

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

NOV 0 2 1983

Gentlemen,

We have considered your application for recognition of exemption from Federal Income Tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted indicates you were incorporated [REDACTED], under the [REDACTED] Non-Profit Corporation Act, "to provide such maintenance, preservation and architectural control of the residence lots within that certain tract of property described as the [REDACTED] being a portion of Section [REDACTED], Township [REDACTED] North, Range [REDACTED], [REDACTED], ". . . ." and to provide for the maintenance and repair of all roads or other common improvements located within said [REDACTED] and to provide for the owning and/or maintaining, preserving and operating of such Common Area and the facilities therein, and to promote the health, safety and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association"

Every person or entity who is a record owner of a fee or undivided fee interest in any lot shall be a member of the organization. In a telephone conversation with [REDACTED] she indicates that one lot has been sold; therefore, your membership consists of [REDACTED], who owns the property, and one other lot owner.

Your President and Treasurer is [REDACTED], and your Secretary and Vice President is [REDACTED]'s wife, [REDACTED]. They also comprise your Board of Directors.

The information submitted with your application indicates that you provide maintenance, preservation and architectural control of residence lots. You receive the funds from assessments of the land owners, and the proceeds will always be fully used to maintain public roads which are adjacent to the land owners being assessed. Your budget for the past [REDACTED] years indicates that your receipts amounted to \$[REDACTED], and your expenditures for the period amount to \$[REDACTED] to cover underground utility costs and cost of road improvements. In a letter dated September 10, 1983, you indicate that the expenditure was to install a sewer system, [REDACTED] and [REDACTED] roads before final grading.

Code	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]					
Burnham	[REDACTED]					
Date	11-2-83					

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"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 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 primarily for the purpose of bringing about civic betterment and social improvements."

Revenue Ruling 74-99, 1974-1 Cumulative Bulletin 131, holds that in order for a homeowner's association to qualify for exemption under section 501(c)(4) of the Code, it must have the following characteristics:

1. The organization must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. Its common areas or facilities must be for the use and enjoyment of the public, as distinguished from controlled use or access restricted to the members of the homeowner's association.

Revenue Ruling 74-99 states that "one misconception is to equate a housing development with the term community within the meaning of section 501(c)(4) of the Code, thereby giving rise to the implication that any housing development may qualify as a community for exemption purposes regardless of any other attendant facts and circumstances." A community within the meaning of section 501(c)(4) of the Code and 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 in 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.

Based on the information presented, we have concluded that you do not meet the requirements for exemption as a social welfare organization described in section 501(c)(4) of the Code. As indicated by your application

documents, your main intent and purpose is to benefit your members rather than the general public. [REDACTED] indicated in her telephone conversation, that the roads that are maintained are on the private property owned by the [REDACTED] and the other lot owner.

Accordingly, it is held that you are not entitled to exemption from Federal income tax under section 501(c)(4) or any other section of the Code, and you are required to file Federal income tax returns on Form 1120.

As a homeowners association, you may qualify for treatment under Section 528 of the Code. You may elect such treatment for 1983 by filing Form 1120-H on or before June 15, 1984.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 592 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely,

[REDACTED]
District Director

Enclosures:
Pub. 652
Pub. 586
Form 6018 (2)
Pre-addressed envelope