

INTERNAL REVENUE SERVICE
District Director
2 Cupania Circle
Monterey Park, CA 91755

DEPARTMENT OF THE TREASURY

Case Number:
[REDACTED]

Employer Identification Number:
[REDACTED]

Person to Contact:
[REDACTED]

Telephone Number:
[REDACTED]

Date:

MAY 02 1994

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code of 1986.

FACTS

The information submitted with your application indicates that you were incorporated under the Non-Profit Mutual Benefit Corporation Law of the State of [REDACTED] on [REDACTED].

Your articles of incorporation states that your purpose is "to give the members of the association, landowners in the [REDACTED], City of [REDACTED], a corporate entity which will provide management to a program of encouraging the City to adopt a current, feasible general plan for the [REDACTED] and specific plans for portions thereof, with the objective of increasing and enhancing the value and marketability of all the property in the [REDACTED] area and, upon obtaining the approval of such plan or plans by the City, to thereafter obtain a buyer for all of the land owned by members of the association in said area."

In the early [REDACTED]'s and [REDACTED]'s the [REDACTED] sold parcels of unimproved land in the [REDACTED] area to individual buyers. The City of [REDACTED] however, refused to grant building permits on the grounds that the land use plan under which the property was sold was not sound.

Your organization was formed by the property owners (sole qualification for membership in this organization is ownership of an interest in property in the [REDACTED] of the City of [REDACTED]) in order to develop, a feasible land use plan so that the property owners can make full use of their purchase.

All members of your organization executed mutual covenants so that boundaries of the existing parcels, road way easements, and the unworkable infrastructure system of the existing plan could be disregarded as to their respective parcels when drawing up the new land use plan. Each member would own an interest in the mutual

land of all the association members in proportion to the number of acres which that member's parcel bore to the total acreage of the membership.

The original source of financial support to meet the cost of engineers, consultants, etc. was an assessment of \$■ an acre from each member. A secondary source was an agreement under which an organization agreed to advance funds to finance the program in consideration of a receipt of an option to purchase the members' land which option became effective on the City's adoption of the submitted plan. The budget information in the application states in recent years the only source of income has been from interest income.

LAW

The Income Tax Regulations section 1.501(c)(4)-1(a) states that a civic league or organization described in section 501(c)(4) may be exempt if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare. The Regulations describe social welfare activities as promoting in some way the common good and general welfare of the people of the community. An organization coming within the purview of this section is one which is operated exclusively for the purpose of bringing about civic betterments and social improvements.

The concept of social welfare suggest benefits affecting a whole community of people rather than a private group of citizens. (Erie Endowment v. United States, 316 F.2d 151 (1963).) For example, a nonprofit corporation formed to acquire and operate a low-cost housing cooperative was held not to be a civic league or social welfare organization because it did not offer a program or service to benefit the community-at-large. (Commissioner v. Lake Forest, Inc., 305 F.2d [814] (1962). Its contribution was not of a "public" character. Instead, it was a private cooperative undertaking for the benefit of its members, enabling them to save for a home, to satisfy their own material ambitions.

An organization of persons and institutions that have an interest in shares of stock of public utilities in a certain state and prepares statements on behalf of public utilities owned by its members for submission to administrative agencies and legislative bodies is not exempt as an organization described in IRC 501(c)(4), because it is operating essentially for the private benefit of its members and is not primarily engaged in the activities for the common good and general welfare of the people of the community. Rev. Rul. 80-107, 1980-1 C.B. 117.

In Rev. Rul. 54-394, 1954-2 C. B. 131. Also Rev. Rul. 55-716, 1955-2 C. B. 263, as modified by Rev. Rul. 83-170, 1983-2 C. B. 97, an organization incorporated for the purpose of furnishing television reception to its members on a cooperative basis in an area not adaptable to ordinary reception, was deemed not to be a

[REDACTED]

tax-exempt social welfare organization because it was operated for the benefit of its members rather than for the promotion of the welfare of mankind. Also in New York State Ass'n of Real Estate Boards Group Ins. Fund v. Commissioner, 54 T.C. 1325, a trust was formed to provide group life insurance only for members of an association. It was not considered a tax-exempt social welfare organization because of the lack of sufficient benefit to the entire community.

ANALYSIS & CONCLUSION

Although the stated revenue rulings and cases are not specifically on point, it is our opinion that the activities conducted by your organization are clearly for the benefit of your members as individuals (and property owners) and not for the betterment of the community as a whole. It is unfortunate that your members have yet been able to obtain building permits for their land. However, developing an approved land use plan for the [REDACTED] [REDACTED] land as it will increase and enhance the value and marketability of their land. Furthermore, it is your organization's stated objective to obtain a buyer for the land in the [REDACTED] Area, land owned by your members, once the land use plan (or plans) is approved. Thus your objective is not one of bringing about civic betterment or social improvement in a community, but to be able to get a land use plan so that the land can be sold to a potential buyer, presumably a developer.

Accordingly, we hold that you are not an organization operating exclusively for the promotion of social welfare within the meaning of section 501(c)(4) since you are not primarily engaged in promoting the common good and general welfare of the people of the community. Therefore, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code.

If you are in agreement with this proposed determination, we request that you sign and date the enclosed Form 6018, Consent to Proposed Adverse Action. Please note the signature instructions on the reverse side of the Form.

If you are not in agreement with our determination we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient district office. A self-addressed envelope is enclosed.

If we do not receive a protest from you within 30 days from the bbbb of this letter it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies

[REDACTED]

and this letter will become final.

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

Thank you for your cooperation.

Very truly yours,

[REDACTED]

District Director

Enclosures
Publication 892
Form 6018
Envelope

Form 6018
(Rev. August 1983)

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

Prepare In
Duplicate

Case Number

[Redacted]

Date of Latest Determination Letter

Employer Identification Number

[Redacted]

Date of Proposed Adverse Action Letter

MAY 02 1994

Name and Address of Organization

[Redacted]

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments 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 under IRC 501(c)(4)
- Revocation of exemption, effective
- Modification of exempt status from section 501(c)() to 501(c)(), effective
- Classification as a private foundation (section 509(a)), effective
- Classification as a non-operating foundation (section 4942(j)(3)), effective
- 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 judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date