amended, 12 U. S. C. § 1703 (1970). Willquest subsequently had its contract cancelled and went out of business and the servicing of its mobile home loans was transferred to Cameron-Brown which holds a title I Contract of Insurance.

The certifying officer reports that the borrowers purchased the mobile home for a total price of \$14,119.00, with a cash down payment of \$1,093.00, leaving an unpaid balance of \$13,026.00. A further payment of \$129.89 was made before the loan was defaulted on November 1, 1973. The home was repossessed and sold by Cameron-Brown in a "bulk sale" of eleven units. Of the sale proceeds, \$4,816.05, including a \$710.00 rebate on the borrowers' homeowners insurance policy, was allocated to the unit. The institution originally claimed that \$1,704.55 was allocated per unit. This figure was derived from the sale price minus the \$710.00 minus the repossession cost of \$2,401.50. However, HUD reports that, the actual allocated resale price of \$4,106.05 plus the insurance rebate, minus a maximum \$500.00 allowable for repossessions cost under 24 C. F. R. § 201.680 (c)(1)(1974) was credited to the account. This plus other allowable costs subtracted from the unpaid contract value produced the \$9,246.35 claimed.

It is provided by 24 C. F. R. § 201.680 (1974) that the amount of reimbursement for losses shall be determined by deducting from the unpaid amount of the obligation:

"* * * the actual sales price obtained for the mobile home following its repossession, or the appraised value of the mobile home, whichever amount is the greater. The determination of appraised value * * * shall be made by the Commissioner, at his option, on the basis of either the value listed in a current accepted 'blue or red book' value rating publication (establishing retail values for comparable mobile homes in the geographic rating area) or on the basis of an actual appraisal of the mobile home. * * *"

HUD regulations also prescribe the procedure to be followed by the insured lender in the event of the borrower's default and require that a claim shall not be filed by the lender until after default, repossession, and sale of the mobile home. 24 C. F. R. § 201.665(b) (1974). That procedure was followed in this case and, as a result, the mobile home is no longer available for an actual appraisal of its value.

Consequently, the appraised value must be determined by a value listed in a "current accepted 'blue or red book' value rating publication." However, the certifying officer states that he has been unable to find a listing in a current accepted value rating publication for the mobile home in question. In the absence of such a value, he seeks our advice concerning the propriety of certifying the voucher for reimbursement on the basis of the value determined by the "bulk sale" price.

At the time this request was submitted, HUD was using the Mobile Home Blue Book published by Judy Derner publishers to determine current wholesale values. That book does not contain listings for the manufacturer of the mobile home in question. Since the submission, HUD has informed us that they have begun to use other similar rating books such as the NADA Mobile Home Appraisal Guide published by the National Automotive Dealers Association and the UNICOMP book published by United Compilation, Inc. Both of these books do contain listings for the manufacturer in question and we urge HUD to use all available methods to determine which of the listings in these books corresponds to the mobile home involved here. The claim file in this case includes thorough information on the mobile home, including the manufacturer's serial number, and it is the duty of HUD to check with all interested parties, including the lending institution and the manufacturer if necessary, to determine whether there is a value listing in any of the value rating publications currently available.

If it should then appear that there is no value listing for the mobile home, the question is whether a "bulk sale" price may be used in determining the amount of reimbursement. We think it clear that the regulations manifest the intention of HUD to use a price determined by sale on an individual basis. The regulation refers to an "actual sales price" and "the appraised value of the mobile home" and we do not believe that an average sale price for eleven unrelated units constitutes an "actual sales price," as contemplated by the regulations, for any one individual unit. This understanding is supported by the May 28, 1974, amendments to 24 C.F.R. § 201.680 (1974), which substituted the term "retail value" for "wholesale" in the procedure for determining the amount of reimbursement. The change cannot contemplate bulk sales of mobile homes at retail prices.

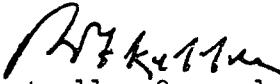
However, it is also clear that the insured is entitled to reimbursement for its loss. We note that the inability to determine whether the sale price is greater than the appraisal value is the result of compliance with the HUD regulations which, as noted above, prescribe that the lender must sell the repossessed vehicle before it can file a claim, and is not the result of non-compliance by the insured lender. We believe, then, that a "bulk sale" price may be used where strong evidence is presented to demonstrate that the insured institution took steps to preserve the interest of the Government and to minimize economic waste, if the Commissioner determines that the price received for the home in question was reasonable. In this connection, we note that since the insured lender must, under the statute, bear at least 10 percent of the loss on the loan (12 U.S.C. § 1703 (a)), the lender has an incentive to realize as much as possible on the sale of the mobile home. With respect to the questions whether the lender in this case has acted in a manner consistent with its obligation to the Government and whether the price realized is reasonable, Cameron-Brown's letter of March 21, 1975, to HUD states:

"Cameron-Brown has attempted to salvage as much as possible but it was agreed from the outset that we would pickup these units, dispose of them in the most economical manner. The reports that we have received from the representative handling the repossession and resale would indicate that the bulk sale would be far cheaper for FHA, GNMA and Cameron-Brown. In order to transport these units, and sell on an individual case basis, I firmly believe, that the expense would be more than the sale price."

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Assuming that the "book " value cannot be ascertained after diligent effort, the voucher in the instant case may properly be certified in the amount of \$9,246.35, if the Commissioner determines that under the circumstances the use of the bulk sale procedure was justified and that the amount of the bulk sale price allocated to the mobile home is reasonable.

Finally, we note that under the applicable regulations, although the Commissioner is to determine the appraised value, at his option, by either making an actual appraisal or by using the "book " value, the regulations had the effect, in this case of precluding the actual appraisal because they require sale of the mobile home before submission of a claim. As stated in B-183516, August 12, 1975, 55 Comp. Gen. ___, "we recommend that the regulation which gives rise to this anomalous situation be promptly amended. "


Deputy Comptroller General
of the United States