NO PROTEST RECEIVED
Release copies to District
Date SEP 24 1990
Surname [redacted]

[redacted]

Key District: 52
Employer Identification Number: [redacted]

Dear Applicant:

We have received your application for recognition of exemption from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and have decided that you have not shown that you are exempt under that subsection.

The information submitted discloses that you were incorporated on [redacted] under the [redacted] Nonprofit Corporation Act exclusively for educational and charitable purposes within the meaning of §501(c)(3) of the Code. Your articles contain a dissolution clause.

In operation, you will act in concert with two related entities which have different but related functions and have applied at the same time for recognition of exemption under §501(c)(3) of the Code. You will hold, solicit, and distribute funds to further the objectives of the related entities and of the [redacted] with respect to housing for "low and moderate income" persons. You will serve as a repository for the funds collected.

Income will be from from donations from private entities. In [redacted] you received $[redacted] from the [redacted]. The money was returned as having been paid to the you in error. Accordingly, as a matter of law, the money was never actually deemed paid to you at all. You received no funds in [redacted] and none so far in [redacted]. You hope actual operations will commence beginning in [redacted]. Prior thereto, you plan to develop a business plan and explore source funding. Most services will be performed by volunteers. Your expenditures will be for professional fees.

You have stated that you will become fully operational only in the event that [redacted] County enacts an ordinance requiring developers to set aside a certain percentage of units for low income/senior housing. You would then assist developers in meeting federal and state construction

[redacted]

requirements and manage properties set aside for low income/senior residents who receive assistance from the governmental housing programs such as HUD's section 8 or voucher programs. You are unable to articulate the exact method of doing so despite a question on the issue put to you by this office. Thus, we are still unclear what you will actually do. Your answer stated, "Future activities are in the planning stages, so it is difficult to state exactly which situtation outlined in Rev. Rul. 70-585 will apply." Furthermore, the necessary ordinance has not been enacted.

Section 1.501(a)-1(b)(2) of the Income Tax Regulations provides, in relevant part, that the Commissioner may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt under section 501(a) of the Code.

Section 5.01 of Rev. Proc. 84-46, 1984-1 C. B. 541, provides, in relevant part, that a ruling letter will be issued to an organization, provided its application and supporting documents establish that it meets the particular requirements of the section under which exemption is claimed.

Section 5.02 of the same revenue procedure provides, in relevant part, that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which its expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying out the activities; the anticipated sources of receipts; and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

Section 7.02 of Rev. Proc. 90-4, 1990-2 I. R. B. 10, which deals, inter alia, with the issuance of exempt organizations ruling letters recognizing federal income tax exemption, provides, in relevant part, that a ruling is not issued on hypothetical situations.

You are unable to describe exactly what you will do, and it appears that you will remain unable to do so until a specific ordinance is enacted by [redacted] County with respect to the housing authority matters with which you hope to deal. The exact provisions of the ordinance will not be certain until enactment. Furthermore, you are unable to plan with certainty until such ordinance is enacted. That ordinance may never be enacted. Accordingly, what you may do in the future is, and must remain for some time to come, purely hypothetical.

[redacted]

Accordingly, we conclude that you have not shown that you are exempt from federal income taxation under section 501(c)(3) of the Code. You are, therefore, required to file federal income tax returns.

You have the right to protest this refusal to rule if you believe that it is incorrect. To protest you should submit a statement of your views with a full explanation of your reasoning. This statement, signed by one of your trustees, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your directors, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice Procedures.

If you do not protest this proposed refusal to rule in a timely manner, the Internal Revenue Service will consider you to have failed to exhaust available administrative remedies. Section 7428 of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear form you within 30 days, this refusal to rule will become final and copies of it will be forwarded to the District Director, Baltimore, Maryland. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office. The appropriate state officials will be notified of this refusal to rule in accordance with the provisions of section 6104(c) of the Code.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following address on the envelope:

[redacted]
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

The symbols do not refer to your case but rather to its location. Therefore, it is important that the address appear on the envelope exactly as shown above.

Sincerely yours,

[redacted]

[redacted]
Chief, Exempt Organizations
Rulings Branch 1

[redacted]

cc: [redacted]
Attn: EO Group

cc: [redacted]

cc: [redacted]

cc: [redacted]

[redacted]