



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities  
P.O. Box 2508  
Cincinnati, OH 45201

Date:  
April 27, 2022  
Employer ID number:

Form you must file:

Tax years:

Person to contact:  
Name:  
ID number:  
Telephone:  
 Check if 501(c)(3) denial  
 Check if valid POA

Release Number: 202229037  
Release Date: 7/22/2022  
UIL: 501.04-00, 501.04-07

Dear :

This letter is our final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(4). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit [www.irs.gov](http://www.irs.gov).

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. Read the enclosed Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:  
Letter 437  
Redacted Letter 4034  
Redacted Letter 4038  
 Hide blank fields.



Department of the Treasury  
Internal Revenue Service  
PO Box 2508  
Cincinnati, OH 45201

Date: February 8, 2022

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

B = State

C = Date

D = Property Development

**UIL:**

501.04-00

501.04-07

Dear \_\_\_\_\_ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(4). This letter explains the reasons for our conclusion. Please keep it for your records.

**Issues**

Do you qualify for exemption under IRC Section 501(c)(4)? No, for the reasons stated below.

**Facts**

You were formed as a nonprofit mutual benefit corporation in B on C. Your Articles state you are a homeowners' association that is organized and operated to provide for the acquisition, construction, management, maintenance, and care of property held by the Association.

Your By-laws state you are organized and operated to provide for the ownership, management, administration, maintenance, preservation and architectural control of the Units, Common Areas and any Exclusive Use Common Areas within the certain real property development known or to be known as D.

You stated, in your Form 1024 application, that your purpose since inception has been to maintain the common areas of the condominium association. These areas are restricted to property owners and their guests.

You are supported by annual member assessments. You listed various expenses under the heading, "disbursements to or for the benefit of members", which you further explained as insurance, professional services, landscaping, and water.

## Law

IRC Section 501(c)(4) provides for the exemption from federal income tax of organizations not organized for profit but operated exclusively for the promotion of social welfare. Further, exemption shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(4)-1(a)(1) states a civic league or organization may be exempt as an organization described in IRC Section 501(c)(4) if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare.

Treas. Reg. 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 people of the community. An organization embraced within this Section is one that is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 69-280, 1969-1 C.B. 152, holds that a nonprofit organization formed to provide maintenance of exterior walls and roofs of members' homes in a development is not exempt under IRC Section 501(c)(4).

In Rev. Rul. 74-17, 1974-1 C.B. 130, 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). Condominium ownership involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners. Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare.

In Rev. Rul. 74-99, 1974-1 C.B. 131, a homeowners' association, 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 Flat Top Lake Association v. United States, 868 F.2d 108 (4th Cir. 1989), the Court held that a homeowners' association did not qualify for exemption under IRC Section 501(c)(4) when it did not benefit a "community" bearing a recognizable relationship to a governmental unit and when its common areas or facilities were not for the use and enjoyment of the general public.

## Application of Law

You are not as described in IRC Section 501(c)(4) and Treas. Reg. Section 1.501(c)(4)-1(a)(1) because your activities do not primarily promote civic betterment or social welfare. You do not meet the provisions of Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) because your sole activity benefits your members (property owners in a specific condominium complex). Pooling member funds to pay for maintenance and preservation of condominium common areas (not open to the general public) does not promote the common good and general welfare of the people of the community.

Like the organizations in Rev. Rul. 69-280 and 74-17, you are providing services to members (who own units in

the complex) that they would otherwise have to provide for themselves. The maintenance and preservation of common areas of a condominium complex (not open to the general public) primarily serves your members rather than the common good and general welfare of the community as a whole.

Unlike Rev. Rul. 74-99, you do not serve a community that resembles an area that could reasonably be identified as governmental. Instead, you are similar to Flat Top Lake Association because you are providing preservation and maintenance services for common areas of a condominium complex (not open to the general public) which privately benefits your members rather than the general public.

### **Conclusion**

Because you operate primarily for the benefit of your members and not for the social welfare or common good of the community in general, you do not qualify for exemption under IRC Section 501(c)(4).

### **If you agree**

You do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

### **If you don't agree**

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

**For an officer, director, trustee, or other official who is authorized to sign for the organization:**

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

**Where to send your protest**

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Mail Stop 6403  
PO Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Mail Stop 6403  
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get the forms and publications mentioned in this letter by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

**Contacting the Taxpayer Advocate Service**

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements