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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

**Interpretive Letter #989**  
**April 2004**  
**12 CFR 3**

August 18, 2003

Dear [ ]:

This letter is in response to your December 4, 2002 letter to Lance Cantor. In that letter you requested confirmation that an operating statement prepared by a qualified asset manager following an annual site inspection would meet the annual net operating income requirement for a loan to a multifamily property to qualify for a preferential risk weight. The OCC has determined that the on-site inspections and analyses described in your letter are not sufficient, by themselves, to satisfy the criteria outlined in Section 3(a)(3)(v) of 12 C.F.R. § 3, Appendix A.

In order to qualify for a 50% risk weight, a loan secured by a first mortgage on a multifamily residential property must satisfy certain criteria. One of the criteria is based on the ratio of annual net operating income generated by the property to annual debt service on the loan (debt service ratio). That ratio may not be less than 120% for a fixed rate loan or 115% for a floating rate loan. The OCC has determined that actual operating income of the property must be available as a prerequisite for a lower capital requirement on multifamily residential mortgage loans.

The regulation also requires that a loan must be seasoned by requiring one year of timely interest and principal payments before the loan may qualify for the 50% risk weight. This seasoning requirement for the preferential risk weight is consistent with the requirement that actual net operating income be used in the annual calculation of the debt service ratio.

When a bank has timely information on the financial condition of the property securing the loan, it is able to implement appropriate actions in response to changes in asset quality and market conditions. Thus, from a safety and soundness perspective, the OCC believes a bank should have access to actual revenue and expense information on the property securing the loan in order to apply the preferential 50% risk weight.

If you have further questions, please contact the resident OCC examiners or Margot Schwadron on 202-874-6022 in the OCC Capital Policy Division.

Sincerely,

/s/

Tommy Snow  
Director, Capital Policy