DowLohnes

September 3, 2009

VIA ELECTRONIC FILING

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notification of *Ex Parte* Communication
MB Docket Nos. 06-121 and 02-277
MM Docket Nos. 01-235, 01-317, and 00-244

Dear Ms. Dortch:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that yesterday, September 2, 2009, George L. Mahoney, Vice President, Secretary, and General Counsel of Media General, Inc. ("Media General"), and I met with Commissioner Meredith Attwell Baker and William D. Freedman, Acting Senior Legal Advisor and Acting Legal Advisor for Media and Enforcement Issues to Commissioner Baker, to discuss the history of FCC consideration of the newspaper/broadcast cross-ownership rule, the positions that Media General has previously taken in the above-referenced dockets, the status of the proceedings, and the extensive evidence in the record that supports repeal of the newspaper/broadcast cross-ownership rule. The attached materials were discussed and distributed at the meeting.

As required by Section 1.1206(b), as modified by the policies applicable to electronic filings, one electronic copy of this letter is being submitted for each above-referenced docket.

Very truly yours,

M. Anne Swanson

cc w/encl. (by email):
The Honorable Meredith Attwell Baker
William D. Freedman, Esquire

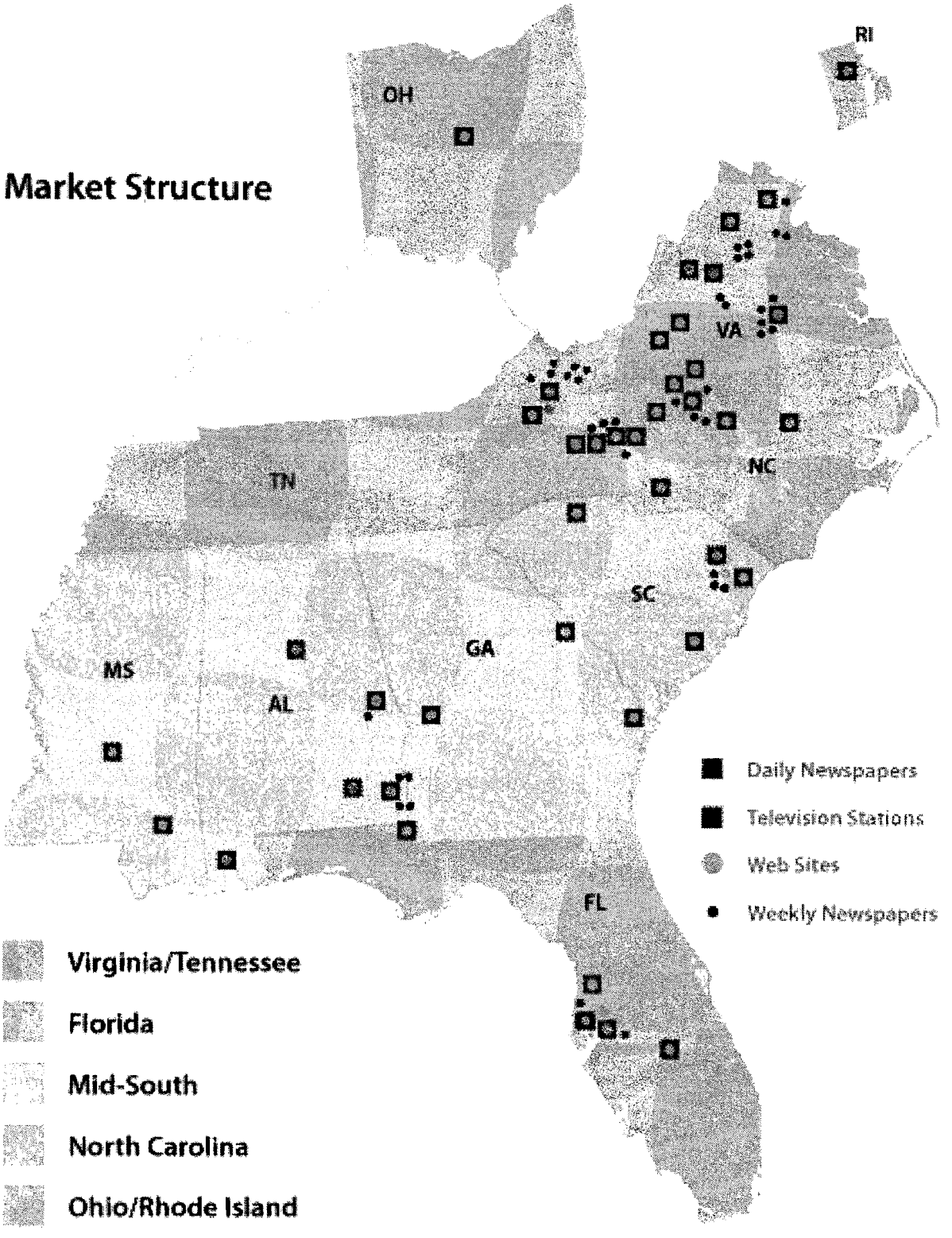
MEDIA GENERAL OFFERS DIVERSE CONTENT
TO CONSUMERS THROUGHOUT THE SOUTHEAST

Media General is an independent, publicly owned communications with interests in newspapers, television stations and interactive media, and is a leading provider of news, information and entertainment across these multiple media platforms, serving consumers and advertisers in local markets, primarily in the Southeastern United States. Media General's operations are organized in five geographic market segments and a sixth segment called Digital Media.

