

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

January 24, 2001

GSBCA 15353-RELO

In the Matter of GEORGE H. NOLTE, JR.

George H. Nolte, Jr., Gaithersburg, MD, Claimant.

B. S. Jewitt, Director, Administration and Resource Management Division, Headquarters United States Marine Corps, Washington, DC, appearing for Department of the Navy.

HYATT, Board Judge.

Claimant, George H. Nolte, Jr., is a civilian employee of the United States Marine Corps. In December 1998, he was transferred from his official station in Kansas City, Missouri, to the Marine Corps Headquarters in the Washington, D.C., area. In connection with the transfer, Mr. Nolte submitted a claim for the costs of selling his home in Blue Springs, Missouri, at the old duty station. He has asked the Board to review the Marine Corps' decision to disallow certain costs.

Specifically, Mr. Nolte questions the disallowance of two items. First, he states that as a seller he was required to pay title insurance in the amount of \$580. In addition, because he had moved to the Washington, D.C., area by the time he sold his house in Missouri, he was forced to pay express mail charges to complete transactions necessary to close on the house. These charges, which were also disallowed by the Marine Corps, totaled \$60.

Title Insurance

With respect to the title insurance charges, Mr. Nolte explains that the agency mistakenly allowed the amount of \$196, which was paid by the buyer, while disallowing the amount of \$580, which was paid by claimant and satisfied the requirement for a title search or title insurance. He seeks payment of the difference, which is \$384.

In support of his claim for reimbursement of title insurance as a seller's expense, Mr. Nolte explains that the state of Missouri allows either a title search or the purchase of title insurance for the purpose of ensuring that there are no outstanding liens or encumbrances on the property to be transferred. In both Kansas and Missouri, this item is customarily paid by the seller of property. At the request of the Board, claimant submitted a letter from his

real estate broker explaining that it is customary in that area for the seller to pay this expense. The broker states that the charge is normal and customary and that the practice under which the seller pays title insurance is pre-printed into the text of the local real estate contracts, which are routinely used on an area-wide basis. The Marine Corps has not submitted any evidence to the contrary.

Joint Travel Regulations (JTR) paragraph C14002-A.3 provides that the costs of searching title or, if customarily furnished by the seller, of purchasing title insurance, are allowable expenses incurred in connection with the sale of a residence. Mr. Nolte has shown that this expense is customarily incurred by the seller in the area where his former official station is located. Accordingly, this expense should be allowed, to the extent the amount paid does not exceed amounts customarily charged in this locality. See, e.g., Wayne E. Smith, GSBCA 14844-RELO, 99-1 BCA ¶ 30,247; Willard T. Mays, III, GSBCA 14275-RELO, 98-1 BCA ¶ 29,425 (1997).

Express Mail Expenses

The Marine Corps also declined to reimburse the expense of using special mailing services in connection with the closing on the sale of claimant's house in Missouri. The Corps concluded that this charge was part of the financing cost and thus not reimbursable. Mr. Nolte disagrees with this characterization of this expense -- he points out that by the time he sold the house he had moved to the Washington, D.C., area. It would have been inconvenient and costly to return to his old official station to attend the closing on the house in person. Thus, the special, or express, mailing services were necessary not to obtain financing, but to ensure that documents necessary to proceed with closing were received by claimant, and signed and returned in a secure and traceable manner.

Although the Marine Corps is correct that charges attributable to obtaining financing are not eligible for reimbursement under applicable regulations, these mailing expenses are not in the nature of a charge imposed by the lender as a prerequisite to the extension of credit. See, e.g., Richard A. Poisel, GSBCA 15330-RELO (Dec. 8, 2000). Although there is no specific entitlement to recover these costs under an applicable statutory or regulatory provision, the Board has recognized that to the extent these expenses are required to facilitate settlement, they may be reimbursable as incidental expenses under Federal Travel Regulation (FTR) 302-6.2(f). 41 CFR 302-6.2(f) (2000); Paula K. Fowler, GSBCA 15384-RELO (Jan. 22, 2001); Ramiro Ramirez, GSBCA 14252-RELO, 98-1 BCA ¶ 29,702, reconsideration denied, 98-2 BCA ¶ 29,797; see Anna M. Wharton, GSBCA 15258-RELO, 00-2 BCA ¶ 31,011. Accordingly, to the extent that claimant can show that these expenses were necessary for closing to proceed, the costs are recoverable.

CATHERINE B. HYATT
Board Judge