

**DECISION**

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

28796

**FILE:** B-208302**DATE:** July 17, 1984**MATTER OF:** Richard T. Bible - Relocation Expenses -  
Construction of Residence**DIGEST:**

An employee incurred notarial fee, fees for procuring certificates and researches, and recordation fees for both the closing on a lot on which he built his residence and the closing on the residence itself. The Federal Travel Regulations para. 2-6.2d limits reimbursement to expenses comparable to those reimbursable in connection with the purchase of existing residences and does not permit reimbursement of expenses which result from construction. Since the enumerated duplicate fees were incurred because the employee chose to build a residence as opposed to purchasing an existing one, and since he has already been reimbursed these fees for closing on the lot, he may not be reimbursed those fees associated with the closing on the completed house. However, the other expenses listed, which are claimed only for the settlement on the completed residence may be paid if they are normally allowable.

This decision is in response to a request for an advance decision by Ms. Vera S. Fravel, Authorized Certifying Officer, Federal Mediation and Conciliation Service, Washington, D.C., as to whether the estate of Mr. Richard T. Bible, deceased, a former employee of that agency is entitled to reimbursement of certain real estate expenses resulting from the purchase of a residence that Mr. Bible elected to construct at his then new official station. In general, expenses peculiar to, and specifically related to the construction process are not allowable.

Mr. Bible transferred from Washington, D.C., to New Orleans, Louisiana, and entered into a contract for the purchase of a lot with settlement taking place on June 29, 1982. Mr. Bible also entered into a contract for the construction of a house on this lot, with settlement taking

029436

place on October 29, 1982. Mr. Bible received reimbursement for his real estate expenses relating to the closing on his lot totaling \$1,039.00. The present claim submitted on behalf of Mr. Bible is for the various closing costs relating to the settlement on his house.

The costs associated with the closing on Mr. Bible's residence which are now being claimed are as follows:

1. Notarial Fee - Act of Mortgage	\$ 90.00
2. Power of Attorney	60.00
3. Tax and Lien Researches	33.00
4. Lien and Privilege Certificates	30.00
5. Procuring Certificates and Researches	60.00
6. Recordation of all documents	38.00
7. Title Examination	150.00
8. Title Insurance Policy	321.50
9. Survey	125.00
10. VA Funding Fee	175.00
11. Credit Report	52.15

Statutory authority for reimbursement of real estate expenses incurred by a transferred employee in the purchase of a home at his new station is found at 5 U.S.C. § 5724a(a)(4) (1982). Regulations implementing that authority, are contained in Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR) paragraph 2-6.2d which provides that:

"\* \* \* In cases involving construction of a residence, reimbursement of expenses would include those items of expense 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."

We will consider whether the claimant may be reimbursed for the expenses listed above.

Item 1 - The notarial fee, \$90, for the act of mortgage may not be reimbursed because it was incurred as a direct result of the construction process. Mr. Bible incurred notarial fees in the total amount of \$225 at his first closing when he settled on the lot. Had he bought an existing house at that time no further notarial fees would have been incurred. It is only as a result of the second closing for the purpose of settling on the newly constructed house, at which time Mr. Bible took out an additional mortgage, that this notarial fee was incurred. For this reason, the expense is not comparable to a reimbursable expense in connection with the purchase of an existing residence as contemplated by FTR para. 2-6.2d and may not be reimbursed.

Item 2 - The power of attorney became necessary because Mr. Bible's health required that he be represented by his wife at the closing. Although this was apparently not the case at the first closing, the expense may be reimbursed as it cannot be assumed that it would not have been incurred had Mr. Bible purchased an existing home. Even if Mr. Bible purchased an existing home he may not have been able to close on it before his health required that he be represented at settlement.

Items 3, 4 and 5 - The tax and lien researches, lien and privilege certificates and the procuring certificates and researches, totaling \$123, may not be reimbursed because these expenses would not have been incurred twice had Mr. Bible purchased an existing house. These expenses represent the searches and certifications required by lending institutions to find out what, if any, debts are outstanding against the property which is to serve as security for a loan or against the borrower personally. These legal services were all performed with regards to Mr. Bible's first mortgage and the costs were reimbursed to him, for a total of \$128. It is only as a result of Mr. Bible's decision to secure an additional mortgage which was part of the second closing that these expenses were incurred a second time. Therefore, these expenses are not comparable to a reimbursable expense in connection with the purchase of an existing residence as contemplated by FTR para. 2-6.2d and may not be reimbursed.

Item 6 - Since Mr. Bible has been reimbursed the recording fee of \$27 for recording his building contract, that fee must be subtracted from the fee of \$38 now claimed for the recordation of all documents, allowing for a net reimbursement of \$11. This reduction must be made because the recording fee associated with the building contract resulted from construction. Robert W. Webster, B-212427, November 29, 1983, 63 Comp. Gen. 68.

Items 7 and 8 - Title examination and title insurance policy charges are reimbursable since FTR para. 2-6.2d specifically states that the cost of a mortgagee's title insurance is reimbursable. We have been informed by the attorneys who conducted the settlements that the title policies were mortgage title policies, therefore, reimbursement is authorized. Since both loans were in the nature of permanent financing, and the second loan was not merely a loan used to convert construction financing into permanent financing, the mortgage title policies and the examinations necessary for their issuance are reimbursable expenses. There is no evidence of duplication of reimbursement because the charges for both the title policies and title examinations are based on the amount of the loans. Therefore, if Mr. Bible had taken out only one loan for the total amount represented by the two loans, the related charges for title exam and insurance would have been approximately the same.

Item 9 - Paragraph 2-6.2c of the FTR provides that the costs of making surveys are reimbursable to the extent that they have not been included in broker's and similar services for which reimbursement is claimed in other categories if they are customarily paid by the purchaser of a residence at the new official duty station and to the extent they do not exceed amounts customarily charged in the locality of the residence. However, as indicated above, reimbursement will not include expenses which result from construction. The first issue is whether the survey expenses were incurred by reason of the construction of the home. In Stanley S. Fancher, B-184928, September 15, 1976, we denied reimbursement of survey fees to an employee who had his home constructed incident to his transfer to a new official station, because the survey fees were incurred as the result of the construction loan. However, the record in Mr. Bible's case suggests that the survey was needed to obtain permanent mortgage financing.

This is evidenced by the lack of any indication that temporary construction financing was obtained and from the fact that survey fees were not incurred when Mr. Bible settled on the lot upon which his residence was constructed. The survey fees were incurred for the first and only time when settlement took place on the completed residence. Therefore, the fee may be paid.

Item 10 - The prohibition in FTR para. 2-6.2d against the reimbursement of any fee, cost, charge, or expense determined to be a finance charge under the Truth in Lending Act or Regulation Z, precludes reimbursing an employee for the VA funding fee paid as a condition precedent to securing a VA loan guarantee. 49 Comp. Gen. 483 (1970).

Item 11 - The credit report fee incurred incident to the Veterans Administration loan is reimbursable if it is customarily paid by the purchaser at the new official station. See FTR, para. 2-6.2d and Stanley S. Fancher, B-184928, supra, at 3.

Accordingly, additional expenses may be made for real estate expenses as indicated above.

*for* Milton J. Fowler  
Comptroller General  
of the United States