



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 1, 2009

CBCA 1586-RELO

In the Matter of ERIC SANDENO

Eric Sandeno, Elkins, WV, Claimant.

Tam Nguyen, Office of the Chief Financial Officer, Department of Agriculture, New Orleans, LA, appearing for Department of Agriculture.

STERN, Board Judge.

Background

Claimant, an employee with the United States Department of Agriculture (USDA) Forest Service, was authorized a permanent change of station from Bedford, Indiana, to Elkins, West Virginia, in 2008. The USDA authorized claimant payment for real estate transaction expenses.

Claimant purchased a home at his new location prior to the sale of his home in Indiana and obtained a temporary (bridge) loan to assist in the financing of the new property until permanent financing could be arranged. Subsequently, claimant obtained a permanent loan, in the form of first and second mortgages for the property in West Virginia.

The USDA reimbursed claimant for most of the costs associated with the permanent financing, including the following fees:

Appraisal fee - \$350
Settlement fee - \$175
Recording fee - \$63
Loan processing fee - \$55

The USDA did not reimburse claimant for a \$23 recording fee and a \$55 processing fee associated with the second mortgage.

Claimant also seeks reimbursement for the following expenses, denied by the USDA, associated with the bridge loan he obtained to assist in the purchase of the West Virginia home:

Appraisal fee - \$250
Settlement fee - \$250
Recording fee and taxes - \$38
Loan processing fee - \$55

The bridge loan was secured by his Indiana property.

Discussion

The USDA requests an advance decision, pursuant to 31 U.S.C. § 3529 (2006), as to whether it is authorized to reimburse claimant for the fees associated with the bridge loan and second mortgage, since it has already paid claimant these types of fees arising out of the first mortgage portion of the permanent financing.

We are guided by the general rule that the payment by an agency of duplicate expenses associated with real estate transactions is prohibited. Where there are multiple closings or loans, the employee may be reimbursed only one time for each type of expense that is allowable under the regulations. *Milton E. Geiger*, CBCA 758-RELO, 08-1 BCA ¶ 33,764; *Timothy C. Lindquist*, GSBCA 16246-RELO, 04-1 BCA ¶ 32,524 (2003); *Steven F. Bushey*, GSBCA 15289-RELO, 01-1 BCA ¶ 31,291. In considering the amount of reimbursement to an employee, the agency may consider one or more loans obtained for the permanent financing of the purchase. Thus, if used as permanent financing of the new house in West Virginia, the costs of obtaining the bridge loan and the first and second mortgage may be reimbursed by the agency, as long as the costs are not duplicative. *See Edward I. Wexler*, GSBCA 16410-RELO, 04-2 BCA ¶ 32,732.

Here, claimant may only be paid one appraisal fee, settlement fee, recording fee, and loan processing fee, associated with the permanent financing. The regulations provide that the agency can pay the customary cost of an appraisal fee, up to one percent of the loan amount for loan origination fees and similar charges, and the amount customarily paid by a purchaser for the other fees sought by claimant. 41 CFR 302-11.200 (2008). Subject to these standards, claimant may be paid these fees associated with the bridge loan and second mortgage only if he can demonstrate that the amount of each fee did not exceed the amount

he would have spent had he financed his new house with only one loan. There is no evidence here that these fees are not duplicative. If claimant is unable to demonstrate that the total for each category does not exceed the fees that would have been incurred with a single loan and further that the fees do not exceed the amounts permitted by the regulations, the claim should be denied.

JAMES L. STERN
Board Judge