

[REDACTED]

[REDACTED]

[REDACTED]

DEC 29 1981

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1954.

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

The primary purpose for which you were formed is to operate and maintain a condominium regime as established under provisions of Title [REDACTED] of the Annotated Code of [REDACTED]. In addition, as amended.

Your activities are to collect condominium assessments from your members and to provide for the maintenance and repair of common property, property management, operation of neighborhood recreational facilities and the beautification and improvement of your real property.

Your income is from member assessments and interest. Expenses are primarily for repairs and maintenance performed to the common areas owned by the Association, i.e., roads, roofs, exterior of buildings, lawns and walkway areas. Other expenses are for insurance, management fees, pool costs, and trash removal.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4) - 1(a)(2)(i) of the Income Tax Regulations 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 which is operated for the purpose of bringing about civic betterment and social improvement.

Revenue Ruling 69-280, 1969-1 C.B., page 152, holds that a non-profit corporation formed for the purpose of providing specified services for the homeowners in a housing development is not exempt as a 501(c)(4) social welfare organization. A purchaser of a unit in the housing development was required to become a member. The organization was supported entirely by annual dues charged members. The services consisted of maintenance of the exterior walls and roofs of the individual home units. The officers of the organization have authority to contract for maintenance and repair services. It was determined that the organization was performing services that its members would otherwise have had to provide for themselves and that the organization was operated primarily for the private benefit of members.

Revenue Ruling 74-17, 1974-1 C.B., page 130, relates to a condominium housing association formed to provide for the management, maintenance and care of the common areas of the housing project. The state statute provided that the common areas of the condominium property were owned in common by the unit owners. These common areas included the areas normally forming a part of a residential development such as the streets, sidewalks, parks, and open areas. It was held that the maintenance and care of the common areas constituted the provision of private benefits for the unit owners of the condominium association. Accordingly, it did not qualify for exemption under section 501(c)(4) of the Code.

Your organization's activities are similar to those of the organizations described in the above revenue rulings.

Therefore, you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code.

Until you have established an exempt status, you are not relieved of the requirements for filing Federal income tax returns.

Your attention is called to section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This section provides that, in certain circumstances, a homeowners association may elect not to be taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H, if you determine that your organization qualifies under section 528.

(3)

[REDACTED]

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]
District Director

[REDACTED]