



June 22, 2016

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Via e-mail: regcomments@ncua.gov

Re: Comments on Notice of Proposed Rulemaking for Parts 701 and 721, FCU Occupancy, Planning, and Disposal of Acquired and Abandoned Premises; Incidental Powers

Dear Mr. Poliquin,

Thank you for the opportunity to comment on NCUA's proposed rule on federal credit union occupancy. We appreciate NCUA's willingness to address the issue of FCU occupancy with an eye toward allowing credit unions more flexibility to own and occupy multi-purpose facilities that they would share with other users.

By way of background, Self-Help Federal Credit Union serves 65,000 members across 22 branches in four states. Our branches range from a small room inside a farmworker advocacy organization in central Florida to a 12,000 square foot, owner-occupied building in a dense urban community in Chicago. In addition, our affiliate, Self-Help Credit Union, operates 20 branches. The combination of these two credit unions leaves us intimately familiar with the challenges of obtaining and operating different facilities in diverse communities in our attempts to maximize member impact.

Self-Help strongly supports the Board's proposal to eliminate the full-occupancy requirement in the occupancy rule. At the same time, we urge the Board to allow credit unions broader regulatory flexibility to occupy buildings at less than 50% as a means to best serving their members.

Multi-occupant buildings maximize FCUs ability to reach members, in high-cost urban markets. In many communities – particularly dense urban communities like New York, Chicago, Los Angeles and San Francisco, just to name some prominent markets – it is often quite difficult for a credit union to acquire property in the size range typical of a credit union branch, e.g., 2,000-5,000 square feet. Such properties often do not exist. Like other financial service providers, credit unions can best serve their members with prominent locations and branding. This leads us to value first floor and/or corner retail space in multi-unit and/or multi-story buildings. At the same time, with rent escalation and the risk of lease non-renewal, purchase of such buildings guarantees that credit unions can retain control of their member-service facilities.

Flexible occupancy allows FCUs to better serve their members with partners.

Self-Help often seeks to partner with other non-profits and providers that serve our membership and broader community. Both the credit unions and our partners prefer to co-locate, whenever possible, to leverage our partnerships. Partners can include financial counselors, community developers, workforce development agencies, attorneys and others.

For example, when Self-Help FCU acquired Mission SF Federal Credit Union's membership, loans and deposits via purchase and assumption in April 2011, we inherited their long-standing relationship with what is now My Path¹, a 20-year old youth financial education partnership that was co-located with the credit union. In 2013, Self-Help FCU purchased a building in the Mission district of San Francisco, which we renovated to house our branch and My Path. My Path now occupies approximately 30 percent of our renovated branch and shares conference room space with the branch. This is both a critical partnership for helping provide financial education to members and area youth and an example where multi-tenant occupancy allows us to own a branch in a high-cost, dense urban market.

Ownership of prominent locations maximizes visibility.

Prominent locations, especially urban office buildings with space for first-floor retail banking offer credit unions high visibility in the community. Visibility helps establish the credit union for current and prospective members. This also allows credit unions to compete with banks and thrifts, who generally have no defined limitation on occupancy percentages on bank-owned facilities.

Prudent regulation requires appropriate limitations.

We agree with NCUA that credit unions should not be allowed to speculate on real estate. However, we do not believe that a relatively arbitrary 50% occupancy requirement is consistent with the Federal Credit Union Act (FCU Act) or prudent supervision.

As the proposed regulation cites, Section 107(4) of the FCU Act authorizes an FCU to purchase, hold, and dispose of property "necessary or incidental to its operations". It should be in a credit union's power to determine what is "necessary". In our case, controlling a major office-building in a growing downtown market in our hometown with a first floor vault and high visibility at a set cost is highly necessary to our business, which we describe later in this letter. At the same time, had Self-Help FCU acquired the building and leased out a majority of that space, ownership would have been "necessary" and the leasing of most of the building would have been "incidental". Leasing out excess space to mission-aligned non-profits and service providers, most of whom are members of our credit union, is incidental to our mission.

We do not see how the FCU Act supports "necessary and incidental" to be synonymous with "50% or more". Instead, we ask that NCUA consider the following framework for regulating use of real estate:

¹ For more detail on My Path's engagement with members, please visit. www.mypathus.org.

1. Define “partial occupancy” as less-than-full occupancy that is “material and visible actual usage” of a facility. This is consistent with the current definition of occupancy that states that occupancy must be “significant enough that the FCU is deriving practical utility from the occupied portion relative to the scope of the usage plan”.
2. Absolute prohibition on real estate speculation. NCUA can easily define this, including using the current language which prohibits FCUs from “investing in, or holding, property with the intent of realizing a profit from appreciation at a future sale”. NCUA prohibits credit unions from speculating on derivatives, giving it clear precedence for prohibiting purely speculative financial transactions.

NCUA has broad supervisory and examination powers that would allow the agency to determine whether a credit union was speculating on real estate. The agency could require that an FCU document why an acquisition is not speculative if it plans to acquire a building and occupy less than 50% of the facility and enforce compliance through examination and supervision.

The combination of defining partial occupancy as material and visible actual usage of a building, and a blanket prohibition on real estate speculation provides NCUA with adequate authority to ensure FCUs only acquire facilities for usage that is necessary and incidental to their member service mission.

Self-Help’s own history shows that you can serve members well with partial occupancy.

As a case study, NCUA can look to Self-Help’s own headquarters building in Durham, North Carolina. In 1996, Self-Help had the opportunity to purchase the former First Union headquarters building in the heart of downtown Durham. The building is a 50,000 square foot, eight-story office building with a first floor branch. At the time of acquisition, four floors were occupied by local attorneys and other small-use office tenants. At acquisition, Self-Help Credit Union only occupied two stories (25%) of the building, including the former first floor bank branch, while our non-profit affiliate occupied two floors. Fortunately, our non-profit affiliate had enough resources to purchase the building.

We immediately were able to place our name on the front of the building and on the back of the building, facing the Durham Bulls Athletic Park, two major arteries, an 800,000 square foot multi-use historic development, the Durham Performing Arts Center and the bus terminal. This prominent location and signage gives us high visibility in our hometown.

As leases matured in the four tenanted floors, we leased out space to other non-profits that serve our members and the broader community. Downtown Durham rents have skyrocketed in recent years, such that we would have neither the naming rights nor would we be able to afford downtown occupancy if we had not obtained site control 20 years ago.

Thank you again for the prompt review of the occupancy limits. We strongly support NCUA's increased flexibility on this rule. We encourage NCUA to, within the authority of the FCU Act, to define "necessary and incidental to its operations" to include facilities that the FCU will occupy at less than 50%, but to do so with a material and visible actual usage.

Sincerely,



Martin D. Eakes
Chief Executive Officer



Randy Chambers
Chief Financial Officer