



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

January 14, 2010

CBCA 1791-RELO

In the Matter of M. MARTY GOFF

M. Marty Goff, Washington, DC, Claimant.

Marion Deutsch, Real Estate Division, United States Army Corps of Engineers, Baltimore, MD, appearing for Department of the Army.

BORWICK, Board Judge.

Mr. M. Marty Goff, claimant, a civilian employee of the Department of the Army, agency, was authorized a permanent change of station (PCS) from New York City to Washington, D.C. The agency authorized claimant reimbursement of allowable real estate transaction expenses. In purchasing a residence in the Washington area, claimant paid premiums for mortgage insurance and owner's title insurance and asked the agency for reimbursement of those premiums, reimbursement which the agency denied. Claimant asks the Board to overturn the denial. We sustain the decision of the agency in this matter. Both expenses are made unallowable by regulation, specifically the Federal Travel Regulation (FTR) and the supplemental Joint Travel Regulations (JTR). Furthermore, claimant has not established facts that would bring him within the exception to the non-reimbursable rule for owner's title insurance.

Background

On or about May 24, 2009, claimant moved from New York City to Washington, D.C., pursuant to his PCS. The agency authorized real estate transaction expenses in connection with that PCS. Claimant purchased a residence in the Washington area and incurred real estate transaction expenses including a mortgage insurance premium of \$8021.56 and title insurance in the amount of \$2371.25 -- \$1310.90 for lender's coverage and \$1060.35 for owner's coverage, according to the settlement sheet. Claimant sought reimbursement for the mortgage insurance premium and for the owner's title insurance

expense. The agency denied reimbursement because it considered both unallowable expenses under the FTR and JTR. Claimant submitted an appeal to this Board from that determination, maintaining that those expenses are reimbursable.

Discussion

Transferred employees, when authorized, may be reimbursed for the expense of purchasing a new residence in the United States. 41 CFR 302-11.6 (2009). The FTR, however, lists mortgage insurance as a category of unallowable expense. *Id.* 302-11.202; *see also* JTR C5756-A.4.b(1). Here, the premium of \$8021.56 was for mortgage insurance that protects a lender against a debtor's default on a mortgage throughout the life of the mortgage, exactly the type of insurance that regulation deems unallowable. Claimant argues that the Federal Housing Administration required claimant to pay for the insurance. Regardless, the expense is unallowable. *Rebecca Manning*, GSBCA 14586-RELO, 98-2 BCA ¶ 29,981.

The premium for owner's title insurance is generally not a reimbursable expense. 41 CFR 302-11.202(c). However, the premium for such a policy may be reimbursable if it is customarily paid by the purchaser of a residence at the location in question and if it is a prerequisite to financing or the transfer of the property, or if the cost of the policy is inseparable from the cost of other insurance which is a prerequisite. *Thaddeus Hosley*, GSBCA 16899-RELO, 06-2 BCA ¶ 33,394 (citing *Gregory A. Tate*, GSBCA 16753-RELO, 06-1 BCA ¶ 33,195; *Jeffrey B. Hicks*, GSBCA 15860-RELO, 03-1 BCA ¶ 32,083 (2002)).

Here, claimant has not carried his burden of showing that the lender required owner's title insurance as a prerequisite to financing. *Gary Twedt*, GSBCA 16905-RELO, 06-2 BCA ¶ 33,433. Indeed, agency e-mail message traffic in the record shows that the mortgage lender denied that such insurance was a prerequisite for financing, although the title company said that it was. Here the settlement sheet separated the owner's title insurance from lender's title insurance.

Since the agency correctly applied governing regulations, the Board denies the claim.

ANTHONY S. BORWICK
Board Judge