

October 27, 2005

Technical Director – File Reference 1204-001 Financial Accounting Standards Board 401 Merritt 7 Norwalk, Connecticut 06856-5116

To Whom It May Concern:

Forest City Enterprises, Inc. is a publicly traded real estate corporation headquartered in Cleveland, Ohio with over \$7.4 billion in total real estate assets. We own, develop, acquire and operate commercial and residential real estate across the United States.

We are submitting this letter as a request for the Financial Accounting Standards Board (FASB) to reconsider certain aspects of the proposed FASB Statement 141 R—Business Combinations, a replacement of FASB Statement No. 141. We are asking the FASB to consider adding clarification or amending its definition of a "business" and to continue to allow the capitalization of acquisition costs. We have organized the letter according to the questions asked by the FASB in the Exposure Draft (ED). We have only addressed the questions that gave us the most concern.

## Question 2

Are the definition of a business and the additional guidance appropriate and sufficient for determining whether the assets acquired and the liabilities assumed constitute a business? If not, how would you propose to modify and clarify the definition or additional guidance?

The definition of a "business" is too broad and therefore not clear. Based on the definition provided, it is unclear that you could ever have an asset acquisition. Under the current definition, it would appear that the acquisition of a rental property would constitute a business. In the real estate business, we consider a rental property an asset and not a separate business. In most circumstances, the acquired property will be similar to numerous other properties held in our portfolio. Our business is to develop, acquire and operate commercial and residential real estate. Individual rental properties are considered by management as separate assets necessary to conduct our business. Similar to a machine to a manufacturer, or a skilled employee to a service provider, we need productive assets to run our business. As a result, we would recommend the FASB either amend the definition of a business to not include rental

property or exclude rental property from the scope of the proposed statement altogether. This would result in accounting for the acquisition of rental property to continue to be governed under Statement of Financial accounting Standards No. 67 "Accounting for Costs and Initial Rental Operations of Real Estate Projects" (FASB 67).

## Question 7

Do you agree that the direct costs that the acquirer incurs in connection with a business combination are not assets and should be excluded from the measurement of the consideration transferred for the acquiree?

As previously discussed, we feel the acquisition of existing rental property should be excluded from the scope of the ED and the measurement of the cost of the property acquired should be determined under the provisions of paragraph 4 of FASB 67. Under this guidance, direct costs of acquiring a property would be capitalized as part of the project.

If the FASB disagrees and considers the acquisition of rental property a business combination, we still feel that direct acquisition costs should be included in the measurement of the consideration transferred for the property. In the real estate business, acquisition costs are always considered for internal reporting to management in determining total return on capital and is integral to the decision of whether to buy the asset. As this cost is considered by management as a piece of its equity in the property, it is inherently part of the fair value of the property. Secondly, if the rule passes as is, it is likely that buyers and sellers will structure the deal such that the seller pays all direct costs of the transaction in exchange for a higher purchase price. It seems fundamental that the price, including acquisition costs, a buyer is willing to spend to acquire a property should be considered the fair value of the property.

Even if the FASB rejects the argument that acquisition costs are a component of fair value, it is still apparent the costs incurred provide a benefit to the Company. The costs, which often are for professional fees, allow the Company to acquire the assets at the presumed best terms available at the lowest risk to the Company. The benefit of these acquisition costs should be recognized over the life that the acquired assets will be providing returns to investors.

Lastly, if acquisition costs must be expensed as incurred, it could compromise the confidentiality of negotiations that are in process. A significant portion of acquisition costs are incurred prior to the closing date of a sale. It could be damaging to a pending business deal if a public company had to disclose in its MD&A confidential negotiations as a way to explain an increase in its expenses for the period.

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We ask the FASB to consider our comments to clarify or amend the definition of a business (or exclude rental property from the scope of the statement) and not change the existing accounting rules around acquisition costs. Please contact if you have any questions on our comments outlined above. We appreciate the FASB's time and consideration of this matter.

Sincerely,

Forest City Enterprises, Inc.

/s/ Chuck Obert

Assistant Controller and VP of External Reporting

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/s/ Betsy Link

Director of External Reporting

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