

**DECISION**



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

50902

FILE: B-183611

DATE: SEP 2 1975

MATTER OF:

Albert M. Garcia--Real Estate Expenses

97564

**DIGEST:**

Disallowance of reimbursement for mortgage guarantee insurance, loan origination fee, and mortgage discount, incurred by Federal employee incident to sale of residence upon transfer, is sustained. Federal Travel Regulations (FPMR 101-7) para. 2-6.2d (May 1973) specifically states that mortgage insurance and mortgage discounts are not reimbursable items, and a loan origination fee is included within the finance charge under the Truth in Lending Act.

This action is a reconsideration of the disallowance by our Transportation and Claims Division (TCD) of the claim of Mr. Albert M. Garcia for real estate expenses in connection with the sale of a residence on April 23, 1974, in Denver, Colorado, upon transfer to a new duty station.

The expenses which were disallowed by TCD include \$1,860 for a loan or mortgage discount fee, \$299 for mortgage guarantee insurance, and \$588 for a loan origination fee.

Authority to reimburse employees of the Federal government for expenses incurred in connection with the sale of a residence upon official transfer is found in section 5724a, title 5 of the United States Code (1970). Power to prescribe appropriate regulations implementing the above statute is given to the President. The President delegated his function under the statute to the Administrator of the General Services Administration by Executive Order No. 11609, July 22, 1971. Governing regulations are contained in chapter 2, part 6 of the Federal Travel Regulations (FPMR 101-7), May 1973.

Federal Travel Regulations para. 2-6.2d (May 1973) covers the expenses claimed by Mr. Garcia and provides in pertinent part as follows:

\*\*\* 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

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not reimbursable items of expense. Interest on loans, points, and mortgage discounts are not reimbursable. Notwithstanding the above, no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board Governors of the Federal Reserve System."

Reimbursement for the \$1,860 loan or mortgage discount fee is clearly prohibited by para. 2-6.2d which states that "interest on loans, points, and mortgage discounts are not reimbursable." Regarding this item, Mr. Garcia in his submission pointed out in support of his claim that loan discount fees are included in the Schedule of Closing Costs For Use in the State of Colorado, prepared by the Federal Housing Administration, Department of Housing and Urban Development. However, that schedule was prepared to show typical charges incurred in connection with sales and purchases of residences in Colorado. It is used to determine the reasonableness of charges incurred by a Federal employee when he buys or sells a residence incident to a transfer. Federal Travel Regulations para. 2-6.3b (May 1973). It does not authorize the reimbursement of any expense incurred by a Federal employee incident to such transaction since reimbursement of such expenses, as indicated above, is made pursuant to 5 U.S.C. § 5724(a) (1970) and the implementing Federal Travel Regulations.

The claim for \$538 for a loan origination fee is not reimbursable as loan origination fees are included within the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z. Finally, the mortgage guarantee insurance may not be paid since mortgage insurance is specifically excluded from reimbursement by para. 2-6.2d.

Accordingly, for the reasons stated above, the disallowance of Mr. Garcia's claim is sustained.

**R. F. KELLEY**  
Deputy }  
Comptroller General  
of the United States