

13545 PKM-1

DECISION



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

FILE: B-197098

DATE: April 24, 1980

MATTER OF: John G. Evans--Owner's Title Insurance Policy

DIGEST: Transferred employee who purchased residence at new official station seeks reimbursement of \$671.16 for the cost of owner's title and mortgagee's title insurance, the mortgagee's title policy being required by the lender. Employee was charged \$641.16 for the owner's title policy and \$30 for the mortgagee's title policy. Employee may be reimbursed \$339 since mortgagee's title policy is allowable under the Federal Travel Regulations (FPMR 101-7) para. 2-6.2d and such policy would have cost \$339 if purchased separately. Claim for remaining \$332.16, allocable to cost of owner's title insurance is disallowed.

This action is in response to a request from Edwin J. Fost, Chief, Accounting Section, Office of the Controller, Drug Enforcement Administration (DEA), Department of Justice, for an advance decision whether John G. Evans, a DEA employee, can be reimbursed \$332.16, allocable as the cost of an owner's title insurance policy procured by Mr. Evans in conjunction with his purchase of a residence in Plano, Texas, incident to his transfer to Dallas, Texas from Washington, D. C.

The record shows that Mr. Evans was required by the lender to purchase mortgagee's title insurance. There is no indication that an owner's title policy was similarly required for the completion of Mr. Evans' purchase of his new residence. Mr. Evans incurred costs in the total amount of \$671.16 for title insurance. The amount includes a charge of \$641.16 for an owner's title policy and a charge of \$30 for a mortgagee's (lender's) policy. A letter dated November 9, 1979, from the title company which issued both policies, indicates that if the lender's policy had not been purchased in conjunction with the owner's policy, the cost of the lender's policy alone would have been \$339. In response to Mr. Evans' claim, DEA proposes to allow \$339, as the amount fairly allocable to the mortgagee title policy but not allow the amount allocable to the owner's title policy. Mr. Evans requested that this proposed disposition be submitted to our Office for decision. For the reasons which follow, we concur with DEA's proposed settlement.

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[Request for REIMBURSEMENT]

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Section 5724a(a)(4) of title 5, United States Code (1976), provides for reimbursement, under such regulations as the President may prescribe, of the expenses incurred by an employee in the sale of his or her residence at the old official station and purchase of a home at the new station. The Federal Travel Regulations (FTR) (FPMR 101-7) (1973), part 2-6, implement section 5724a(a)(4). FTR para. 2-6.2d provides in pertinent part:

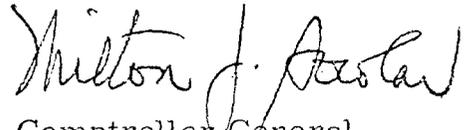
"The following expenses are reimbursable with respect to the * * * purchase of residences if they are customarily paid by * * * the purchaser of a residence at the new official station, to the extent they do not exceed amounts customarily paid in the locality of the residence: ***. The cost of a mortgage 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, * * * are not reimbursable items of expense."

In William E. Harris, B-181074, August 27, 1974, we considered a situation similar to Mr. Evans' where the transferred employee, incident to the purchase of a residence, bought both a mortgagee's title policy and an owner's title policy with \$175 apportioned to the owner's policy and \$15 apportioned to the mortgagee's title policy. Had he purchased just the mortgage title insurance policy its cost, reimbursable under FTR, para. 2-6.2d, quoted above, would have been \$170. We there held that the employee should be reimbursed the \$170 amount allocable to the cost of the mortgagee's title insurance policy if purchased separately, regardless of how the cost of the policies nominally might be apportioned. Accordingly, since \$339 represents the cost of the mortgagee's title policy if purchased separately, Mr. Evans may be allowed \$339, minus the \$30 already reimbursed him, if otherwise proper.

As for the remaining \$332.16, that amount represents the cost of owner's title insurance which is specifically nonreimbursable under FTR para. 2-6.2d. Limited exceptions have been recognized when such cost is necessarily incurred by the seller to prove or guarantee marketable title, 46 Comp. Gen. 884 (1967), or by the buyer as a legal prerequisite to the transfer of the property or to obtaining financing in connection with the transfer of property, Carl F. Wilson, B-186579, October 28, 1976. Neither exception is applicable here.

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Since the cost of the owner's title policy in this case was not necessary to consummation of the real estate transaction and was incurred primarily for the personal benefit of the purchaser, the remaining \$332.16 of Mr. Evans' claim must be disallowed. See Alex Kale, 55 Comp. Gen. 779 (1976).

A handwritten signature in cursive script that reads "Milton J. Astor".

For the Comptroller General
of the United States