

DECISION



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

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FILE: B-218955

DATE: April 11, 1986

MATTER OF: Alan R. Fetter - Entitlement to Real Estate Expenses

DIGEST:

1. A transferred employee purchased a residence near his new duty station. Among the expenses charged by his mortgage lender was a 1 percent "rate buydown." He claims that item is reimbursable as part of a loan origination fee package. A "rate buydown" on a mortgage loan is simply another name for a mortgage discount or points. Since paragraph 2-6.2d(2)(b) of the Federal Travel Regulations specifically excludes such an item from reimbursement, the claim is denied.
2. A transferred employee purchased a residence near his new duty station. Among the expenses charged by his mortgage lender was a 2-1/2 percent service charge for originating the loan. He was reimbursed \$1,100 (1 percent of the loan) and now claims the remainder. Under paragraph 2-6.2d(1)(b) of the Federal Travel Regulations, such fees are reimbursable, but not to exceed amounts customarily charged in the area. Since we give great weight to HUD information regarding customary locality rates, and HUD has advised that the customary rate is 1 percent, reimbursement was properly limited to that amount and the claim for the remainder is disallowed.
3. A transferred employee purchased a residence near his new duty station. Among the expenses charged by his mortgage lender was a \$100 document preparation fee, in addition to the loan service charge. Since paragraph

2-6.2c of the Federal Travel Regulations specifically authorizes reimbursement of the costs of preparing conveyances and related instruments and HUD has found this fee to be reasonable, the employee may be reimbursed for the document preparation fee.

This decision is in response to a request from the Director, Office of Finance and Accounting, United States Department of Housing and Urban Development (HUD). The issue involves an employee's claim for reimbursement of certain expenses incurred incident to the purchase of a residence at his new duty station following a transfer. We hold that the employee may not be reimbursed for all of the additional amounts claimed, for the following reasons.

BACKGROUND

The employee, Mr. Alan R. Fetter, a financial analyst with the Office of Indian Programs of HUD, was transferred from Columbus, Ohio, to Phoenix, Arizona, in January 1984. Incident to that transfer, he purchased a residence in Scottsdale, Arizona, in May 1985.^{1/}

He thereafter submitted a claim in the amount of \$4,136 for the expenses of purchasing that residence. Of that amount, \$3,950 was claimed as a loan origination fee. The agency on adjustment and settlement determined that as a loan origination fee, the amount was excessive, and limited reimbursement to \$1,100. Mr. Fetter appealed that determination and seeks reimbursement of the additional \$2,850.

^{1/} In decision B-218955, October 30, 1985, we held that Mr. Fetter was not entitled to be reimbursed for the cost of a homeowner's warranty incident to the sale of his former residence at his old duty station.

The provisions of law governing reimbursement for real estate expenses incident to a transfer of duty station are contained in 5 U.S.C. § 5724a and regulations issued pursuant thereto. Those regulations are contained in Part 6 of Chapter 2, Federal Travel Regulations, FPMR 101-7 (September 1981) incorp. by ref., 41 C.F.R. § 101-7.003 (1983) (FTR), as amended, in part, by GSA Bulletin FPMR A-40, Supp. 4 (effective October 1982).

Paragraph 2-6.2d of the FTR, as amended, provides, in part:

"d. Miscellaneous expenses.

"(1) Reimbursable items. The expenses listed below are reimbursable in connection with the * * * purchase of a residence, provided 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.

* * * * *

"(b) Loan origination fee;

* * * * *

"(2) Nonreimbursable items. Except as otherwise provided in (1), above, the following items of expense are not reimbursable:

* * * * *

"(b) Interest on loans, points, and mortgage discounts;"

Preliminarily, it is to be noted that the term "loan origination fee" does not appear in Mr. Fetter's settlement documents. The term first appears in his real estate reimbursement application to HUD, wherein he simply lumped together various individual charges assessed by his lending

institution identifying them as a loan origination fee. Those charges, as shown on the settlement sheet, were:

1. Service Charge	\$2,750
2. Document Preparation Fee	100
3. Rate Buydown	<u>1,100</u>
	\$3,950

Thus, these individual charges must be examined to determine Mr. Fetter's entitlements.

Mortgage discount or "points"

A mortgage discount or "points" is defined as being part of the price paid for the hire of money where the interest rate charged on a loan is below the mortgage market level, or lower than the interest rate income available to the lending institution from alternative investment opportunities. Roger J. Salem, 63 Comp. Gen. 456 (1984); and Mark Kroczyński, 64 Comp. Gen. 306 (1985).

As noted, one of the items Mr. Fetter included in his claim, was a "rate buydown" of \$1,100. This represented a 1 percent mortgage discount under another name charged him by the lender as a condition of granting the loan. Since under FTR para. 2-6.2(d)(2)(b) a mortgage discount or "points" is specifically nonreimbursable, that portion of the claim may not be allowed.

Loan origination fee

A loan origination fee, generally, is a specifically reimbursable service fee assessed a mortgagor by a lending institution to defray its administrative expenses associated with originating a loan. The only restriction on reimbursement of such costs is that the amount to be reimbursed may not "exceed amounts customarily paid in the locality of the residence." In Roger J. Salem, above, we stated that we will give great weight to information provided by HUD regarding customary rates in the locality.

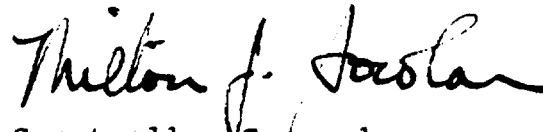
While Mr. Fetter was charged 2-1/2 percent of the mortgage loan as a service charge or loan origination fee,

the designated HUD official determined that the customary rate charged in the area for a loan origination fee is 1 percent of the mortgage loan. Therefore, in the absence of a showing by Mr. Fetter that the customary charge in the area is greater, his reimbursement for a loan origination fee is limited to the \$1,100 already paid.

Document preparation fee

Under FTR para. 2-6.2c, to the extent that they are customarily paid by the buyer, and do not exceed the amounts customarily charged in the locality of the new duty station, "costs of preparing conveyances, other instruments, and contracts" are specifically reimbursable. While there is no description of what is covered by the \$100 charge on the settlement sheet other than the phrase "Document preparation fee," the report of the HUD official who reviewed the costs states that this is customarily a buyer's cost for a conventional loan and is reasonable in amount. Therefore, since the cost of preparing conveyances and related instruments is specifically reimbursable, and the amount charged is reasonable for the area, Mr. Fetter may be reimbursed for this \$100 charge.

In summary Mr. Fetter is entitled to be reimbursed for the \$1,100 already paid as a loan origination fee and the \$100 document preparation fee. However, he is not entitled to the fee charged for the "rate buydown."



Acting Comptroller General
of the United States