The company's operations include 18 network-affiliated television stations and associated Web sites, 21 daily newspapers (under the FCC's definition) and associated Web sites, more than 200 specialty publications that include weekly newspapers, and niche publications targeted to various demographic, geographic and topical communities of interest. Many of the company's specialty publications have associated Web sites.

Media General also operates three interactive advertising services companies: Blockdot, which specializes in interactive entertainment and advergaming technologies; DealTaker.com, a coupon and shopping Web site; and NetInformer, a leading provider of wireless media and mobile marketing services.

Media General


Market Structure
OH
RI
VA
TN
NC
SC
GA
MS
AL
FL
Daily Newspapers
Television Stations
Web Sites
Weekly Newspapers
Virginia/Tennessee
Florida
Mid-South
North Carolina
Ohio/Rhode Island

Daily Newspapers Owned by Media General, Inc. (2009)

DMA No. (2008-2009)	DMA Name	Daily Newspaper
9	Washington, DC	*Culpeper Star-Exponent* *(Woodbridge/Manassas) News & Messenger*
13	*Tampa-St. Petersburg, FL	*The Tampa Tribune* *Highlands Today (Sebring)* *Hernando Today (Brooksville)*
24	Charlotte, NC	*Hickory Daily Record* *Statesville Record & Landmark* *The (Morganton) News Herald*
36	Greenville-Spartanburg, SC-Asheville-Anderson, NC	*The (Marion) McDowell News*
46	Greensboro-High Point-Winston Salem, NC	*Winston-Salem Journal*
58	Richmond-Petersburg, VA	*The Richmond Times-Dispatch*
67	*Roanoke-Lynchburg, VA	*The (Lynchburg) News & Advance* *Danville Register & Bee*
92	*Tri-Cities, TN-VA	*Bristol Herald Courier*
104	*Myrtle Beach-Florence, SC	*(Florence) Morning News*
128	*Columbus, GA	*Opelika-Auburn News*
151	Panama City, FL	*Jackson County Floridan*
172	Dothan, AL	*Dothan Eagle* *The Enterprise Ledger*
178	Harrisonburg, VA	*The (Waynesboro) News Virginian*
183	Charlottesville, VA	*The (Charlottesville) Daily Progress*

* Media General convergence underway

Television Stations Owned by Media General, Inc. (2009)

DMA No. (2008-2009)	DMA Name	Station	Network	Daily Newspaper
13	*Tampa-St. Petersburg, FL	WFLA-TV	NBC	*The Tampa Tribune* *Highlands Today (Sebring)* *Hernando Today (Brooksville)*
27	Raleigh-Durham (Fayetteville), NC	WNCN(TV)	NBC	
32	Columbus, OH	WCMH-TV	NBC	
36	Greenville-Spartanburg, SC-Asheville-Anderson, NC	WSPA-TV WYCW(TV)	CBS UPN	*The (Marion) McDowell News*
40	Birmingham, AL	WVTM-TV	NBC	
52	Providence-New Bedford, RI	WJAR(TV)	NBC	
60	Mobile, AL-Pensacola, FL	WKRG-TV	CBS	
67	*Roanoke-Lynchburg, VA	WSLS-TV	NBC	*The (Lynchburg) News & Advance* *Danville Register & Bee*
90	Jackson, MS	WJTV(TV)	CBS	
92	*Tri-Cities, TN-VA	WJHL-TV	CBS	*Bristol Herald Courier*
96	Savannah, GA	WSAV-TV	NBC	
99	Charleston, SC	WCBD-TV	NBC	
103	Greenville-New Bern-Washington, NC	WNCT-TV	CBS	
104	*Myrtle Beach-Florence, SC	WBTW(TV)	CBS	*(Florence) Morning News*
115	Augusta, GA	WJBF-TV	ABC	
128	*Columbus, GA	WRBL(TV)	CBS	*Opelika-Auburn News*
167	Hattiesburg-Laurel, MS	WHLT(TV)**	CBS	

* Media General convergence underway
** Satellite Station

FCC Consideration of Newspaper/Broadcast
Cross-Ownership over the Last Decade and a Half

- *Cap Cities Waiver.* In February 1996, the FCC granted Capital Cities a temporary 12-month waiver of the newspaper/broadcast cross-ownership rule to allow its ownership of daily newspapers and radio stations in the Detroit and Dallas-Ft. Worth markets. In doing so, the FCC stated it would proceed "expeditiously" to consider reversing the rule. Then Chairman Reed Hundt wrote separately that the FCC should be able to complete the proceeding within a year, before the temporary waiver expired.

- *1996 NOI.* In October of the same year, the FCC, in a *Notice of Inquiry* sought initial and reply comments on adopting a less restrictive policy for waivers of the newspaper/broadcast cross-ownership rule as it applies to radio stations. Despite a record that strongly favored adoption of a liberalized policy, the FCC never acted on the *Notice.*

- *First NAA Petition.* On April 27, 1997, the National Newspaper Association ("NAA") filed a "Petition for Rulemaking," urging the FCC to commence a proceeding to eliminate all restrictions on common ownership of radio and television stations. The FCC did nothing in response to this filing.

- *Second NAA Petition.* On August 23, 1999, NAA submitted an "Emergency Petition for Relief," urging repeal particularly in light of the FCC's significant liberalization earlier that month of the television duopoly rule. The FCC did nothing in response to this filing.

- *1998 Biennial Review.* As required by Section 202(h) of the Telecommunications Act of 1996, the FCC in 1998 commenced a biennial review of its media ownership rules. In the course of this docket, which treated the two NAA petitions as comments, the FCC received overwhelming support for repeal or modification of the rule. In the report issued at the conclusion of the proceeding in June 2000, the FCC said it would soon initiate a notice of proposed rulemaking seeking comment on repeal of the newspaper/broadcast cross-ownership rule because the rule might not be necessary to achieve its intended public interest benefits in all instances.

- *2000 Biennial Review.* In the report concluding its 2000 Biennial Review proceeding, which was issued in January 2001, the FCC again said it would be issuing a notice of proposed rulemaking on the newspaper/broadcast cross-ownership rule.

