

July 7, 2009

Mark Robey, General Counsel
Credit Union Association of Colorado
1009 Grant Street
Denver, Colorado 80203

Re: Requirement to Advertise Abandoned Property.

Dear Mr. Robey:

You have asked what actions are sufficient to meet a requirement in the fixed asset rule stating federal credit unions (FCUs) must “publicly advertise” property for sale after it has been “abandoned” for four years. 12 C.F.R. §701.36(b)(3). Specifically, you have asked if it is sufficient if an FCU lists the property for sale with a real estate broker who posts a “for sale” sign in front of the property and uses other means of offering the property for sale. We conclude this will generally be sufficient to meet the regulatory requirement, assuming the other means include using a commercial listing service.

Generally, the fixed asset rule limits FCU investment in fixed assets and, among other provisions, requires FCUs to dispose of abandoned property. 12 C.F.R. §§701.36(a), 701.36(b)(2). Abandoned property means real property an FCU is no longer using and includes real property an FCU originally acquired for future expansion but which an FCU no longer intends to use. 12 C.F.R. 701.36(e)(1). The rule states, if the property has been abandoned for four years, an FCU must publicly advertise it. 12 C.F.R. §701.36(b)(3). Our view is listing the property with a real estate agent, which we assume means the property will be included in a commercial listing service, and posting a “for sale” sign in front of the property generally should be sufficient to satisfy the regulatory requirement. The rule requires FCUs to make diligent efforts to dispose of and seek fair market value for abandoned property, which may require additional actions than described here depending on location and circumstances, and an FCU needs to be mindful the rule requires sale of abandoned property within five years unless NCUA provides written approval. Id.

If you have any further questions, please contact Staff Attorney Justin Anderson or me.

Sincerely,

/s/

Sheila A. Albin
Associate General Counsel