

Internal Revenue Service
District Director

Department of the Treasury

31 Hopkins Plaza
Baltimore, MD 21201

Date: MAR 26 1988

CERTIFIED MAIL RETURN RECEIPT REQUESTED

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Person to Contact:

Telephone Number:

Dear Sir/Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1986.

The information submitted shows that you were incorporated [REDACTED]. Your purpose is to own, operate, maintain, repair, replace, beautify, and clean roads, surface water drains, provide snow removal, and enforce the covenants for the purpose of serving the residents of [REDACTED] which is located in [REDACTED].

Your activities consist of maintaining the roadways, snow removal, removal of dangerous trees, placing of street signs, and grass cutting within your subdivision. Membership is open to property owners of lots in [REDACTED] and [REDACTED] and [REDACTED] of the [REDACTED]. The subdivision consists of [REDACTED] detached homes and [REDACTED] homes. There are no businesses or other non-residential structures in the area. Your subdivision does not represent a governmental unit or tax district.

Section 501(c)(4) of the Code provides for the exemption of civic leagues or organizations not operated for profit and operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that 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 for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 72-102, 1972-1 C.B. 149 hold that a nonprofit organization formed to preserve appearance of a housing development and to maintain streets, sidewalks, and common areas for the use of residents is exempt under section 501(c)(4) of the Code.

[REDACTED]

Revenue Ruling 74-99, 1974-1 C.B. 31 modified Rev. Rul. 72-102 and required that a homeowners association, in order to qualify for exemption under section 501(c)(4) of the Code, (1) must have a "community" which bears a reasonably recognizable relationship to an area ordinarily identified as governmental, (2) must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public. It stated that while an exact delineation of the boundaries of the "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 unit or district thereof. It further clarified that Rev. Rul. 72-102 was intended only to approve ownership and maintenance by a homeowners association of such areas as roadways, parklands, sidewalks, and street lights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners association.

Since membership is limited to property owners and residents in the [redacted] of the [redacted], the organization has a provision to enforce restrictive covenants, and you do not meet the definition of a governmental unit, you are organized and operated for the personal benefit of your individual members. Therefore, you do not qualify for exempt status under section 501(c)(4) of the Code or under any related paragraph of section 501(c).

Since your organization is not exempt you will be required to file a Federal income tax return on Form 1120 for the period ending [redacted].

If you do not agree with our proposed denial, we recommend that you request a conference with a member of the Regional Director of Appeals Staff. Your request for a conference should include a written appeal signed by an authorized officer giving the facts, law, and any other pertinent information to support your position as explained in the enclosed Publication 892. If you are to be represented by someone who is not one of your authorized officers, he/she will need to file a power of attorney or tax information authorization and be qualified to practice before the Internal Revenue Service as provided in Treasury Department Circular No. 230. The conference may be held at the Regional Office or, if you request, at any mutually convenient District Office.

If we do not hear from you within 30 days, this letter will become our final determination.

Sincerely,

Paul M. Harrington
District Director

Enclosure:
Publication 892