

May 18, 1992

Janet L. Flansburgh  
C P Federal Credit Union  
1100 Clinton Road  
Jackson, MI 49202-2088

Re: Principal Residences (April 16, 1992, Letter)

Dear Ms. Flansburgh:

You have asked whether a federal credit union (FCU) is prohibited from granting to a member a second long-term mortgage loan under Section 701.21(g) of the NCUA Rules and Regulations (12 C.F.R. 701.21(g)) to purchase a second residence. Such a loan is permissible if the residence is the new principal residence of the member or the member's future retirement home. A loan to finance the acquisition of a vacation home or rental property can not be financed under either Section 701.21(f) or Section 701.21(g) of NCUA's Regulations.

#### ANALYSIS

A member may obtain a long-term, first mortgage loan with up to a 40 year maturity from an FCU pursuant to Section 107(5)(A)(i) of the FCU Act (12 U.S.C. 1757(5)(A)(i)) and Section 701.21(g) of NCUA's Regulations. Both require that such loans be made on "a one to four family dwelling that is or will be the principal residence of the member-borrower." The preamble to the 1983 proposed revision to Section 701.21(g) of NCUA's Regulations (48 F.R. 52475, 11/18/83) states in part that:

It should also be noted that with respect to the statutory requirement that the dwelling "is or will be" the principal residence of the member, ~701.21(f)(2) [now ~701.21(g)(2)] of the proposal would not require that the member occupy the dwelling within a certain time after the loan is made . . . The proposed change is designed to provide Federal credit unions the option of financing eventual retirement homes for their members.

An FCU may finance a future retirement home (as a future "principal residence") under the long-term mortgage authority. The time for judging the "principal residence" requirement is when the loan is made. If at that time it is a member's intent to establish a new principal residence, either immediately or some time in the future, an FCU may extend a long-term mortgage loan to the member. Under this analysis, an FCU may make a second long-term mortgage loan to a member to purchase a future retirement home or to purchase a new principal residence.

One additional note. Section 701.21(f) of the Regulations does not authorize an FCU to grant a loan to finance the acquisition of a vacation home (unless the vacation home is a mobile home) or rental property (see enclosure). Section 701.21(f) only authorizes an FCU to grant certain second mortgages, nonpurchase money first mortgages, mobile home loans, and home improvement loans with maturities up to 20 years. However, an FCU may make a 12-year mortgage loan to a member to acquire a vacation home or rental property subject to the other regulatory requirements contained in Section 701.21.

Sincerely,

Hattie M. Ulan  
Associate General Counsel

Enclosure

GC/MM:sg  
SSIC 3501  
92-0439