

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date: JUN 2 - 1986

CERTIFIED

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporate laws of the State of [REDACTED].

According to your Articles of Incorporation the purpose for which you were formed are "to maintain and operate the property for the common use and benefit of all owners of property therein, and in general to maintain and promote the desired character of [REDACTED], as further defined in Article 2 of the Conditions, Covenants, Restrictions, Reservations, Grants, and Easements dated [REDACTED], as amended, affecting the property of [REDACTED], commonly known as [REDACTED], recorded in the [REDACTED] Recorder of Deeds Office..."

According to your Declaration of Conditions, Covenants, Restrictions, Reservations, Grants and Easements and By-Laws, the association is formed to maintain the common areas in the subdivision. The architectural control of any buildings or structures built in the area will be maintained by [REDACTED], the developer of the subdivision.

The subdivision is made up of [REDACTED] lots. Membership in the association is open to the lot owners and [REDACTED], the developer. Each member, including the developer, is entitled to one vote for each lot owned by him or it. At the present [REDACTED] lots are owned by the developer.

The common areas in the subdivision are opened only to the members of the association.

Section 501(c)(4) of the Internal Revenue Code grants exemption to civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Date	4/20/86	5/13/86	5/28/86	5/28/86	5/28/86	5/28/86	5/28/86

Section 1.501(c)(4)-1 of the Income Tax Regulations states (a) Civic organizations-(1) In general. A civic league or organization may be exempt as an organization described in Section 501(c)(4) if--

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare.

(2) Promotion of social welfare - (i) In general. 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. A "social welfare" organization will qualify for

exemption as a charitable organization if it falls within the definition of "charitable" set forth in paragraph (d) (2) of Section 1.501(c)(3)-1 and is not an "action" organization as set forth in paragraph (c)(3) of Section 1.501(c)(3)-1.

(ii) Political or social activities. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit. A social welfare organization may qualify under Section (c)(4) even though it is an "action" organization described in paragraph (c)(3) (ii) or (v) of Section 1.501(c)(3)-1 if it otherwise qualifies under this Section.

(b) Local associations of employees. Local associations of employees described in section 501(c)(4) are expressly entitled to exemption under Section 501(a). As conditions to exemption, it is required (1) that the membership of such an association be limited to the employees of a designated person or persons in a particular municipality, and (2) that the net earnings of the association be devoted exclusively to charitable, educational, or recreational purposes. The word "local" is defined in paragraph (b) of Section 501(c)(12)-1. See paragraph (d)(2) and (3) of Section 1.501(c)(3)-1 with reference to the meaning of "charitable" as used in this Section.

The Internal Revenue Service takes the position that in order for an organization to qualify for exemption from Federal Income Tax as a social welfare organization described in Section 501(c)(4) of the Code, it must be primarily engaged in promoting in some way the common good and general welfare of the community as a whole.

Rev. Rul. 72-102, 1972 C.B. 149, holds that a nonprofit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for use of the residents is exempt under Section 501(c)(4) of the Code.

Rev. Rul. 74-95, 1974-1 C.B. 131, which modified Rev. Rul. 71-102, holds that a homeowners association formed in conjunction with a real estate development is prima facie presumed to be operated for the private benefit of its members. In order to overcome this presumption, a homeowners association must have the following characteristics:

1. It 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 must be for the use and enjoyment of the general public.

Your organization is organized and operated similar to the homeowners association described in Revenue Ruling 74-95 in that you are formed in conjunction with a real estate development. You are maintaining property that is only opened to your members. The developer is a member of the association and has a significant voice in its operations. It has complete architectural control over any buildings done in the area and also holds over one-third of the voting power. As stated in Revenue Ruling 74-95, organizations that are organized and operated in this manner do not qualify for exemption under Section 501(c)(4) because they are operated primarily for the private benefit of their members.

Accordingly, we hold that you are not an organization operated exclusively for the promotion of social welfare within the meaning of Section 501(c)(4) since you are not primarily engaged in promoting the common good and general welfare of the people of the community. Therefore, you do not qualify for exemption as an organization described in Section 501(c)(4) and are required to file Federal Income Tax Returns on Form 1120.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief. If it appears that the conclusions reached are still unfavorable to you, any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

[REDACTED]

Please keep this determination letter in your permanent records.

If you agree with this determination please sign and return the enclosed Form 6018.

Sincerely yours, *

[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018