

Internal Revenue Service

District
Director

Department of the Treasury
P.O. Box 1680, Brooklyn, N.Y. 11202
~~35 J.P. St. Brooklyn, N.Y. 11201~~



Person to Contact:

Telephone Number:

Refer Reply to:

Date:

Case #

NOV 13 1981

Gentlemen:

We have considered your application for exemption under section 501(c)(4) of the Internal Revenue Code. The evidence presented disclosed that you were incorporated on [redacted], under the laws of the State of [redacted]. The purposes stated in your Certificate of Incorporation are "to operate, construct, repair and maintain sewer and storm drainage lines, piers and bulkheads, walkways, and recreational facilities, including landscaping, lighting and related matters in a community located at [redacted], County of [redacted] and State of [redacted], as a home owners association...". The purpose stated in your By-laws is "to own, operate, manage and control the Common Properties as an automatic Home Owners Association for the benefit of its members...".

Your membership consists of owners and former owners of condominiums and boards of managers and the developers of the properties.

Your income will be derived from Association assessments and interest income and disbursements will be for insurance, electricity, professional services, common properties maintenance and management fees.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but 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 primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 74-17, 1974-1 C.B.130 states that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by States statutes with membership assessments paid by the unit owners does not qualify for the exemption under section 501(c)(4) of the Code.

Revenue Ruling 69-280, 1969-1 C.B. 152 holds that a nonprofit organization formed to provide maintenance of exterior walls and roofs of members homes in a development is not exempt from Federal income tax under section 501(c)(4) of the Code.

Based on the evidence presented we hold that you are not organized and operated for the promotion of social welfare, since condominiums ownership necessary involves ownership in common by all condominiums unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners. Consequently, you do not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

If you wish to elect to file as a homeowners association under section 528 you may do so by filing Form 1120-H, U.S. Income tax return for Homeowners Associations.


You are required to file a taxable return, Form 1120, with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn New York 11202.

If you do not agree with this determination, you may request a conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final.

Very truly yours,


District Director

Enclosure: Pub. 892