Text as published on gao.gov, https://www.gao.gov/products/b-137493, archived 2026-09-13. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-137493 November 20, 1958

Number: B-137493

Date: 1958-11-20

B-137493 November 20, 1958

Mr. Lester H. Thompson Authorized Certifying Officer Federal Housing Administration

Dear Mr. Thompson:

Your letter of September 23, 1958, file MC:JRB, requests our decision whether the voucher enclosed therewith, stated in favor of the Merchants National Bank and Trust Company in the sum of $1,770.83 properly may be certified for payment. The amount involved covers a claim for reimbursement for lose sustained on account of default in the payment of a note which the Merchants National Bank and Trust Company (insured) purchased and reported for insurance under its contract with the Federal Housing Administration under Title I of the National Housing Act, 48 Stat. 1246, as amended, 12 U.S.C. 1703.

It is explained that the insured advanced two Title I loans to the borrowers: one on November 2, 1956, in the amount of $1,500, on which financing charges of $370.44 were assessed, which was to be repaid in 60 monthly installments beginning January 10, 1957; and a second loan was disbursed by the insured to the same borrowers, on January 7, 1957, in the amount of $2,025. At the time the second loan was advanced the borrower had made one monthly payment of $31.19 on the first loan.

Provisions of the National Housing Act pertinent to the matter are as follows:

Section 2(a)(iii): "* * * the Commissioner is authorized and directed, by such regulations or procedures as he shall deem advisable, to prevent the use of any financial assistance under this section * * * which would, through multiple loans, result in an outstanding aggregate loan balance with respect to the same structure exceeding the dollar amount limitation prescribed in this subsection for the type of loan involved * * *"

Section 2 (b): "No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it (1) if the amount of such loan, advance of credit, or purchase exceeds $3,500; * * *" (Underscoring supplied.)

The regulations issued pursuant thereto and relative to the type of loan involved provide, in part, that "A class (a) loan shall not involve a principal amount, exclusive of financing charges, in excess of $3,500." See 24 C.F.R. 201.3.

In view of the above limitation in order for the loans to have been eligible for insurance and the voucher properly for payment, the unpaid balance on the first loan, exclusive of financing charges, must not have exceeded $1,475 at the time the second loan of $2,025 was advanced.

Neither the National Housing Act nor the regulations issued pursuant thereto prescribe the manner in which unpaid balances are to be determined. However, a booklet published by the Administration entitled "Property Deprovement Loans" sets forth the general administrative policy of the Administration with respect to Title I loans and specifically states that it is for use in connection with the regulations. This booklet is distributed to all financial institutions holding Title I contracts of insurance and sets forth the method for computing the net unpaid balance and earned charges on a defaulted loan when a claim is filed by an insured financial institution. Under that procedure, proration factor represents the ratio of the total periodic outstanding balances prior to the date of default to the total periodic outstanding balances for the full term of the loan. Such factors are listed ina table of factors published and distributed to landers in a pamphlet entitled "Settlement of Claims Under Title I of the National Housing Act."

In the instant case since there was no default the date of the second loan was used. It is stated that this method consistantly has been applied by the Administration since the inception of the Title I program and accepted by lenders in computing the unpaid balance of existing loans at the time additional loans are advanced. Computed on the basis it is reported that the unpaid balance on the first loan was $1,460.96 so that the limitation of 43,500 was exceeded by $5.96.

When the claim for insurance was administrative disallowed the claimant appealed and explained that it used a formula based on a constant ratio method of computing the yield on the financing charge. Under this method the total financing charges were divided by the number of installments and the resulting $6.17 was used as the pro rata amount of financing charges to be applied with each payment. Computed in this manner, the unpaid balance of the first loan comes to $1,474.98 so that the aggregate amount of the loans is $3,499.98, or two cents less than the $3,500 limitation.

It appears from the file that the same loan officer disounted both of the loan applications. There is an inference in memorandum dated April 8, 1958, of the Chief Counsel, Federal Housing Administration that the bank employee who handled the matter was unfamiliar with Title I practices. However, it is noted that with respect to the first loan, payment was made on the basis of the accepted and usual computation. Consistency in such matters should be required.

While the National Housing Act, the regulations, and the publications referred to above do not specifically prescribe the method to calculate the unpaid balance of a loan for determining the limitation of an additonal advance we believe the required use of the method applied by the Administration reasonably is to be implied from the publications. Similar methods are prescribed in the publication "Property Improvement Loans" for compputing the unearned portion of the financing charges when loans are refinanced, with or without additional advances, and when rebates are calculated for payments made in advance. Certainly nothing contained in the pbulication indicates or implies that any different method could be used for the purposs of calculating the balance of a loan in order to to determine the maximum amount that may be additonally advnced

within the statutuory limitation. To permit the use of the computation contended for by the claimant (which apparently was used in connection with only this one payment) would have the effect of waiving compliance with the statutory limitation of $3,500.

Accordingly, it is our view that since the total of the loans exceeded the statutory limitation of $3,500 when the unpaid balance of the first loan is computed in the manner required by the publications referred to above, the voucher properly may not be certified for payment. Cf. B-331963, July 17, 1957; B-133924, December 4, 1957.

Pursuant to your request the voucher and claim file are returned herewith.

Sincerely yours,

JOSEPH CAMPBELL Comptroller General of the United States

Enclosures