

Overpayment of Claims

Legal Opinion: GHM-0080

Index: 3.400

Subject: Overpayment of Claims

April 19, 1993

MEMORANDUM FOR: Gary G. Zimmerman, Chief, Multifamily Claims
Branch, HFMMC

FROM: Donald A. Franck, Chief Attorney, Loan Management and
Property Disposition Section, GHM

SUBJECT: Overpayment of Claim to GNMA
(GHM:L-1609)

This memorandum is in response to your May 5, 1992 memorandum asking whether it was appropriate to request GNMA to return funds that were overpaid in settlement of an insurance claim. It was appropriate for your office to request GNMA to return funds that were overpaid.

The facts as I understand them are that the mortgagor made a partial mortgage payment to DRG Funding, Inc. ("DRG") prior to the date of election to assign the mortgage. DRG defaulted and GNMA took over its portfolio. When GNMA's servicer submitted the claim for insurance, the partial mortgage payment was not reflected on DRG's ledger or in the fiscal data. Your office paid the claim without knowledge of the partial mortgage payment. Once you were notified of the payment and provided acceptable proof that the payment was made, you adjusted the final settlement of the claim to reflect the payment. The result of adjusting the claim to reflect the partial payment was that the claim had been overpaid. You notified GNMA of the overpayment and they remitted the funds to your office.

It was appropriate for your office to request GNMA to return the funds that were overpaid. This is the normal practice when a mortgagee does not reflect mortgage payments in their financial information submitted for an insurance claim. This practice is not different simply because the mortgagee is GNMA. You were correct to request the return of the overpaid funds.