

[REDACTED]

CERTIFIED MAIL

[REDACTED]
[REDACTED]
[REDACTED]

SEP 7 1939

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c) (3) of the Internal Revenue Code of 1954.

The information submitted indicates that you were incorporated on [REDACTED] under the laws of the State of [REDACTED].

Your stated purpose is to own, maintain, and make improvements to all common areas belonging to a commercial office building.

You state that the organization's membership will be comprised of, and limited to, all unit owners and that all financial support will come from member assessments.

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax organizations which are organized and operated exclusively for charitable, religious, educational, or scientific purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(b)(iii) of the Income Tax Regulations provides that if an organization is expressly empowered by its articles to carry on, other than as an insubstantial part of its activities, activities that are not in furtherance of exempt purposes, it will not meet the organizational test even though its stated purposes are within the Code.

Section 1.501(c)(3)-1(d)(ii) of the Income Tax Regulations provides that in order to meet the operational test, the organization must be engaged in activities furthering "public purposes", rather than private interests. It must not be operated for the benefit of designated individuals or the persons who created it.

Your Articles of Incorporation empower the organization to own, maintain, and improve common areas, common ways, easements, and open space of the [REDACTED], a commercial office building. This is a broader purpose than those specified in Section 501(c)(3) of the Code and indicates that the organization is not organized for exempt purposes as provided in Section 1.501(c)(3)-1(b)(iii) of the Income Tax Regulations.

Your stated purpose to own, maintain, and make improvements to all common areas belonging to a commercial office building lacks the required "public purpose" of Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations to meet the operational test. Your stated purpose results mainly in benefits to the members of the Association and only incidentally to the general public and, thus, lacks the requisite "public purpose" required to meet the operational test of Section 501(c)(3).

Accordingly, you do not qualify for recognition of exemption from Federal income tax under Section 501(c)(3) of the Code.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue 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 administrative remedies available to it within the Internal Revenue Service."

Until you have established an exempt status, you are not relieved of the requirements for filing Federal income tax returns.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference 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 conference. 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 of the date of this letter, this determination will become final.

Under Code section 6104(c), we will notify the appropriate state officials of this action.

Sincerely yours,



District Director

Enclosure:

Publication 892

cc: State Attorney General 