- *2001-2002 Newspaper/Broadcast NPRM.* In September 2001, the FCC finally released a notice of proposed rulemaking, seeking comment on elimination of the newspaper/broadcast cross-ownership rule. In response, the FCC received virtually unanimous industry support for repealing the rule, and numerous economic and programming studies demonstrated such repeal would be in the public interest. Out of the 49 substantive comments, only five opposed repeal. Despite compilation of an extensive record, the FCC, concerned over recent appellate court losses criticizing its approach to rulemaking, chose to defer action for yet another rulemaking.

- *2002 Biennial Review NPRM.* In September 2002, the FCC released a notice of proposed rulemaking seeking comment on all its media ownership rules. In the course of the proceeding, the agency released 12 studies it had commissioned. The six studies that bear some tangential relationship to this rule document that its repeal would enhance the public interest. In both the 2001-02 and 2002-03 proceedings, consumer and labor groups opposing repeal failed to support their opinions about the need for the rule's retention with any substantive, empirical studies that meet Section 202(h)'s burden for sustaining the rule.

- *2002 Biennial Review.* In July 2003, the FCC released a report and order on all of its media ownership rules. This report and order repealed the newspaper/broadcast cross-ownership ban and replaced it with new "cross-media limits" ("CMLs") that retained restrictions on cross-ownership in certain markets. In markets with nine or more broadcast television stations, the FCC lifted the ban entirely. In markets with three or fewer broadcast television stations, the FCC retained an absolute ban. In markets with between four and eight broadcast television stations, the FCC allowed a single entity to hold a newspaper and varying, but still very limited, combinations of broadcast television and radio stations. The FCC adopted this graduated approach based on a "diversity index," which it claimed quantified diversity in markets.

- *2004 Third Circuit Appeal.* Various parties appealed the FCC's 2003 Omnibus Report and Order on numerous grounds. These appeals were consolidated in the Third Circuit Court of Appeals, which promptly stayed the effectiveness of the FCC's new rules. In June 2004, the Third Circuit released an extensive opinion, affirming some of the FCC's rules and remanding others for further consideration and justification. The opinion did not lift the stay on the effectiveness of any rules. The Court found that the FCC's decision to repeal the newspaper/broadcast cross-ownership ban was justified under Section 202(h) and supported by record evidence. It rejected constitutional challenges, premised on the First and Fifth Amendments, to the FCC's retention of some type of limits as well as arguments that no limits could be adopted under Section 202(h). The Court found, however, that the FCC did not provide a reasoned analysis for the CMLs that it did adopt. The Court remanded to the FCC, instructing it to modify or justify the CMLs.

- *2005 Denial of Certiorari.* In January 2005, Media General and a handful of other parties filed petitions seeking writs of *certiorari* in the United States Supreme Court. Media General argued that the Court should reconsider its determination in *FCC v. NCCB* and *Red Lion Broadcasting Co. v. FCC* that broadcast spectrum "scarcity" justifies lesser First Amendment protection for broadcast speech and its ruling in *NCCB* that newspaper/broadcast cross-ownership restrictions are subject to only rational basis review under the First and Fifth Amendments. In June 2005, the Supreme Court refused to grant *certiorari.*

- *2006 Quadrennial Review FNPRM.* In July 2006, the FCC issued a further notice of proposed rulemaking that served the dual purpose of fulfilling the agency's Section 202(h) periodic review mandate, which Congress in 2004 made a four-year obligation, and responding to the issues raised in the Third Circuit's 2004 remand decision. In the

2006 FNPRM, the Commission asked, among other things, whether it should revise the 2003 CMLs, whether it could justify those limits based upon additional evidence or analysis, and whether continuing to restrict newspaper/broadcast cross-ownership was necessary in the public interest at all. The proceeding generated yet another massive record on newspaper/broadcast cross-ownership, with the Commission receiving comments and reply comments, commissioning ten peer-reviewed studies (on which the Commission received additional comments and reply comments), and conducting six official field hearings.

