

DECISION

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

60459

FILE: B-183419

DATE: FEB 2 1976

MATTER OF: James P. Beirs - Real Estate Expenses -
Interim Financing Loan

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DIGEST: Transferred employee who obtains "interim financing loan" to be used as down payment on residence at new duty station, because residence at old duty station has not yet been sold, may not be reimbursed for any expenses relating to "interim financing loan." Prohibition in 5 U. S. C. § 5724a (1970), FTR and JTR, against reimbursement of any losses on sale of residence due to market conditions is sufficiently broad to preclude reimbursement here, since need for "interim financing loan" arises because of market conditions.

This matter is a request dated March 2, 1975, for an advance decision submitted by the Finance and Accounting Officer, North Central Division, Corps of Engineers, Department of the Army, Chicago, Illinois, concerning the authority for reimbursing a transferred employee for the cost of an "interim financing loan" that was used as a down payment for the purchase of a residence at the employee's new duty station. For the reasons set forth below, the voucher may not be certified for payment.

Under the authority of travel order number 74-949, dated April 5, 1974, Mr. James P. Beirs was transferred from the Corps of Engineers, Detroit District, to the North Central Division in Chicago, Illinois. He reported to his new duty station on April 29, 1974. On April 15, 1974, settlement was held on the residence Mr. Beirs purchased at his new duty station. Because the settlement for the sale of Mr. Beirs' residence at his old duty station did not occur until July 31, 1974, he found it necessary to obtain an "interim financing loan" to be used as the down payment on his new residence. That loan was obtained on April 15, 1974, in the principal amount of \$9,500. Interest in the amount of \$263.26 was charged and various fees, for preparation and recording of documents, were incurred in the amount of \$55. Mr. Beirs is seeking reimbursement for these items in the total amount of \$318.26.

The authority for reimbursement of real estate expenses related to transfers is 5 U. S. C. § 5724a (1970), which is implemented by the Federal Travel Regulations (FTR), FPMR 101-7 (May 1973).

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The provisions of the FTR are further implemented in volume 2 of the Joint Travel Regulations (2 JTR). Reimbursement of interest is specifically covered in 2 JTR para. C8352-1d (Change 91, May 1, 1973), which provides, in pertinent part, that:

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

It should also be noted that 2 JTR para. C8352-1e (Change 91, May 1, 1973) provides that:

"Losses Due to Prices or Market Conditions at the Old and New Duty Stations. Losses due to failure to sell a residence at the old duty station at the price asked, or at its current appraised value, or at its original cost, or losses due to failure to buy a dwelling at the new duty station at a price comparable to the selling price of the residence at the old duty station, and any similar losses, are not reimbursable."

There is no authority in the JTR or FTR that deals more specifically with "interim financing loans."

Mr. Beirs contends that the prohibition against reimbursement of interest should not be extended beyond interest on mortgage loans. He contends that a person must pay interest on a mortgage either directly, if he owns a home, or indirectly if he rents, because everyone must live somewhere, but the interest on the "interim financing loan" must be paid only because of the transfer. He states that the interim loan is "substitute money" that is used only until the settlement for the sale of the former residence occurs.

It is true that the need to purchase a new residence arises only because of the transfer, but Mr. Beirs' argument seems to assume that all transfer-related expenses are reimbursable. That

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is not the case. Reimbursement is allowed only where it is specifically authorized. There is nothing in the regulations that authorizes payment of any expenses relating to "interim financing loans." On the contrary, there is a specific prohibition against the reimbursement of interest. We do not agree with Mr. Beirs' contention that this prohibition should be limited to interest on mortgage loans. The regulations contain no such limitation, and the prohibition against reimbursement of any "fee, cost or charge" that is found to be part of a finance charge under Federal Reserve Board Regulation Z, supports a broad interpretation of this provision. See B-176362, August 7, 1972.

We believe that the need to obtain an "interim financing loan" arises because of market conditions, in that the former residence could not be sold prior to the purchase of the new residence. The provisions of 2 JTR para. C8352-1e are simply an extension of 5 U. S. C. § 5724a(a)(4) (1970), which provides in pertinent part that "reimbursement may not be made for losses on the sale of the residence." The cost of the "interim financing loan," while not an actual loss on the sale of the residence, is an added expense that arises only because of market conditions. We believe that the prohibition against reimbursement of losses resulting from market conditions is sufficiently broad to exclude reimbursement of any expenses relating to an "interim financing loan."

Deputy

RF. KELLER

Comptroller General
of the United States