

UNITED STATES OF AMERICA
BEFORE THE NATIONAL CREDIT UNION ADMINISTRATION

In the Matter of

Mid-Hudson Valley Federal Credit Union *Docket No. 99-FOM-004*

Decision and Order on Appeal

This matter comes before the National Credit Union Administration Board (Board) on appeal from Mid-Hudson Valley Federal Credit Union (Appellant). The Region I Director denied the Appellant's application to convert to a community charter.

Background

Appellant is a multiple group credit union with its headquarters located in Kingston, Ulster County, New York. As of March 1999, it had 38,270 members (potential of 85,000) and assets of \$274 million. The Appellant was chartered in 1963 to serve employees of the IBM plant in Kingston. Appellant's field of membership currently consists of over 200 select groups. Its overall penetration rate is 49%.

The Appellant submitted its application to convert from a multiple group to a community charter on July 15, 1998, one month prior to the amendment of the Federal Credit Union Act by the Credit Union Membership Access Act. The requested community is a four-county area in upstate New York. The area consists of Dutchess, Ulster, Orange and Putnam counties and is referred to by the Appellant as the Mid-Hudson Valley area.

The Region V Director denied the application on January 11, 1999. The authority to deny an application to convert to a community charter has been delegated by the NCUA Board to the Regional Directors.^[1] The Regional Director stated in his denial that the application "... failed to demonstrate that the proposed service area meets NCUA's community charter requirements." The application did not "provide sufficient evidence to demonstrate that it is a single geographically well-defined area where residents interact." Appellant, through its attorneys, appealed the denial to the NCUA Board on March 9, 1999.

Issue for Appeal

The issue in the matter of this appeal is whether the four-county area is a community within the context of NCUA policy.^[2]

Analysis and Applicable Law and Policy

For purposes of community charters, Section 109 of the Federal Credit Union Act (the "FCU Act"), 12 U.S.C. 1759, states that "Federal credit union membership shall be limited to ... groups within a well-defined neighborhood, community, or rural district."^[3] The Chartering Manual states that it is NCUA policy "to limit the community to a single, geographically well-defined area where residents interact." It then sets out a two part test:

- The geographic area's boundaries must be clearly defined; and
- The charter applicant must establish that the area is recognized as a distinct neighborhood, community, or rural district.

Chartering Manual, ch. 1, II.C.1, p.1-6; ch. 2, IV.B, p.2-8.

The four-county area meets the first part of the two-part test. It is clearly defined geographic area. The four-county area, two counties each on either side of the Hudson River, has distinct geographic boundaries.

The Chartering Manual sets forth the types of documentation needed to show that the area represents one well-defined area, distinguishable from the immediate surrounding areas. These are the criteria for the second part of the test. The information includes documentation on major trade areas (shopping patterns), traffic flows, shared/common facilities, common organizations and clubs, area newspapers or other periodicals, census tracts, history of area, common characteristics and background of residents, as well as what causes the area and its residents to be distinguishable from the immediate surrounding areas and residents. Chartering Manual at p. 1-7.

For purposes of credit unions applying to convert to a community charter, “the greater the population of the proposed area, the greater justification necessary to support the existence of the “community” and interaction among its residents.” Chartering Manual at p. 2-8. The Appellant applicant must show that the proposed community is not only distinguishable from the surrounding area, but that its residents interact to form one community.

The four-county area has a total population of over 850,000 and encompasses over 3000 square miles. It has a fairly equal balance of urban and rural residents. The Appellant did not submit any narrative on the urban areas within the four-county area. The four-county area includes several small cities with populations between 20,000 and 30,000. There is no major city or urban center within its boundaries. Oftentimes, an urban center serves as a focal point for drawing a community together.

Demographics and Interaction

The Appellant submitted demographic information on the four individual counties. Demographics of the individual counties vary considerably. The appellant also submitted demographics of the four-county area as a whole.^[4] The Appellant attempted to show how demographics differentiate the four-county area from the surrounding counties. The most distinct differences are that the four-county area is less densely populated and less urban than the counties closer to New York City and more densely populated and more urban than some of the counties further from New York City. The fact that the demographics of the four counties of the area vary individually does not show commonality among area residents and brings into question the validity of demographics of the four-county area compared to surrounding counties. The demographic information does little, if anything, to show that the four-county area forms a community. It does not show interaction among residents to support that the area is a community within NCUA policy.