- *2006 Quadrennial Review.* In an order adopted in December 2007 (and released in February 2008), the FCC found that a wholesale ban on cross-ownership was not justified based on the record and market conditions. Among other things, the Commission found that "evidence in the record continues to support the Commission's earlier decision that retention of a complete ban is not necessary in the public interest as a result of competition, diversity, or localism." The FCC, however, kept the rule on the books and codified extremely modest and limited waiver criteria, applicable principally in the Top 20 markets.

- *2008 Appeals.* Various parties filed separate appeals of the FCC's 2006 Quadrennial Review Order in the United States Courts of Appeal for the First, Third, Sixth, Ninth, and District of Columbia Circuits. The Judicial Panel on Multidistrict Litigation consolidated these appeals in the Ninth Circuit Court of Appeals.

- *Transfer of Appeal to Third Circuit.* After consolidation of the appeals of the 2006 Quadrennial Review Order in the Ninth Circuit, various parties filed motions to transfer the case. Media parties moved for transfer to the Court of Appeals for the District of Columbia Circuit. Advocacy parties moved for transfer to the Third Circuit Court of Appeals. The Ninth Circuit ultimately transferred the case to the Third Circuit.

- *Abeyance and Stay.* A number of advocacy groups filed a motion in the Third Circuit requesting that the court hold the cases in abeyance pending FCC action on a petition for reconsideration that other parties had filed with the agency. On April 14, 2009, the Third Circuit issued an order granting the motion to hold the cases in abeyance. In the same order, the court ordered the parties to show cause why its stay of the FCC's 2002 Biennial Review should not be lifted. On June 12, 2009, the Court issued an order continuing the stay until further notice and directed the parties to file status reports on October 1, 2009, including argument as to whether the stay should be lifted.

NO LEGAL OR FACTUAL BASIS EXISTS TO CONTINUE TO APPLY THE 1975 BAN ON NEWSPAPER/BROADCAST CROSS-OWNERSHIP

GENERAL

History

- Adopted in 1975 by the Nixon Administration to punish "liberal" media like the *Washington Post*, the FCC's newspaper/broadcast cross-ownership rule is the ONLY FCC media ownership restriction that has remained in effect in its original form -- a total ban on common ownership of TV stations and daily newspapers in the same town -- for the last 34 years despite VAST changes in media.

- In its 2002 Biennial Review Decision, released July 3, 2003, the FCC repealed the newspaper/broadcast cross-ownership ban, and replaced it with new "cross-media limits" ("CMLs") that retained restrictions on cross-ownership in certain markets. In markets with nine or more broadcast television stations, the FCC lifted the ban entirely. In markets with three or fewer broadcast television stations, the FCC retained an absolute ban. In markets with between four and eight broadcast television stations, the FCC allowed a single entity to hold a newspaper and varying, but still very limited, combinations of broadcast television and radio stations. The FCC adopted this graduated approach based on a "diversity index," which it claimed quantified diversity in markets.

- In June 2004, the Third Circuit found that the FCC's decision to repeal the newspaper/broadcast cross-ownership ban was justified under Section 202(h) and supported by record evidence. The Court found, however, that the FCC did not provide a reasoned analysis for the CMLs that it did adopt. The Court remanded to the FCC, instructing it to modify or justify the CMLs, and kept in place a stay of the FCC's changes that it had imposed prior to briefing on the merits.

- In its 2006 Quadrennial Review Decision released February 4, 2008, the FCC again found a wholesale ban on newspaper/broadcast cross-ownership was not justified based on the record and market conditions. The FCC, however, kept the rule on the books and codified extremely modest and limited waiver criteria, applicable principally in the Top 20 markets. That decision is again on appeal in the Third Circuit. A petition for reconsideration is also pending at the FCC. Earlier this year, the court placed the appeal in abeyance pending FCC disposition of the reconsideration petition and ordered that the court's stay remain in effect. The result is that the 1975 ban remains in effect despite the FCC's twice finding it unjustified and the Third Circuit's affirmation on this point.

