

Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:
[REDACTED]

Telephone Number:
[REDACTED]

Refer Reply to:
[REDACTED]

Date:

OCT 31 1989

[REDACTED]

CERTIFIED MAIL

Dear Sir or Madam:

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

The information submitted discloses that you were formed on [REDACTED].

The purposes for which your organization was formed are to provide for maintenance, preservation and architectural control of the residence lots and Common Area, and for maintenance of storm water management, within that certain tract of property described in Schedule A (which describes your development). Your purposes are also to promote the health, safety and welfare of the residents within the development and any additions thereto as may hereafter be brought within the jurisdiction of your association.

Your application stated that "Since its inception this Association has engaged in the general maintenance of the "common ground" which includes lawn areas, trees and shrubs and [REDACTED] paved parking spaces."

Your association is comprised of [REDACTED] town homes. Your Declaration of Covenants, Conditions and Restrictions states that "Every owner of a lot which is subject to assessment shall be a member of the association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment."

Your primary source of income is from member assessments. Other income comes from interest, [REDACTED] share for fence rails, refund of insurance premium.

Your expenditures are primarily for lawn maintenance, post office box, supplies, copies, postage, meeting room, fence rails, landscaping, insurance, property taxes, no parking signs and paint lines in parking area.

Section 501(c)(4) of the Code provides for the recognition of exemption 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)(1) 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 for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 72-102, 1972-1 C.B., page 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 the 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 C.B., Page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners' association could qualify for exemption under section 501(c)(4) of the Code. These guidelines are:

1. The organization must serve a "community" which bears a reasonable, recognizable relationship to an area ordinarily 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, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners' association..."



A community within the meaning of section 501(c)(4) of the Code and the regulations is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision. Although an exact delineation of the boundaries of a "community" contemplated by section 501(c)(4) is not possible, the term as used in that section has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof.


Accordingly, your organization does not meet the definition of a "community." The lawn maintenance of the privately owned lawn areas of each of the homes is a private benefit to the members of your association. Therefore, we conclude that you are serving a private purpose rather than a public purpose and do not qualify for exemption under section 501(c)(4).

You are not relieved of the requirements for filing federal income tax returns.

Your attention is called to section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This section provides that, in certain circumstances, a homeowners' association may elect not to be taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H, if you determine that your organization qualifies under section 528.

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.

Sincerely yours,



District Director

Enclosure: Publication 892