

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548****FILE:** B-214164**DATE:** July 9, 1984**MATTER OF:** J. Dain Maddox - Real Estate Expenses
Appraisal Fee**DIGEST:**

1. A transferred employee agreed to purchase as a residence at his new duty station a structure being extensively renovated for that purpose which required as a condition of financing additional site inspections. Basic reimbursement for appraisal expense was allowed by the agency, but expense of additional inspections disallowed. On reclaim, disallowance is sustained. Under FTR para. 2-6.2d, only expenses associated with existing residence purchase are allowed, and while renovation of an existing structure is not new residence construction, it is analogous so as to preclude reimbursement.
2. A transferred employee purchased as a residence at his new station a structure being extensively renovated for that purpose. The employee is occupying the second and third floors as his residence, reserving the first floor for tenant occupancy, a commercial venture. Under FTR para. 2-6.1f, expenses of residence purchase shall be prorated for multiple occupancy dwellings which are only partially occupied by the employee. Since employee was not occupying one-third of the structure, expenses related to residence purchase which would be otherwise reimbursable to him are to be reduced by one-third. 55 Comp. Gen. 747 (1976).

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This decision is in response to a request from an Authorized Certifying Officer, National Finance Center, Department of Agriculture. It concerns the entitlement of one of its employees to be reimbursed for certain relocation expenses incurred incident to a permanent change-of-station transfer in April 1981. For the reasons stated below, the claim is denied.

FACTS

The employee, Mr. J. Dain Maddox, a hydrologist with the Forest Service, was transferred from Elkins, West Virginia, to Milwaukee, Wisconsin, and reported for duty at his new permanent station on April 6, 1981. Incident to that transfer, he purchased a house in Milwaukee that was undergoing extensive renovation at the time the sales agreement was executed. That sales agreement provided that the seller was to complete the renovation work prior to settlement and that Mr. Maddox, as purchaser, was to assume the seller's outstanding loan. However, the sales contract was amended on December 10, 1982, to delay the settlement date and to provide that Mr. Maddox was to obtain his own financing from the City of Milwaukee to fund the purchase price of the renovated residence.

As part of the procedure to process Mr. Maddox's loan application, the property was appraised at a cost of \$150. Because the granting of the loan was predicated on an "as renovated" basis, two additional inspections were necessary prior to settlement. The cost of those additional inspections was \$70.

The agency audit section allowed Mr. Maddox \$150 for the basic appraisal, but disallowed the remainder. Mr. Maddox now reasserts his claim for the disallowed \$70, claiming that the appraisal rendered was only one appraisal, but performed in two parts. The first part was to determine the basic value of the property to be renovated and the second part to verify that all of the restoration work had been completed.

The certifying officer expresses doubt as to Mr. Maddox's entitlement. He points out that the initial expense of \$150 was identified as a property appraisal fee.

The expenses which were disallowed were identified on the closing statement as inspection fees. He views such inspections as analogous to fees charged to insure house construction completion, which is an expense normally not incurred when an existing residence is purchased. However, in view of his uncertainty, he asks the following questions:

"1. Since the two inspection fees were incurred because of the renovation of the residence, would they be considered as part of the original appraisal and, therefore, reimbursable?

"2. Would the inspection fees be considered the same as inspection fees charged in connection with the construction of a residence and, therefore, be likened to construction costs and not reimbursable?"

DECISION

The authority for reimbursement of real estate expenses incurred by an employee incident to a transfer of official duty station is contained in 5 U.S.C. § 5724a (1982), and the implementing regulations in the Federal Travel Regulations, FPMR 101-7, (September 1981) (FTR). Paragraph 2-6.2 of those regulations permits reimbursement of certain miscellaneous real estate expenses, including appraisal fees. We have held, however, that only one appraisal fee may be paid (Donovan H. Williams, B-200744, September 18, 1981), and then only to the extent it is considered customary in the area. Glen A. Ballenger, B-187437, February 7, 1977. Further, if an employee pays two appraisal fees, his reimbursement will be based on the higher of the two fees. Wesley J. Lynes, B-182412, May 14, 1976.

A property appraisal for residence purchase purposes is usually required by a lending institution to enable it to determine whether it will provide permanent mortgage financing, and if so the amount to be loaned. In situations involving property suitable for residence construction, and where construction of that residence is undertaken, FTR para. 2-6.2d also provides that the expenses which may be

reimbursed are limited to "those items of expenses 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."

In decision Stanley S. Fancher, B-184928, September 15, 1976, a case involving construction of a residence, we ruled that the employee may be reimbursed for appraisal and inspection expenses in connection with permanent mortgage financing but only to the extent that such expenses would be comparable to those incurred in connection with the purchase of an existing residence. We indicated that the cost of construction progress and completion inspections would not be allowed since they related only to construction financing.

Clearly, an essential element in the determination as to whether a structure qualifies as a residence as that term is used in FTR, Chapter 2, Part 6, is that structure's human habitability under the laws of the jurisdiction in which it is situated. If, at the time of purchase, a structure qualifies as an existing residence, renovation work which modifies, or modernizes part of the residence, even though such work may temporarily render the residence uninhabitable, would not change the basic character of the structure as an existing residence. However, in that case such alterations are deemed to be optional and any associated expenses would be excluded from FTR para. 2-6.2d, since they do not relate to the purchase of an existing residence. See also FTR para. 2-3.1c(13). Further, if the structure does not qualify as a residence at the time of purchase and can only be made so by extensive renovation, it is our view that it is sufficiently analogous to new residence construction, so that the above-quoted limitation in FTR para. 2-6.2d would also apply.

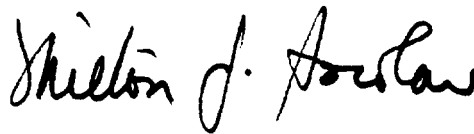
In the present case, had the structure been habitable as an existing residence, the basic inspection and appraisal performed in response to Mr. Maddox's loan application would have clearly determined its value as a residence for permanent mortgage financing purposes. According to the record that was not the case. While the mortgage loan in the amount sought by Mr. Maddox apparently received initial approval, the actual loan could not be granted until the

complete rehabilitation requirement of the City of Milwaukee was met. Two inspections, in addition to the initial appraisal inspection, were required before the necessary renovation work was so approved. Therefore, since the additional expense for the subsequent inspections was not one which would have been incurred had an existing residence been purchased, Mr. Maddox's claim for reimbursement is denied and the questions asked are answered accordingly.

In connection with the foregoing, we note from the submission that the full amount of the initial appraisal inspection (\$150) was apparently allowed to Mr. Maddox. The record shows that Mr. Maddox only occupies the second and third floors of his residence structure, reserving the first floor for tenant occupancy. FTR para. 2-6.1f provides in part:

"* * * If the residence is a duplex or an other type of multiple occupancy dwelling which is occupied only partially by the employee * * * expenses shall be reimbursed on a pro rata basis. * * *."

In view of the fact that one-third of the living space in the residence structure was, by Mr. Maddox's own statement, reserved for commercial venture, then such residence purchase related expenses which would be reimbursable to him otherwise must be reduced by one-third. See 55 Comp. Gen. 747 (1976). Compare Stephen Vishnefsky, B-187884, February 22, 1977.

for 
Comptroller General
of the United States