

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P.O. BOX 2508
CINCINNATI, OH 45201

Department of the Treasury

Person to Contact:

Contact Telephone Number:

Reply to:

Date: SEP 10 1967

CERTIFIED MAIL:

Dear Applicant:

We have considered the information submitted in support of your application for exemption from federal income tax under section 501(c)(4) and have concluded that you do not qualify for exemption under this section. Our reasons for this conclusion and the facts on which it is based are explained below.

The evidence submitted indicates that you were incorporated [redacted]. These Articles of Incorporation state that the purposes for which the corporation is organized are:

1. "To provide civic facilities for [redacted] in [redacted];
2. To improve the development of [redacted];
3. To make the same more livable and enjoyable to land owners thereof;
4. To erect, construct and maintain a club house in said development; and
5. To do all things generally necessary for the improvement and development of [redacted]."

The by-laws of your corporation further state that your purposes and policies are "to operate as a non-profit civic association, to foster community and social interest of the members of the Association and to maintain adequate streets, access roads, and the water system."

Article III of your Constitution and By-laws provides that "The membership of the Association shall be comprised of the current members in good standing upon adoption as the dated by-laws, [redacted], thereafter, the membership of the Association shall be limited to those property owners as legally described in exhibits which become part of these by-laws."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[redacted]	[redacted]	[redacted]				
Surname	[redacted]	[redacted]	[redacted]				
Date	[redacted]	[redacted]	[redacted]				

In Lake Petersburg Association v. Commissioner of Internal Revenue, 33 T.C.M. 259, the court considered the exempt status of a homeowners association seeking exemption under section 501(c)(4). The court noted that this association was formed by a limited number of individuals rather than a community-wide group such as a Chamber of Commerce.

The court further noted that the activities of the association directly benefited only those people who were members and that the economic and other benefits to the entire community were indirect and remote." Therefore, the court concluded that this association was not entitled to exemption under section 501(c)(4) since "its activities were not directed to the social welfare of the entire community."

In Flat Top Lake Association v. United States, 86-2, U.S.C.G., 9756, the court also considered the tax exempt status of a homeowners association seeking exemption under section 501(c)(4). An organization seeking exemption under this section must demonstrate that:

1. It is a non-profit organization;
2. It is a civic organization operated for the promotion of social welfare; and
3. It promotes social welfare by being engaged in promoting in some way the common good and general welfare of the entire community.

Flat Top Lake Association required all of the homeowners in its development to be members of the association and restricted the use of its lake and other recreational facilities to its members. Each member was required to pay annual dues. The association used these assessments to maintain the common areas of the property. In denying social welfare status to this association, the court stated that "a private association of homeowners which restricts its facilities to the exclusive use of its members rather than making the facilities available to the public at large does not meet the requirements of exemption set out in section 501(c)(4) of the Internal Revenue Code."

Our review of the activities and purposes of your association indicate that your primary activities of maintaining the roads and providing water to the residents of your development primarily serve the interests of your members rather than the general community at large. This conclusion is substantiated by the fact that your by-laws, at [REDACTED], state that "The membership of the [REDACTED] shall be comprised of the current members in good standing as of [REDACTED], and thereafter the membership of the Association shall be limited to property owners of the Association."

These by-laws also state that use of the boat ramp, the community and its facilities shall be restricted to the property owners and their guests. Like the organizations discussed in Lake Petersburg Association and Flat Top Lake Association, your activities serve the interests of your members rather than the community as a whole. By restricting the use of your facilities to property owners only, your activities are not directed to promote the social welfare of the entire community that is required to be exempt under section 501(c)(4).

[REDACTED]
[REDACTED]
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Therefore, based on the information submitted, we have concluded that you are not entitled to exemption under section 501(c)(4). In accordance with this determination, you are a taxable entity and are required to file federal income tax returns on Form 1120.

Section 528 of the Internal Revenue Code provides guidelines for homeowners associations for federal income tax purposes. We have enclosed a copy of a document we have created that explains in general terms what a homeowners association must do to qualify for the tax benefits available to homeowners associations under section 528.

If you do not agree with our determination regarding your status under section 501(c)(4), you may request consideration of this matter by our Office of Regional Director of Appeals. To do this, you should file a written appeal, as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, he or she will need to file a Power of Attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals which do not contain all documentation required by Publication 892 will be returned for completion.

If you have any questions, concerning this matter, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



District Director

Enclosure: Publication 892
Homeowners Association Information
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