Appellant submitted voluminous documentation on the requirements to support a community.^[5] The Appellant submitted an early history of the area as well as information on governing bodies, shared environmental concerns, transportation, higher education, chambers of commerce, medical facilities, utilities and telephone services, shopping areas, area festivals and events, clubs and social organizations, museums, entertainment and performing arts, sports, recreation and print and broadcast media.

These organizations, events, services and facilities do indicate some interaction among area residents. The most notable area-wide interaction was found in the Mid-Hudson Teachers Center, an educational facility that draws educators together from three of the four counties. Various area wide cooperative planning agencies also support area-wide interaction. However, many of the services and facilities noted in Appellant’s submission appear only to serve either residents of individual counties (e.g. individual county community colleges and chambers of commerce) or residents of a larger area (a 7-10 county area referred to as the Hudson Valley). The information submitted does not provide the “greater justification” necessary to support community and interaction in a highly populated area as required by agency policy.

It is noted that there are fifty-one separate public school districts in the proposed area. The existence of so many separate school districts indicates that students, parents and staff do not interact throughout the county through the use of shared educational facilities. The Appellant did not submit information on the public educational system. It submitted no information on police and fire protection in the four-county area. Education, and police and fire protection are all listed in the Chartering Manual as examples of shared facilities supporting a community charter. Chartering Manual, at p. 1-7.

There are two special documentation requirements where information in the application is clearly lacking. The first is information on common characteristics and background of residents. This can be supported by information regarding income, religious beliefs, primary ethnic groups, similarity of occupations, household types, and primary age groups. Chartering Manual at p. 1-7. Although some of this information is touched upon in the Appellant's submission of data on demographics, the application does not identify the similarities among area residents that would help to identify it as a community. Rather, the discussion focuses on how demographics of the four-county area differ from those of its surrounding counties. The information submitted does not show common characteristics or background as is required by policy.

The second requirement not supported by documentation relates to information on "what causes the chosen area and its residents to be distinguishable from the immediate surrounding areas and residents – some examples are old, well-established ethnic neighborhoods, planned communities, and small/rural towns or rural counties." Chartering Manual at p. 1-7. Except for the general demographic information noted above, no specific information was submitted on this criterion.

Conclusion

In summary, the Appellant did not submit meaningful information on the common characteristics and background of area residents and the characteristics that distinguish the area and its residents from surrounding areas and residents; information that is crucial in defining this highly populated four-county area as a community. In addition, the other areas of information required (e.g. history, traffic flows, shopping patterns, shared facilities, organizations, periodicals) must show that there is sufficient interaction among and between residents on an area-wide basis. The multiplicity of services available indicates insufficient interaction. Especially noted is a lack of information on public education, and police and fire protection and the lack of an urban center which draws together residents of the entire area. The Appellant does not show adequate interaction among its residents to meet the community chartering standards. Therefore, the NCUA Board has determined that the four county-area comprised of Dutchess, Ulster, Orange and Putnam counties, New York, does not constitute a community within the context of NCUA policy.

Order

Based on the NCUA Board's determination that the counties of Dutchess, Ulster, Orange and Putnam, New York, do not, as a whole, constitute a community under agency policy, it is ORDERED as follows:

The Region I Director's decision denying Mid-Hudson Valley Federal Credit Union's application to convert to a community chartered credit union is upheld and the appeal is denied.

So Ordered this 22nd day of July, 1999, by the National Credit Union Administration Board.

Becky Baker

Secretary of the Board

[1] NCUA Delegations of Authority, Chartering 3C. No concurrences from other offices are required.

[2] Interpretive Ruling and Policy Statement (IRPS) 94-1, as amended by IRPSs 96-1 and 98-1, constitutes NCUA chartering policy in affect at the time Appellant filed its conversion application and is applicable to this appeal. This policy is contained in NCUA's Chartering Manual, NCUA 8007/M6001 (June 1996), as amended by IRPS 98-1. References to the Chartering Manual are to that 1996 edition.

[3] This provision of Section 109 is from the FCU Act prior to its amendment by the Credit Union Membership Access Act of 1998 (CUMA). Since Appellant filed its community conversion application prior to the CUMA amendment, the pre-CUMA version of Section 109 is the applicable version.

[4] Demographic information is found in chapter 3 of Appellant's application.

[5] Appellant's application, chapter 3, and supplemental information submitted on January 6, 1999 after a December 15, 1998 meeting with Region I staff.