

INTERNAL REVENUE SERVICE  
District Director

DEPARTMENT OF THE TREASURY  
1100 Commerce Street  
Dallas, TX 75242

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Employer Identification Number:

[REDACTED]

Person to Contact:

[REDACTED] [REDACTED]

Telephone Number:

[REDACTED]

Refer Reply to:

[REDACTED]

Date: MAY 27 1999

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

You were formed as an unincorporated association on [REDACTED], with the adoption of your bylaws.

Your purposes include preserving the integrity of [REDACTED], protecting the environment of the lake and the areas contiguous with the lake, and guaranteeing, as much as possible, the ongoing availability of the lake for supporting property owners' interests.

Members are defined as any household owning an interest in land on [REDACTED] [REDACTED]. You also indicate that individuals residing in close proximity to the lake may become non-voting members if voted in by the membership.

[REDACTED] is a spring-fed lake of approximately [REDACTED] acres. It is [REDACTED] in maximal length and [REDACTED] in maximum width. The lake is owned by [REDACTED]. There is no public access to the lake. There are four boat ramps, which are used by the residents. There are no picnic areas, beaches, camping areas, or other recreational facilities.

[REDACTED] own the property surrounding the lake. [REDACTED] of [REDACTED] are members of the association. There is one non-voting member living in close proximity to the lake.

You conduct meetings for your members at least twice annually. Topics covered at these meetings may include water testing, weed control/prevention, shoreline erosion, boating safety, swimming safety, and commercial developments in adjacent areas.

Section 501(c)(3) of the Code provides exemption for:

“Corporations...organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual...”

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that all organizations there described must serve a public rather than a private interest.

In *Benedict Ginsberg and Adele W. Ginsberg v. Commissioner*, 46 TC 47, private owners of shorefront property along certain waterways organized a corporation to dredge the waterways. About 90 or 95 percent of the shorefront property on the waterways was privately owned. The municipal property adjacent to the waterways was part of a public park. It was not used by the public for ingress and egress of craft, and there was no evidence that it was used for swimming or that swimming was permitted there. Some persons used the area for fishing, but such activity was unlawful. It was determined that the corporation was organized and operated primarily for the benefit of those persons owning property adjacent to the waterways dredged rather than for public or charitable purposes. The exempt status of the organization under section 501(c)(3) of the Code was revoked.

Revenue Ruling 70-186, 1970-1 C.B. 128, describes an organization formed to preserve and improve a lake used extensively as a public recreational facility. The lake is a large body of water bordering on several municipalities. It is used extensively by the public for recreational purposes. Along its shores are community-owned public beaches, launching ramps, and other recreational facilities of a public nature. Some of the land along the lake's shoreline was owned by individuals. The organization qualified for exemption under section 501(c)(3) of the Code.

You are like the organization described in the court case. Some charitable and educational purposes are achieved by your activities to preserve the lake and educate your members on various issues. However, there is no public access to the lake. As in the court case, the restricted nature of your membership and the limited area in which you operate indicate that you are organized and operated to serve the private interests of your members.

You are not like the organization described in the revenue ruling. That organization did not restrict access to the lake to its members. The lake was used extensively by the public. Unlike your organization, the benefits to be derived from the organization's activities flowed principally to the general public through the maintenance and improvement of the public recreational facilities. Any private benefits derived by the lake front property owners did not lessen the public benefits flowing from the organization's operations.

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 892 gives instructions for filing a protest.

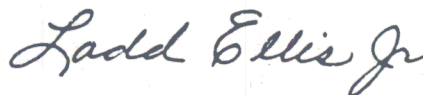
If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

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,



Ladd Ellis Jr  
District Director

Enclosures:

Form 6018  
Publication 892  
Return Envelope