



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 21, 2008

CBCA 1006-RELO

In the Matter of JOHN W. BODFORD

John W. Bodford, Biloxi, MS, Claimant.

JoAnne Rountree, Supervisor, Chief of PCS Travel Accounting, Financial Services Center, Department of Veterans Affairs, Austin, TX, appearing for Department of Agriculture.

SOMERS, Board Judge.

A claimant who seeks reimbursement for real estate purchase expenses must demonstrate that the costs incurred are normal and customary for the area, or otherwise required by the lender as a precondition to purchase.

Background

In April 2007, claimant, John W. Bodford, a civilian employee of the Department of Veterans Affairs, purchased a new residence in connection with his transfer to Biloxi, Mississippi. Mr. Bodford sought reimbursement of \$1517.40 for his real estate purchase expenses. The agency reimbursed him in part, but determined that Mr. Bodford should not receive reimbursement for a tax service fee of \$80, a processing fee of \$400, and a flood certificate fee of \$8.

Mr. Bodford challenges the agency's disallowance of those fees. He asserts that he should be reimbursed for the tax service fee, the processing fee, and the flood certificate fee because such fees are "payable items in connection with my loan that are normal and customary to this area." In support of his claim, Mr. Bodford provided a copy of the policy provided by the relocation services company which was involved in the transaction. The document contains a list of "eligible closing costs," upon which Mr. Bodford has highlighted the phrases "normal and customary for the area" and "lenders fees." Mr.

Bodford asserts that the tax service fee, the processing fee, and the flood certificate fee are valid claims and should be reimbursed because they are customary charges with respect to the purchase of a home. He provides no other evidence to support his claim.

The agency provided a response to Mr. Bodford's claim. It explained that Mr. Bodford failed to provide an explanation from the lender concerning what the processing fee covered, i.e., whether the charge is similar to loan origination fee, which might permit the agency to reimburse the claimant up to one percent of his loan, or a finance charge, which would preclude reimbursement. Nor did Mr. Bodford provide any documentation from the lender demonstrating that the flood certificate was required to obtain the loan. Mr. Bodford did not provide any additional information in response to the agency's submission.

Discussion

When an agency transfers an employee from one permanent duty station to another within the United States and the transfer is in the agency's interest, federal law requires the agency to pay the employee's real estate purchase expenses. 5 U.S.C. § 5724a(d) (2000). The extent of the agency's obligation is set out in the Federal Travel Regulation (FTR), which applies to civilian employees of the Federal Government. The FTR is published in the Code of Federal Regulations (CFR) and the provisions pertinent to real estate transactions are found at 41 CFR pt. 302-11 (2006).

The FTR provides that an agency will pay residence transaction expenses "[p]rovided they are customarily paid by . . . the purchaser of a residence at the new official station." Among the residence transaction expenses that may be reimbursed are loan origination fees not to exceed one percent of the loan amount; the costs of preparing credit reports; mortgage and transfer taxes; and "[o]ther expenses of . . . purchase made for required services that are customarily . . . paid by the purchaser of a residence at the new official station." 41 CFR 302-11.200(f).

It is the purchaser's burden to demonstrate that the fee charged was reimbursable, reasonable, and not in excess of the amount generally assessed in that locality. *Vernon K. Register*, CBCA 971-RELO, 08-1 BCA ¶ 33,790, at 167,235 (citing *Edward D. Ellis*, GSBCA 16763-RELO, 06-2 BCA ¶ 33,304; *Timothy R. Defoggi*, GSBCA 16496-RELO, 05-1 BCA ¶ 32,907). When a charge has been questioned by the agency, this burden is usually met by furnishing statements from knowledgeable real estate and mortgage company professionals who are familiar with the prevailing customs in the locality of the new residence, and able to explain the nature of a particular fee. *Id.* (citing *Ioan V. Sere*, GSBCA 16815-RELO, 06-2 BCA ¶ 33,412).

The agency properly denied Mr. Bodford's claim for the tax service fee. Citing 31 CFR 302-11.202(g), the agency noted that it may not pay "any 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, as amended, and Regulation Z issued by the Board of Governors of the Federal Reserve System (12 CFR part 226), unless specifically authorized in § 302-11.200." This Board and its predecessor on relocation cases, the General Services Board of Contract Appeals, have held that tax service fees are part of the finance charge and may not be reimbursed. *See, e.g., James L. Thomas*, CBCA 890-RELO, Mar. 28, 2008); *Craig A. Czuchna*, GSBCA 15799-RELO, 02-2 BCA ¶ 31,898 at 157,594 ("Tax service fees are generally charged by a lender to monitor tax assessments on mortgaged property").

In order to receive reimbursement for the "processing fee" or the "flood certificate fee," Mr. Bodford must provide evidence demonstrating these expenses are either normal and customary for the area, or otherwise required by the lender as a precondition to sale or purchase. Because Mr. Bodford has failed to do so, the Board upholds the agency's denial of his claims.

Decision

The claim is denied.

JERI KAYLENE SOMERS
Board Judge