

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P.O. BOX 2507
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

PERSON TO CONTACT:

CONTACT TELEPHONE NUMBER:

IN REPLY REFER TO:

DATE: NOV 13 1997

[REDACTED]

CERTIFIED MAIL:

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

Your application indicates that you were incorporated [REDACTED]. Your stated specific and primary purposes are: "1. To raise the economic, educational and social levels of the residents of [REDACTED], including members of the minority community, who are substantially unemployed, underemployed, or whose income is below federal poverty guidelines; to foster and promote community-wide interest and concern for the problems of said residents to the end that (a) educational and economic opportunities may be expanded; (b) sickness, poverty, crime, and environmental degradation may be lessened; and (c) racial tensions, prejudice, and discrimination, economic and otherwise, may be eliminated.

"2. To expand the opportunities available to said residents and groups to own, manage, and operate business enterprises in economically depressed areas; to assist said residents and groups in developing entrepreneurial and management skills necessary for the successful operation of business enterprises; and to assist said residents and groups in obtaining financial support from

Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Department of the Treasury Internal Revenue Service

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other sources.

"3 To expand opportunities available to said residents and groups to obtain adequate low-cost housing accommodations by constructing, rehabilitating, and providing decent, safe and sanitary housing in [REDACTED] for persons and families of low income who otherwise would not be able to find or afford a suitable place to live; to help relieve the poor, distressed, underprivileged and indigent by enabling them to secure the basic human needs of decent shelter and to thus lessen the burdens of government and promote the social welfare; to provide such housing through rehabilitation of existing substandard buildings and construction of new facilities in the place of blighted structures or blighted vacant sites for the purpose of combating the deterioration of the community and contributing to its physical improvement."

Your activities include training of residents in skills directly related to the operations and management of a project. Developing an active community organization which consists of democratically elected officers. Developing an organization structure which consists of block captains or residential community groups and program committees to carry out specific tasks. Identifying community needs and interests for resident management, skills level, community participation, etc. The concept of the corporation is designed to "assist families living in public housing and in becoming self-sufficient". The organization is coordinated and funded by [REDACTED]. All of your programs and benefits are presently limited to the residents of [REDACTED] and will remain this way unless grants received require outside participation.

Your income is derived from gifts, grants and contributions solicited from local and national private and public foundations, corporations, [REDACTED]. Your expenditures have consisted of board and [REDACTED]. A \$ [REDACTED] grant received in [REDACTED] has been set aside to provide counseling and technical assistance to public housing residents as to how to start their own home businesses or cooperatives.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income taxes of organizations organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more purposes specified in such section. If an organization fails to meet either the organizational test or the operations test, it is not exempt.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3), unless it serves a public rather than a private interest. Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes, if more than an insubstantial part of its activities serve private interests.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase "exclusively for education purposes" in *Better Business Bureau v. United States*, 325 U.S. 279 (1945), the Supreme Court of the United States stated, "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly education purposes."

In *Commissioner v. Lake Forest, Inc.*, 305 F. 2d 814 (1962), the case involved a nonprofit membership housing cooperative that provided low cost housing to its members. In denying exemption, the court stated that the organization was not organized exclusively for the promotion of social welfare because, although its activities were available to all citizens eligible for membership, "its contribution is neither to the public at large nor of a public character." The court looked to the benefits provided and not to the number of persons who received benefits through membership.

Common to all definitions of charity is the characteristic of broad public benefit. This public benefit is brought about by either financially supporting purposes that are charitable or by conferring direct benefits on the community at large.

On the basis of the information provided, we have concluded that you do not qualify for tax-exempt status as an organization described in section 501(c)(3) of the Internal Revenue Code because you do not meet the operational test within section 501(c)(3) of the Internal Revenue Code since it is concluded that you are primarily engaged in the promotion of the common good and general welfare of the specific residents of [REDACTED] and not the people of the greater community.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

[REDACTED]

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Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

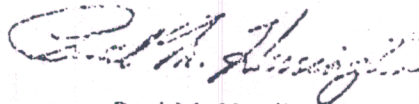
If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support 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, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) 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."

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

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

Sincerely,



Paul M. Harrington
District Director

Enclosure: Publication 892

cc: [REDACTED]