

[REDACTED]
[REDACTED]
[REDACTED]
AUG 4 1987

Dear Sir or Madam

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

The data you submitted shows that you were incorporated [REDACTED] under the [REDACTED] Non-Profit Corporation Act.

Your purposes as stated in the Articles of Incorporation are to promote and develop the common good and social welfare of residents of [REDACTED] subdivision, a residential subdivision located in the city of [REDACTED].

Your purposes as stated in the application, Form 1024, are to benefit the homeowners by providing maintenance of the grounds and common areas, fences and gates, and a security system. Repairs are made to these areas. You provide landscape care, mowing, tree pruning, bed preparations for plants, and the upkeep of such. Garbage pickup and payment of utilities for the outside lighting of the grounds are also provided.

The organization is funded by dues from each homeowner. Homeowners are assessed \$ [REDACTED] per month. Developers are assessed \$ [REDACTED] per month, per lot.

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

Revenue Ruling 74-99 1974-1 C.B. 132 states that a homeowners' association to qualify for exemption under section 501(c)(4) of the Code (1) 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) the common areas of the facilities it owns and maintains must be for the use and enjoyment of the general public as distinguished from controlled use or access restricted to the members of the homeowner's association.

The revenue ruling goes on to state that a community is not simply an aggregate of homeowners bound together in a structured unit formed as an integral part of the plan for development of a real estate subdivision.

If the area served does not constitute a community and if the area maintained is restricted to only the homeowners living in the subdivision the presumption is that the organization is formed and operated for the individual personal or business benefit of the members and as such does not qualify for exemption under section 501(c)(4) of the Code.

Based on the information you have provided we have concluded that you do not qualify for exemption under section 501(c)(4) of the Code. Your association serves a subdivision which does not meet the requirement of serving a community that bears a reasonable recognizable relation to an area ordinarily identified as governmental. The common areas you maintain and the security service you provide benefit only the homeowners living in the subdivision and use and enjoyment of such areas does not extend to members of the general public.

Section 528 of the Internal Revenue Code provides that certain homeowner's associations may elect to file Form 1120-H which, in effect, permits the exclusion of exempt function income from taxable income. This election must be made timely and must be made each year. Enclosed is a copy of Form 1120-H for your convenience.

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.

If you do not agree with these conclusions, you may, within 30 days of 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 a full discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If we do not hear from you within 30 days, this letter will be our determination in the matter.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,


District Director

Enclosures: Publication 892
Form 1120-B
Form 6018