- Cable companies, radio licensees, Internet programmers -- all other local media -- can own TV stations *except* the newspaper industry, a business over which the FCC has no separate jurisdiction. Media General and other newspaper/broadcast parties firmly believe that cross-ownership restrictions violate the First Amendment and the equal protection component of the Fifth Amendment.

Today's Reality

- Meanwhile, given rising costs of newsgathering and production and TV stations' loss of network comp and DTV investment costs, provision of local news on TV stations is declining.

- At the same time, the newspaper industry -- the one group committed to local news production -- faces significant cyclical and secular challenges. Recent months have seen the demise of numerous daily newspapers – *Rocky Mountain News, Seattle Post-Intelligencer, Cincinnati Post,* (Madison, WI) *Capital Times* – with some converting to on-line publication and some closing entirely. Other newspapers have curtailed the days that they publish. A number of publishers that had Washington bureaus, including Media General, have closed them.

- The downturns, particularly in the newspaper industry, have led many to express concern about a "crisis in journalism" and potential loss of news reporting and investigative journalism as we have known them.

- It is encouraging that Speaker Pelosi earlier this year wrote to Attorney General Holder noting that, particularly in connection with the well-publicized difficulties at *The San Francisco Chronicle*, the nation's antitrust policy should reflect "current market realities." AG Holder, in turn, responded that he would be open to possible antitrust policy adjustments.

Solution

- Existing cross-ownerships (in grandfathered situations and cases with waivers) have consistently increased the provision of local news to communities. FCC studies in 1973, 2002, and 2007 and numerous other studies in the eight-year old and very voluminous FCC record on this rule show definite quantitative and qualitative improvements in news performance by cross-owned TV stations.

- Allowing full newspaper/broadcast cross-ownership will increase local TV news and help ensure the provision of local print news.

MEDIA GENERAL

Background

- Media General operates newspaper/broadcast combinations in five markets – a grandfathered combination in Tampa; a combination outside the ambit of the contour-based rule in Roanoke; and three combinations in Tri-Cities, TN-VA; Myrtle Beach-Florence, SC; and Columbus, GA DMAs that *do* implicate the rule.

- While the FCC must approve TV station acquisitions, it has no regulatory role in newspaper acquisitions. The three Media General combinations in Tri-Cities, Myrtle Beach and Columbus resulted when Media General bought newspapers in markets where it already owned TV stations. In such cases, FCC case law allowed Media General to hold both

properties in each market for one year or until the time of the TV station's next renewal, whichever was longer.

Waivers

- In its 2006 Quadrennial Review Decision, the FCC granted Media General permanent waivers of the FCC's newspaper/broadcast cross-ownership rule, allowing it to continue to own the three newspaper/TV combinations in the Tri-Cities, TN-VA; Myrtle Beach-Florence, SC; and Columbus, GA markets, as well as a fourth station, which Media General has since sold.

- The FCC found that the public interest was served by granting these permanent waivers for a number of reasons, including the following:

  - The combinations involved just one TV station and one newspaper.
  - The combinations had been in existence since at least 2001.
  - During this period, the combinations had provided new services to their local communities and built on their synergies.
  - Forced divestiture would have disrupted this proven record of local benefits.

  The FCC, in essence, "grandfathered" these combinations just as the FCC had done with most cross-ownerships, such as Tampa, that existed when it first adopted the cross-ownership rule in 1975.

Renewals

- On March 25, 2008, the FCC granted the pending license renewal applications for Media General's TV stations in these three markets, finding that the stations had served the public interest and that objections based on cross-ownership had been mooted by issuance of the permanent waivers. An application for review of that action is pending before the full Commission. *These applications involve restricted proceedings, and their merits will not be discussed.*

- The permanent waivers the FCC granted, as implemented through the subsequent renewal grants, allow these combinations to continue until the properties might be sold.