

DECISION

DIGEST - L- C.P.
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

193

FILE: B-185680

DATE: AUG 4 1976

MATTER OF:

- Expenses of Sale and
Purchase of Residence - Local Custom

DIGEST:

1. Employee of Department of Treasury who paid expenses incident to sale of his residence which are usually paid by purchaser may be reimbursed for such expenses, if otherwise allowable, since by local custom they are paid by seller if purchase is financed through Veterans Administration. He may not, however, be paid for lender's discount or fee for making loan since this is a finance charge under the Truth in Lending Act, reimbursement for which is prohibited by FTR 2-6.2d.
2. Under the provisions of FTR 2-6.2d, employee may be reimbursed for cost of mortgage title policy paid for by him incident to purchase of new residence, provided cost does not exceed amount customarily paid in locality.
3. Determination of amount customarily paid for real estate expenses in locality where residence is bought or sold is a factual determination to be made by the certifying officer. 54 Comp. Gen. 827 (1975).

By submission dated January 12, 1976, reference A:F:A:MAW, Ms. Marie A. Watkins, Authorized Certifying Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, requested an advance decision concerning the claim of Mr. [redacted] for reimbursement of expenses paid by him in connection with the sale of his old residence which are usually paid by the purchaser. Also in question is a claim for the cost of title insurance in connection with the purchase of a new residence.

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B-185680

sold his residence in Americus, Georgia, on April 24, 1975, to a buyer who financed the purchase through the Veterans Administration. The claimant has been reimbursed for brokerage fees and transfer tax which are normally paid by the seller. He claims an additional amount of \$2,432.39 for other expenses paid by him incident to this transaction as follows:

Legal Costs:

Examining Land Records	\$100.00
Preparation of Loan Documents and Deeds	120.00
Certification of Title	<u>200.00</u>
	420.00
Survey	100.00
Recording Fees	11.50
Appraisal	50.00
Credit Report	30.89
Lenders Fee or Discount	<u>1,820.00</u>
	\$2,432.39

The certifying officer stated that the above expenses are usually paid by the purchaser in cases not involving Veterans Administration loans.

On April 28, 1975, purchased a new residence in Savannah, Georgia, and he has apparently been reimbursed \$611.70 for expenses paid by him incident to this transaction as follows: legal costs \$420, recording fees \$16, appraisal \$100, credit report \$22.50, and transfer tax \$53.20. He claims an additional \$110 for the cost of mortgage title insurance.

The authority governing the payment by the Government of expenses incident to the sale and purchase of residences is contained in section 5724a of title 5, United States Code (1970), and the implementing regulations in chapter 2 of the Federal Travel Regulations (FTR), FPMR 101-7, May 1973. Section 2-6.2 of the

B-185680

FTR allows the seller to pay and be reimbursed for certain expenses usually paid by the purchaser, to the extent they do not exceed the amount customarily paid in the locality, provided that such expenses are customarily paid by the seller in that locality. These allowable expenses include costs of: legal services such as examining land records, preparing loan documents and deeds, and certifying title (FTR 2-6.2c.); surveys (FTR 2-6.2c.); recording fees (FTR 2-6.2c.); appraisals (FTR 2-6.2b.); and credit reports (FTR 2-6.2d.).

The Georgia Area Office of the Department of Housing and Urban Development has informally advised that it is customary in Americus, Georgia, for the seller to pay the foregoing expenses when the purchaser obtains financing through the Veterans Administration. Note on voucher indicates claimant has been similarly advised as to local custom by HUD and file contains statement by local closing attorney to the same effect. See also B-179054, September 14, 1973. Accordingly, may be reimbursed for these expenses to the extent they do not exceed the amount customarily paid in the locality.

may not, however be reimbursed for the lender's fee or discount of \$1,820 since this is a finance charge under the provisions of section 106 of the Truth in Lending Act, Title I of Public Law 90-321, May 29, 1968, 15 U.S.C. § 1605 (1970), and the pertinent provisions of implementing Regulation Z, 12 C.F.R. § 226.4. The reimbursement of finance charges is specifically prohibited by FTR 2-6.2d.

The title insurance for which reimbursement in the amount of \$110 is claimed in connection with purchase of a new residence in Savannah, Georgia, appears to be a mortgage title policy or lender's title insurance rather than owner's title insurance. Therefore, may be reimbursed for this expense under the provisions of FTR 2-6.2d, to the extent it does not exceed the amount customarily paid in the locality.

The determination of the amount customarily paid for real estate expenses in the locality where a residence is bought or sold is a factual determination to be made by the certifying officer after consulting with the appropriate office of HUD and examining the entire record along with applicable regulations and cases. 34 Comp. Gen. 827 (1975).

B-185680

196

The voucher with attachments enclosed with the submission is returned and may be certified for payment in accordance with the foregoing if otherwise correct.

deputy **R.F.KELLER**
Comptroller General
of the United States