

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
1100 commerce Street
Dallas, TX 75242

Department of the Treasury

Number: **201604019**
Release Date: 1/22/2016

Date: October 5, 2015

Taxpayer Identification Number:

Form:

Filing Period(s) Ended:

Person to Contact/ID Number:

UIL: 501.04-07

Contact Numbers:

Phone:

Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear _____ :

In a determination letter dated January 31, 19XX, you were held to be exempt from Federal income tax under section 501(c)(4) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(4) of the Code. Accordingly, your exemption from Federal income tax is revoked effective January 1, 20XX. This is a final letter with regard to your exempt status.

We previously provided you a report of examination explaining why we believe revocation of your exempt status was necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On August 10, 20XX you signed Form 6018-A, *Consent to Proposed Action*, agreeing to the revocation of your exempt status under section 501(c)(4) of the Code.

You are required to file Federal income tax returns for the tax period(s) shown above. If you have not yet filed these returns, please file them with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that

may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

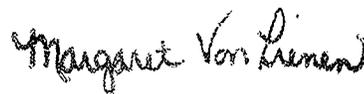
Internal Revenue Service
Taxpayer Advocate Service

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

Thank you for your cooperation.

Sincerely,

John A. Koskinen
Commissioner

A handwritten signature in cursive script that reads "Margaret Von Linen".

By
Margaret Von Linen
Director, EO Examinations

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|-----------------------------------|-------------------------------------------------------|-------------------------|
| Form 886A | Department of the Treasury - Internal Revenue Service | Schedule No. or Exhibit |
| Explanation of Items | | |
| Name of Taxpayer | | Year/Period Ended |
| Initial Examination Report | | December 31, 20XX |

We conducted an examination of your Form 990 and related books and records for tax year ended December 31, 20XX. The following represents our initial exam report for purposes of conveying our initial findings and proposed changes to your exempt status, as a result of the examination process.

Facts:

You are an association of homeowners owning residential lots in the Subdivisions numbers 1-4 and surrounding the

On October 10, 19XX, you submitted a Form 1024, "Exemption Application" to Internal Revenue Service seeking recognition as tax exempt entity. Based on the information presented in your application, you were granted a favorable ruling as a social welfare organization described in Section 501(c)(4) of the Internal Revenue Code (IRC).

On December 10, 19XX, you were organized as an incorporated homeowner's association by filing Non-Profit Articles of Incorporation with the State of

In the most recent version of your By-laws, adopted January 15, 19XX, the purpose(s) of your organization, as stated in Article 3, is provided as follows:

- A. *"Whereas, the Association desires to provide for the preservation and enhancement of the property values and amenities in the Subdivision known as nos. 1 through 4, which surrounds the area known as _____ and for the maintenance of certain Common Areas (as defined below) and to this end desires to subject the Subdivision and the Common Areas to the easements, covenants, restrictions, charges and liens set forth herein, each and all of which is and are for the benefit of the Subdivision and each owner therein".*

- B. *"Whereas, the Association has deemed it desirable for the efficient preservation of the values and amenities in the Subdivision to maintain and administer the Common Areas; to collect and disburse the assessments and charges hereinafter created; and to promote the recreation, health, safety, welfare, common benefit and enjoyment of the Owners".*

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Eligibility for membership in your organization is restricted to only the lot owners owning real estate within the subdivision.

You are funded exclusively through the collection of annual assessments from your members. Your expenditures are disbursed exclusively for the purpose of maintaining common areas, administrative costs, and conducting limited social activities (annual picnic, ice cream socials, etc.). Participation in your social activities is restricted to members and guests only.

The common areas owned and maintained by the organization are comprised of a lake, 2 beaches, 3 parks, and a tennis court. The maintenance, use, and enjoyment of these common areas are provided for the exclusive benefit of the organization's members and bona fide guests. Any access or use by the general public is strictly prohibited and signs have been erected at entry points to warn non-members of this prohibited use.

Applicable Law:

IRC Section 501(c)(4) provides for exemption from Federal income tax of civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare.

Tax Regulation Section 1.501(c)(4)-1(a)(2)(i) 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 community, i.e., for the purposes of bringing about civic betterment and social improvements.

In Revenue Ruling 74-17, 1974-1 CB 130, (Jan. 01, 1974), the Service held that 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 IRC section 501(c)(4).

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In Revenue Ruling 74-99, 1974-1 CB 131, (Jan. 01, 1974), the Service held that a homeowners association must satisfy the following requirements in order to qualify for exemption under IRC section 501(c)(4):

- (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 or facilities it owns and maintains must be for the use and enjoyment of the general public.

In *Commissioner v. Lake Forest, Inc.*, 305 F. 2d 814 (1962), it was held that a corporation that provided housing on a cooperative basis lacked the necessary requirements of an organization described in section 501(c)(4) of the Code. The court held the operation to be a private self-help enterprise with only an incidental benefit to the community as a whole. The court also held that the organization is operated primarily for the private benefit of members and any benefits to the community are not sufficient to meet the requirement of the regulation that the organization be operated primarily for the common good and general welfare of the people of the community.

Governments Position:

To meet the requirements for exemption under IRC Section 501(c)(4), an organization must be operated exclusively for the promotion of social welfare and will only be considered to be operated in this manner, if it primarily engages in promoting in some way the common good and general welfare of the community *Tax Regulation Section 1.501(c)(4)-1(a)(2)(i).*

Additionally, for a homeowner's association to qualify for exemption under IRC 501(c)(4), the common areas or facilities it owns and maintains must be for the use and enjoyment of

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the general public Revenue Ruling 74-99. In this specific case, it is clear that your organization does not meet this requirement because the general public is strictly prohibited from any use and enjoyment of your common areas.

Based a thorough review of the applicable law and facts and circumstances present in this case, we determined that your organization's activities, financial resources, and common areas are being provided exclusively for the private benefit of your members and not for the common good and general welfare of the community within the meaning of IRC 501(c)(4).

As a result, your organization is not being operated primarily for the promotion of social welfare purposes and therefore, fails to meet the requirements for continued exemption as a social welfare organization described in IRC 501(c)(4).

Conclusions:

We are proposing revocation of your exempt status, as an organization described in IRC 501(c)(4), effective as of January 01, 20XX. You are now required to file Federal income tax returns on Form 1120 or 1120-H beginning with tax years ended December 31, 20XX and all subsequent years thereafter.