



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20541

B-178782

31102  
June 21, 1973

Mr. Joseph B. Marcotte, Jr.  
68 Cornell Circle  
Pueblo, Colorado 81003

Dear Mr. Marcotte:

Reference is made to your letter of April 11, 1973, constituting an appeal from the settlement of our Transportation and Claims Division dated April 5, 1973, Z-2489582, disallowing your claim for reimbursement of \$305 representing a loan service fee paid incident to the purchase of a residence at your new permanent duty station, Pueblo, Colorado.

The record shows that the Bureau of Reclamation, Department of the Interior, disallowed the \$305 from your original voucher. The item was described on the settlement statement as "Loan Service Fee (Buyer)" and is 1 percent of the loan. On August 16, 1972, the administrative office submitted a reclaim voucher for \$305 with supporting documents to our Transportation and Claims Division for consideration. The claim was disallowed by our Office for the reason that the \$305 represents a loan origination or loan service fee, a finance charge under the Truth in Lending Act, Public Law 90-321, and as such not reimbursable under Office of Management and Budget Circular No. A-56, effective June 26, 1969.

On appeal, you refer to a letter of the Central Mortgage and Investment Company, dated May 26, 1972, which reads in pertinent part as follows:

This fee is required to cover the cost of processing a loan. This encompasses the efforts of many people necessary to process a loan from application through closing.

Much typing, mail, telephone conversations, and calculating is involved. V. A. papers are prepared for submission; Truth in Lending Disclosure Statements, Closing Statement, preparation of Note and Deed of Trust along with many other required documents are completed for closing.

It is difficult to individually itemize every requirement for processing a loan to completion. I trust that you now have some idea of what our loan origination fee covers.

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The record indicates that you were advised by the loan company that the 1 percent charge was not a finance charge. However, for the reasons outlined below we must conclude that such charge was of the type precluded by applicable law and regulation from being a reimbursable expense.

Section 4.2d of Office of Management and Budget Circular No. A-56, revised August 17, 1971, provides in pertinent part:

\* \* \* Notwithstanding the above, no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System. \* \* \*

Under this provision whenever an item of expense incident to a real estate transaction constitutes a finance charge within the contemplation of Regulation Z reimbursement therefor is precluded. Section 106 of the Truth in Lending Act is in part as follows:

(a) Except as otherwise provided in this section, the amount of the finance charge in connection with any consumer credit transaction shall be determined as the sum of all charges, payable directly or indirectly by the person to whom the credit is extended, and imposed directly or indirectly by the creditor as an incident to the extension of credit, including any of the following types of charges which are applicable:

(1) Interest, time price differential, and any amount payable under a point, discount, or other system of additional charges.

(2) Service or carrying charge.

(3) Loan fee, finder's fee, or similar charge.

(4) Fee for an investigation or credit report.

(5) Premium or other charge for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss.

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(e) The following items, when charged in connection with any extension of credit secured by an interest in real property, shall not be included in the computation of the finance charge with respect to that transaction:

- (1) Fees or premiums for title examination, title insurance, or similar purposes.
- (2) Fees for preparation of a deed, settlement statement, or other documents.
- (3) Escrows for future payments of taxes and insurance.
- (4) Fees for notarizing deeds and other documents.
- (5) Appraisal fees.
- (6) Credit reports.

Regulation Z (12 CFR, Part 226), is to the same effect.

The items as described by the mortgage company relate to the application, processing and servicing of the loan, the fee for which was a flat 1 percent of the amount of the loan. The fee is clearly incident to the extension of credit within the purview of section 106(a) of the Truth in Lending Act and is such not reimbursable. See B-173814, October 21, 1971, and B-176775, October 25, 1972, copies enclosed.

In view of the foregoing the disallowance of the loan service fee by our Transportation and Claims Division in the settlement of April 5, 1973, is hereby sustained.

Sincerely yours,

Paul G. Doubling

For the

Comptroller General  
of the United States