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JUN 5 1991

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Code as a social welfare organization.

The information submitted shows that you were incorporated under the nonprofit, nonstock laws of the State of [Redacted].

As stated in your Articles of Incorporation, your purposes are:

- a) to form a community association which will interpret, apply, administer, and enforce the covenants, conditions, liens, and charges as provided for in the declaration concerning [Redacted] subdivision;
- b) to maintain the private roads, shoulders, banks, damage ditches, road signs for the benefit of all members and nonmembers of [Redacted] Homeowners' Association;
- c) to maintain and enhance the appearance of the local community;
- d) to engage in community service.

The Declaration of Covenants and Restrictions describe architectural and general restrictions for [Redacted] subdivision. The Declaration also indicates that membership shall consist of two (2) classes: Class A - Owners of record of a lot in [Redacted] and Class B - Owners of record of specific lots not in [Redacted] subdivision.

Your primary activities consist of maintaining the road system within the [Redacted] neighborhood. This includes upkeep to the roads themselves (repaving potholes, grading, spreading gravel), as well as snow removal.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[Redacted]	[Redacted]					
Surname	[Redacted]	[Redacted]					
Date	5/23/91	5/23/91					

Your income is derived from annual fees collected from members and interest accrued from an interest bearing checking account. Expenses consist of insurance and the carrying out of the purposes of [REDACTED].

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

Revenue Ruling 72-102, 1972-1 C.B. 149, states that nonprofit 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 maintaining the property normally maintained by 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. 131, modified Revenue Ruling 72-102, supra, 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 identified as governmental;
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 public.

This Ruling reads in part:

"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 and the sale and purchase of homes therein. 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 reasonable recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof."

One of the purposes of Revenue Ruling 74-99 is to preclude recognition of exemption of homeowners' association that serve a private rather than a public interest.

Based on the information submitted and the applicable law cited above, we have concluded that you do not qualify for tax-exempt status as an organization described in section 501(c)(4) 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 a qualifying homeowners associations may elect to be treated as a tax exempt organization. This section of the Code was include in the Tax Reform act of 1976. If you determine that you qualify under section 528 you must file Form 1120H. If you determine that you do not qualify under section 528, you must file corporate tax returns on 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, 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.

Sincerely yours,

District Director