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[REDACTED]

CERTIFIED MAIL

FEB 13 1987

Dear Applicant:

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

The information submitted indicates that you were organized by By-laws which were approved in [REDACTED].

You have no stated purposes in your By-laws.

In your application for exemption, you provide the following:

"This organization is constructing and maintaining a private road for access to all properties and for the installation of telephone and electric service. These are the only past, present, and proposed activities of this organization."

Your only income is from association dues which is paid by each lot owner for the sole purpose of upkeeping the road.

Your Association Covenants provide that each lot owner shall be a member of the Homeowners Association. They also state that any common areas shall be for the sole enjoyment of the lot owners and their guests.

Section 501(c)(3) of the Internal Revenue Code exempts organizations which are organized and operated exclusively for charitable purposes. If the organization does not meet the organizational or operational test, it is not exempt. The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organizations' activities.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations requires that organizations seeking exemption under section 501(c)(3) have purposes which are exclusively charitable, educational, etc., as defined in section 501(c)(3) of the Code. Under no circumstances may the organizational purposes be broader than the purposes of section 501(c)(3).

[REDACTED]

Section 1.501(c)(3)-1(b)(4) of the Regulations provides that an organization is not organized exclusively for 501(c)(3) purposes unless its assets, on dissolution, must be distributed for 501(c)(3) purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

You are not organized for any of the charitable purposes listed in section 501(c)(3) of the Code. In addition, you do not provide for the charitable distribution of your assets upon dissolution. Therefore, you do not meet the organizational test of section 501(c)(3).

The activities you carry on are not charitable activities within the meaning of section 501(c)(3) of the Code. The activities you carry on are directly serving the interests of your members and not the general public. Therefore, you do not meet the operational test of section 501(c)(3) of the Code.

Therefore, we have concluded that you are not an organization described in section 501(c)(3) of the Code. Based on the information submitted, exempt status will not be recognized under any related paragraph of Internal Revenue Code 501(c).

Contributions to you are not deductible under section 170 of the Code.

In accordance with this determination you are required to file Federal income tax returns. Your attention is called to section 528 of the Internal Revenue Code which provides certain procedures by which qualifying Homeowners Associations may elect to be treated as a tax exempt organization. This section of the Code was included in the Tax Reform Act of 1976. If you determine that you do not qualify under section 528, you must file corporate tax return Form 1120.

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,

[REDACTED]

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 and a copy of this letter will be sent to the appropriate state officials in accordance with section 6104(c) of the Internal Revenue 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 judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, 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".

Sincerely yours,

[REDACTED]

District Director

cc: [REDACTED]