

JAN 23 1981

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code.

- 1) Any lawful business purpose to be conducted on a not for profit basis;
- 2) To acquire and promote the acquisition of necessary real estate located in the ██████████ County, ██████████, within the development known as ██████████ to be used for common area purposes, and to operate and maintain such real estate for the use and benefit of the residents living within the said development;
- 3) To assume, or assure, responsibility for the maintenance of common elements, repair and operation of roads, sidewalks, curbs, drainage system, main trunk sewerage system, public lighting system, public signs within the said development;
- 4) To assume, or assure, responsibility for refuse collection, snow removal, leaf removal and street cleaning within the said development;
- 5) To fix assessments or charges to be paid by the members of the corporation, to enforce any and all covenants, restrictions and regulations applicable to the properties within the said development to pay insurance, maintenance costs and operating expenses applicable to the common areas within the said development.

Your activities are directed toward maintenance of common areas to membership property.

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Membership is comprised of those persons or entities who are record owners of a fee interest in any property or lot in the said development.

Your only source of financial support is derived from dues paid by association homeowner members.

Section 501(c)(3) of the Internal Revenue Code provides, in part, for the exemption from Federal Income Tax of corporations, and any community chest, fund or foundation, organized exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inures to the benefit of any private individual.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations specifies that in order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the specified purposes. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(2) specifies that an organization is not organized or operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. "Private shareholder or individual", as defined in Section 1.501(c)(3)-1(c), refers to persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(i) stipulates that an organization is not organized or operated exclusively for one or more of the specified exempt purposes unless it serves a public rather than a private interest.

On the basis of the information submitted, we have concluded that you are not organized and operated exclusively for one or more of the purposes described in Section 501(c)(3) of the Code. Your purposes and activities are broader than those specified in Section 501(c)(3). Therefore, exemption from Federal Income Tax as a 501(c)(3) organization cannot be granted.

However, your purposes and activities are those of a Homeowners Association as described in Section 528 of the Internal Revenue Code. For your convenience we have enclosed a copy of the final regulations concerning Homeowners Associations.

If you do not elect to be treated as a Section 528 organization you must file Federal Income Tax returns on Form 1120.

You have the right to appeal this determination if you believe that it is incorrect. To appeal, please refer to the enclosed Publication 592.

CODE	INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
SUR-NAME							
DATE							

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If you do not protect 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 7422(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."

Sincerely yours,

District Director

Enclosures:
 Publication 692
 Regulations (sect. 583)

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SUR-NAME							
DATE	12/9/80	12/10/80					