

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JUL 20 1981

Gentlemen:

Your application for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code has been considered.

The information submitted discloses that you were incorporated on [REDACTED], to promote the health, safety and welfare of the residents of [REDACTED] subdivision. Your enumerated purposes and powers are:

- 1) To collect annual and monthly maintenance assessments, any special assessments, and each member's pro rata share of premiums due on a master policy of fire and extended coverage insurance, if any, and interest in accordance with the provisions hereinafter set forth as well as the applicable provision of the Declaration of Covenants and Restrictions affecting the lots in the Subdivision as they are recorded in the office of the County Clerk of [REDACTED] County, [REDACTED]
- 2) To encourage compliance with and enforce the covenants contained in the above-mentioned Restrictions.
- 3) To arrange, provide and pay for the cleaning and maintenance of streets, public and private, and alleyways, sidewalks, parks and esplanades in the Subdivision.
- 4) To provide street lighting in the Subdivision.
- 5) To provide for the planting and upkeep of trees and shrubbery at entrances and on esplanades in the Subdivision.

INITIALS	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
		[REDACTED]				
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- [REDACTED]
- 6) To provide for garbage and rubbish pickup and fogging for insect control in the Subdivision.
  - 7) To provide watchmen and/or employ a security agency that will patrol the Subdivision.
  - 8) To purchase, lease, or otherwise acquire, improve, construct, own, hold, use, maintain, operate, exchange, encumber, sell, convey, or otherwise dispose of, real and personal property, of every kind, nature, or description, including but not limited to swimming pools, tennis courts, clubhouses, and private park areas, as may be necessary or desirable to promote the primary purpose of this corporation.

Your Bylaws describe the common area you maintain as that portion of the Subdivision owned or acquired by the Association for the common use and enjoyment of the members of the Association. Members are the owners of lots in the subdivision. In Article XI, the Bylaws provide that you may foreclose the liens retained against the lots in the event that a member does not pay the annual and special assessments.

In your application for exemption you described the following services and activities provided to your member/lot owners: Garbage collection, street lighting, entry and seaplanside landscape maintenance, maintenance of two tennis courts and one swimming pool, architectural control and plan review, security patrol, mosquito control, and crime watch programs. In addition, you provide lawn and landscape maintenance, alley maintenance, building exterior, carpet, garbage and roof maintenance, repair and painting, and water and sewer service for the townhome owner/members.

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic Leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

Section 1.501(c)(4)-1 of the regulations provides, in part, as follows:

"(a)(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if -

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare."

"(a)(2)(i) An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements \*\*\* The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for activity in operating a social club for benefit, pleasure, or recreation of its members, it is carrying on a business with the general public in a manner similar to organizations which are operated for profit.\*\*\*"

Revenue Ruling 74-99, 1974-1 Cumulative Bulletin 131, holds that in order for a homeowners' association to qualify for exemption under section 501(c)(4) of the Code, it must have the following characteristics:

1. The organization must serve a "community" which means a reasonable, recognizable relationship to an area ordinarily identified as governmental;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the public, as distinguished from controlled use or access restricted to the members of the homeowners' association.

Revenue Ruling 74-99 states that "One misconception... is to equate a housing development with the term community within the meaning of section 501(c)(4) of the Code, thereby giving rise to the implication that any housing development may qualify as a community for exemption purposes regardless of any other attendant facts and circumstances in this case. A community within the meaning of section 501(c)(4) of the Code and the regulations is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein. Although an exact delineation of the boundaries of a "community" contemplated by section 501(c)(4) is not possible, the term as used in that section has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof.

Revenue Ruling 69-260, 1969-1 Cumulative Bulletin 152, holds that a nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own houses in a development is not exempt as a social welfare organization under section 501(c)(4) of the

and Ruling 74-17, 1974-1 Cumulative Bulletin 130, holds that an organization formed by unit owners of a condominium to provide for the management, maintenance, and care of the common areas, with membership assessments paid by the unit owners does not qualify for exemption.

Based on information submitted, we have concluded you do not meet the requirements of section 501(c)(4) of the Code. There is no evidence indicating that you are a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision. In fact, it appears that you are simply an aggregation of homeowners bound together in a structured unit formed as an integral part of the planned housing development of [redacted] Subdivision, for the use and general benefit of the homeowners. There is nothing in your application to indicate that your recreational facilities are available for use by the general public as required by Revenue Ruling 74-99. Finally, you are maintaining the exteriors and roofs of private dwellings in a manner similar to that described in Revenue Ruling 69-260.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(4) of the Code, and you are required to file income tax returns on Form 1120 or Form 1120-H.

As a homeowners' association, you may qualify for treatment under section 528. In this letter we are not ruling on the question of whether you qualify for treatment under section 528. However, if you believe you qualify for such treatment, you should file Form 1120-H when due.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file a written protest in accordance with the instructions set forth in the enclosed Publication 892.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely,

[redacted]  
District Director

Enclosures:  
Form 6018  
Publication 892  
Form 1120-H  
Form 1120  
Publication 588