

Internal Revenue Service

District Director



Department of the Treasury

P. O. Box 2508 Cincinnati, Ohio 45201

See protected record 4-30-84

POST REVIEW - E-2011

Person to Contact: Approved Disapproved
 JoAnn Westerkama
 Telephone Number: Approved with advisory
 513-684-3947
 Refer Reply to: [Redacted]
 EP/EO [Redacted]
 Date: [Redacted] 6/28/84
 TIS Date Reviewer Date

MAR 22 1984

Dear Sir or Madam:

We have reviewed your application for exemption from Federal income tax under the provisions of section 501(c)(4) of the Internal Revenue Code of 1954.

The application discloses that you are operating under Articles of Incorporation dated [Redacted]. The articles state you were formed for the specific purpose:

. . . To provide for maintenance, preservation, and architectural control of the Units, Lots, and Common Areas within that certain tract of property commonly known as [Redacted] 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 . . .

Based on the information presented, the area controlled by the organization resembles a subdivision consisting of duplex condominiums. The organization is formed to provide for maintenance, preservation, and architectural control of the units, lots, and common areas including maintaining lights, landscape, sprinkler system, repairing roofs, painting, trash and snow removal, fire protection, and real estate taxes for the common areas.

The organization consists of an architectural subcommittee in which homeowners submit plans for improvements to the committee for their approval.

Section 501(c)(4) of the Code provides in part, that "civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare" qualify for recognition of exemption.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides in part, 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 betterments and social improvements . . .

Rev. Rul. 74-17, 1974-1 C.B. 130, states in part:

. . . An organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the Code . . .

As your organization is a condominium association described in Rev. Rul. 74-17, we hereby propose to deny your application for recognition of exemption under section 501(c)(4) of the Code.

Consideration was given to obtaining exemption under other subsections of 501(c) of the Internal Revenue Code and your organization does not qualify under any other subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

However, it is our opinion that your organization is the type described in section 528 and you may elect to file under section 528 to receive certain tax benefits which, in effect, permits the exclusion of exempt function income. The election by a homeowners association to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations.

If you are in agreement with the above, please sign and return the enclosed Form 6010, Consent to Proposed Adverse Action.

You have a right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892 (Rev. 7-83), "Exempt Organization Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If we do not hear from you within the time specified, this determination will become final.

Sincerely yours,

[REDACTED]

District Director

Enclosures 2

cc: [REDACTED]