

Internal Revenue Service  
Director, Exempt Organizations

Department of the Treasury  
P.O. Box 2508  
Cincinnati, OH 45201

Date: AUG 22 2001

Employer Identification Number:  
[REDACTED]

Person to Contact - ID #:  
[REDACTED]

Contact Telephone Numbers:

[REDACTED] Phone

[REDACTED] FAX

**CERTIFIED MAIL**

Dear Applicant: [REDACTED]

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted in support of your application indicates that you were incorporated under the laws of [REDACTED], to provide for maintenance, preservation and architectural control of the Lots and Common Area within the Property in the Declaration of Covenants, Conditions and Restrictions for [REDACTED].

You have stated within your bylaws that membership in the association will be restricted to the recorded owners of lots within the developments of [REDACTED] and [REDACTED].

Information within your application indicates that your income will be derived primarily from membership dues and assessments with a small amount coming from investment income.

You have also indicated within your application that the purpose for your organization's existence is to maintain common green area, streets and sidewalks and to enforce covenants to preserve the appearance of the development.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax for organizations that are civic leagues, social welfare organizations or other organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(1) of the Income Tax Regulations provides that an organization is operated for the promotion of social welfare if it promotes in some way the common good and general welfare of the people of the community. An organization described in this section is one that is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 72-102, 1972-1, CB 149, states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for use of residents is exempt under section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government the organization served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1, CB 131, modified Revenue Ruling 72-102 by providing new guidelines under which a homeowner's association could be exempt.

These guidelines are:

- 1 The organization must serve a "community" which bears a reasonable recognizable relationship to an area identified as a governmental unit,
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 general public.

Revenue Ruling 74-99 states that "...Revenue Ruling 72-102 was intended only to approve ownership and maintenance by a homeowners association of such areas as roadways and parklands, sidewalks and street lights access to and for the use and enjoyment of which is extended to members of the general public". Since access to and the use of your public areas and facilities are limited to the residents of the development and the development does not resemble a governmental unit, you do not qualify for exemption under section 501(c)(4) of the Code and are a taxable entity. You are required to file Federal income tax returns on Form 1120.

[REDACTED]

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

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 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 submitted which do not contained 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 appear in the heading of this letter.

Sincerely yours



Steven T Miller  
Director, Exempt Organizations

Enclosures: Publication 892  
Form 6018  
Envelope

Form 6018  
(Rev. Aug. 1983)

Department of the Treasury - Internal Revenue Service  
Consent to Proposed Adverse Action  
(All references are to the Internal Revenue Code)

Case Number:  
[REDACTED]

Date of Latest Determination Letter

Employer Identification Number  
[REDACTED]

Date of Proposed Adverse Action Letter

AUG 22 2001

Name and Address of Organization  
[REDACTED]  
[REDACTED]  
[REDACTED]

I consent to the proposed adverse action relative to the above organization as shown below. I understand that if Section 7428, Declaratory Judgements Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

Denial of exemption

Revocation of exemption, effective.

Modification of exemption from section 501(c)( ) to section 501(c)( ), effective

Classification as a private foundation described in section 509(a), effective

Classification as an private operating foundation described in sections 509(a) and 4942(j)(3), effective for

Classification as an organization described in section 509(a)( ), effective

Classification as an organization described in section 170(b)(1)(A)( ), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgement under section 7428.

(Signature instructions on Back)

Name of Organization:  
[REDACTED]

Signature and Title

Date

Signature and Title

Date