

DECISION

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

FILE: B-220741

DATE: April 3, 1986

MATTER OF: Jose De Luna

DIGEST: A transferred employee who sold a residence at his old duty station may not be reimbursed for the portion of the loan assumption fee he paid incident to that sale since this expense is not customarily paid by the seller of a residence in the locality of the employee's old duty station.

An employee who sold a residence at his old duty station paid a part of the loan assumption fee for the purchaser and claims reimbursement of this amount.^{1/} The employee may not be reimbursed since a loan assumption fee is not customarily charged to the seller of a residence in the locality of the employee's old duty station.

Mr. Jose De Luna, an employee of the Department of the Navy, was transferred from San Bruno, California, to San Diego, in April 1985. Incident to his change of station, he sold his residence at Redwood City, California, in the locality of his old duty station. The purchaser assumed Mr. De Luna's loan of \$121,104.21 and, to permit that assumption, the mortgagee charged a fee of \$930.99. Of that amount, \$200 was paid by the purchaser and the remaining \$730.99 was paid by Mr. De Luna. Reimbursement for the portion of the assumption fee paid by Mr. De Luna was disallowed by the Navy pending our determination of his entitlement.

An employee may be reimbursed for certain real estate purchase and sale expenses incurred when he transfers to a new duty station. 5 U.S.C. § 5724a(a)(4) (1982) and implementing regulations, the Federal Travel Regulations (FTR), incorp. by ref., 41 C.F.R. 101-7.003 (1984). Reimbursement of certain miscellaneous real estate expenses, including

^{1/} Mr. William R. Carsillo, Real Estate Division, Western Division, Naval Facilities Engineering Command, has requested an advance decision on whether Mr. Jose De Luna may be reimbursed for a loan assumption fee.

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loan origination fees is authorized under FTR, para. 2-6.2d. As amended effective October 1, 1982, by GSA Bulletin FPMR A-40, Supplement 4, para. 2-6.2d provides:

"d. Miscellaneous expenses.

"(1) Reimbursable items. The expenses listed below are reimbursable in connection with the sale and/or purchase of a residence, provided they are customarily paid by the seller of a residence in the locality of the old official station or 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.

- "(a) FHA or VA fee for the loan application;
- "(b) Loan origination fee;
- "(c) Cost of preparing credit reports;
- "(d) Mortgage and transfer taxes;
- "(e) State revenue stamps;
- "(f) Other fees and charges similar in nature to those listed above, unless specifically prohibited in (2), below;

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

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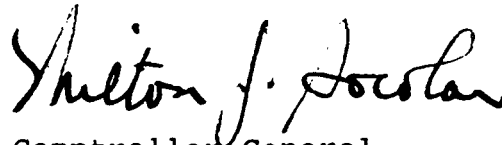
"(e) No fee, cost, charge, or expense determined to be part of the finance charge under the Truth in Lending Act, Title I,

Pub. L. 90-321, and Regulation Z issued in accordance with Pub. L. 90-321 by the Board of Governors of the Federal Reserve System, unless specifically authorized in (1), above * * *."

The matter of reimbursement of a loan assumption fee incident to the purchase of a residence at an employee's new station was the subject of decision Edward W. Aitken, 63 Comp. Gen. 355 (1984). We noted in that decision that FTR, para. 2-6.2d(1)(f), as revised, allows reimbursement of "other fees and charges similar in nature" to those listed in para. 2-6.2d(2)(a-e), unless specifically prohibited in para. 2-6.2d(2). Accordingly, we held that a loan assumption fee which involves costs similar to those covered by a loan origination fee and which is assessed in lieu of a loan origination fee may be reimbursed under FTR, para. 2-6.2d(1) as a miscellaneous item of real estate expense. See also Lawrence R. Lyons, B-214255, July 30, 1984.

In Mr. De Luna's case the San Francisco Regional Office of the Department of Housing and Urban Development, whose territory includes the Redwood City, California area has indicated that assumption fees are not customarily paid in that area by the seller of a residence when a buyer assumes an existing mortgage. Thus, while the assumption fee may cover costs similar to those covered by a loan origination fee, it does not meet the requirement of the above regulation that it be customarily paid by the seller of a residence in the locality of the old official station.

Accordingly, Mr. De Luna may not be reimbursed for the portion of the loan assumption fee he paid for the purchaser incident to the sale of his former residence.



Acting Comptroller General
of the United States

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