

DEN 0255

FEB 25 1993

CERTIFIED MAIL

Dear Applicant:

We have considered your application for exemption from Federal income tax under section 501(c)(6) of the Internal Revenue Code and have determined that you do not qualify for the exemption under this section. Our reasons for this conclusion and the facts which this is based on are explained below.

You were incorporated under the laws of [REDACTED] on [REDACTED]. Your stated purposes are "to provide for maintenance, preservation and architectural control of the condominium units, ground and Common Areas within that certain tract of property described as:

Being all of that particular tract of land situated on the [REDACTED] side of [REDACTED] in [REDACTED] described as [REDACTED] of the [REDACTED] as shown on plot thereof recorded in [REDACTED] and also appearing in [REDACTED]

and to promote the health, safety and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions, and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the office of the Register of Deeds for [REDACTED] and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

| Code    | Initiator  | Reviewer   | Reviewer   | Reviewer   | Reviewer   | Reviewer   | Reviewer   |
|---------|------------|------------|------------|------------|------------|------------|------------|
| Surname | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |
| Date    | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] | [REDACTED] |



(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds (2/3) of the members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes, and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of the members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of the members;

(g) have and be able to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of [REDACTED] by law may now or hereafter have or exercise,

You are a membership organization. Membership shall be confined to and consist of the Unit Owners.

Your sole source of support is from membership dues.

Your expenses are for the administration, management and operation of the condominium property, including maintenance, repair or improvement of the common elements of the properties.

Section 501(c)(6) of the Internal Revenue Code provides for exemption of business leagues, chamber of commerce, real estate boards, boards of trade, and professional football leagues, which are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. Its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.



The Service has published Revenue Ruling 73-411 in Cumulative Bulletin 1973-2 on page 180. This ruling denied 501(c)(6) status to a shopping center merchants' association whose membership is restricted to and required of the tenants of a one-owner shopping center and their common lessor, and whose activities were directed to promoting the general business interests of its members.

Revenue Ruling 74-17, 1974-1 C.B. 130 concerns an association formed by unit owners of a condominium housing project which was organized to provide for the management, maintenance and care of the common areas of the project. Because the essential structure of a condominium association involves ownership in common by all unit owners of common areas and the maintenance and care of private property, it was held that the organization could not be recognized as tax exempt because the activities of the association constituted providing private benefit for the unit owners.

The rights, duties, and privileges of members of an association of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property interests in the condominium.

Condominium type ownership by its very nature necessarily entails ownership in common by all unit owners of common areas or elements supportive to the individual units in a structural and/or functional sense. Thus, any maintenance or care of such common areas or elements constitutes private benefit to the individual members.

Based on the data you have submitted and on the Internal Revenue Code, Income Tax Regulations, and Revenue Rulings as cited in this letter, it is therefore concluded that you do not qualify for tax exempt status as an organization described in section 501(c)(6) of the Internal Revenue Code.

In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

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 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 our 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 do not appeal this determination with 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) 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 all administrative remedies available to it with the Internal Revenue Service."

Sincerely yours,



Paul M. Harrington  
District Director  
Southeast Key District

Enclosure: Publication 892