



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

October 11, 1990

Mr. David R. Seely
President
Kirtland Federal Credit Union
Kirtland Air Force Base
Albuquerque, NM 87117-7438

RE: Financing of Abandoned Property
(Your Letter of August 9, 1990)

Dear Mr. Seely:

You requested an opinion on the permissibility of a federal credit union ("FCU") to finance the sale of an abandoned branch office to a non-member. You also requested an opinion on the permissibility of financing of \$250,000 in expansion and improvement costs to the non-member purchaser of the abandoned branch office. If permitted by a Regional Office, an FCU may finance the sale of abandoned or foreclosed property to a non-member, including reasonable construction and improvement financing.

The authority of an FCU to sell abandoned or foreclosed property to a non-member arises from Section 107(4) of the FCU Act. 12 U.S.C. §1757(4). This section grants an FCU the power "to purchase, hold, and dispose of property necessary or incidental to its operations." The NCUA has set forth an accounting policy on the repossession and sale of collateral property, but not on abandoned or surplus property. As the two situations deal with the disposal of unwanted property by the FCU, they seem sufficiently analogous to draw parallels between the two. In its policy on the sale of repossessed or foreclosed property, the NCUA recommends that collateral property be sold for cash; however, an FCU "may accept a note for all or a portion of the proceeds of sale or enter into some other kind of contractual agreement with the purchaser for the payment of the purchase price over a reasonable period of time." NCUA Accounting Manual for Federal Credit


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Unions, §5110.1.4 (1989). The same section also permits sales to members and non-members. Id. Although it is a rarity, a Regional Office may permit an FCU to also finance reasonable construction and improvements to the abandoned or foreclosed property. In making a decision, a Regional Office will review to its satisfaction such factors as whether the financing is necessary to close the sale; whether there are any other credible bidders for the property; whether the purchaser is creditworthy; whether the transaction is on an arms' length basis and at prevailing market value; whether any other lenders are available to finance the transaction and, if not, the reasons for the unavailability of credit; whether financing is secured by marketable collateral; and whether the financing will adversely affect the safety and soundness of the FCU.

If you plan on proceeding with any financing of the abandoned branch office, you must contact John S. Ruffin Regional Director, Region V, NCUA, 4807 Spicewood Springs Road, Suite 5200, Austin, Texas 78759 (tel. 512-482-4500). We have taken the liberty to send Mr. Ruffin a copy of this response.

Sincerely,



Hattie M. Ulan
Associate General Counsel

GC/MEC:sg
SSIC 4650
90-0829

cc: John S. Ruffin
Regional Director,
Region V