

February 5, 1991

E.J. Metsch  
President/ General Manager  
Sea Air Federal Credit Union  
Naval Weapons Station  
P.O. Box 2648, Seal Beach, California 90740-1648

Re: Appraisal Requirements (Your January 11, 1991, Letter)

Dear Mr. Metsch:

You have asked whether Sea Air Federal Credit Union's (FCU) "Personal Secured" (P.S.) loan program requires an appraisal or valuation under Part 722 of NCUA's Rules and Regulations. Loans made under the P.S. loan program require a valuation of the collateral.

#### BACKGROUND

The FCU makes special real estate loans under its P.S. loan program. The interest on these loans is tax deductible to the member. Under the P.S. program the maximum loan amount is \$15,000 with a maximum maturity of 5 years. The FCU requires the following before approving the loan: 1) five years of membership in the FCU; 2) five years of occupancy and ownership of the encumbered residence; 3) employment with the same employer for five continuous years; and 4) a perfect credit record.

No appraisal or valuation of the property is conducted in connection with a P.S. loan. The FCU files a lien on the property when the loan is granted but is more concerned with the creditworthiness of the borrower than with the value of the collateral.

#### ANALYSIS

Section 722.3(a)(1) of NCUA's Rules and Regulations (12 C.F.R. 722.3(a)(1)) states that an appraisal is not required for any real estate-related financial transaction in which the transaction value is \$50,000 or less. However, Section 722.3(d) of NCUA's Rules and Regulations does require that:

Secured transactions exempted from appraisal requirement pursuant to paragraph (a)(1) of this section (transactions of \$50,000 or less) and not otherwise exempted from this regulation shall be supported by a written estimate of market value, as defined in this regulation, performed by an individual having no direct or indirect interest in the property, and qualified and experienced to perform such estimates of value for the type and amount of credit being considered.

A valuation is not required, however, if one of the other exemptions to the appraisal requirement is applicable to the P.S. loan program. Section 722.3(a)(2) of NCUA's Rules and Regulations (12 C.F.R. 722.3(a)(2)) states that an appraisal is not required for any real estate-related transaction in which "a lien on real property has been taken as collateral solely through an abundance of caution and where the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of a lien."

The preamble to the final regulation (55 F.R. 30204, 7/25/90) states that:

... an appraisal would not be needed where a lien on real property has been taken as collateral solely

through an abundance of caution. Collateral will be deemed to be taken in an abundance of caution where the terms, as a consequence, have not been made more favorable than they would have been in the absence of the lien. Accordingly, this exception is intended to have very limited application.

The P.S. loan program does not appear to fit squarely within the "abundance of caution" exemption. Under your description of the loan program, the member's residence is an important basis for the loan since the member must live in and own the collateralized property for five consecutive years. Under these facts, we believe the lien is not taken as an abundance of caution but is a necessary requirement of the loan program. If, however, you would grant a P.S. loan on the same terms without a lien on the property, the abundance of caution exemption would apply.

Sincerely,

HATTIE M. ULAN  
Associate General Counsel

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