Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date: October 27, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Number: **201703014**
Release Date: 1/20/2017

UIL: 501.09-00, 501.09-01, 501.09-04

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(9) of the Internal Revenue Code (the Code). 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 federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 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 contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Notice 437
Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*
Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*

Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date: September 19, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:
B = State
C = Date
D = State Laws
E = For-Profit Company

UIL:
501.09-00
501.09-01
501.09-04

Dear :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you don't qualify for exemption under Section 501(c)(9) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

Issues
Do you qualify for exemption under section 501(c)(9) of the Code? No, for the reasons stated below.

Facts
You were incorporated under the laws of State B on C. Your Articles of Incorporation state that you are formed "to operate and manage a condominium development."

Your Form 1024 application states that you are a condominium business park, run by an elected Board of Directors through a management company, E. Your purpose is to collect dues from the owners/members of the condominium units to run the day-to-day operations such as fixing, repair and maintenance as obligated by your Restrictive Covenants. You are mandated by D to have a capital reserve fund as stated on the Restrictive Covenants.

Your members become members by purchasing a unit of your condominium. Membership is not voluntary.

Your source of income is derived solely from members' annual dues. Dues collected are disbursed for the day to day operations to care for the common areas and exterior such as roof, painting, parking lot, and sidewalk.

Law
Section 501(c)(9) of the Code provides an exemption from federal income tax for a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

Treasury Regulation § 1.501(c)(9)-1 provides that for an organization to be described in Section 501(c)(9), it must be an employees' association; membership in the association must be voluntary; the organization must provide for the payment of life, sick, accident, or other benefits to its members or their dependents, and substantially all of its operations must be in furtherance of providing such benefits; and no part of the net earnings of the organization can inure (other than by payment of permitted benefits) to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(9)-2(a)(1) provides that the membership of an organization described in Section 501(c)(9) must consist of individuals who become entitled to participate by reason of their being employees and whose eligibility for membership is defined by reference to objective standards that constitute an employment-related common bond among such individuals. Typically, those eligible for membership in an organization described in section 501(c)(9) are defined by reference to a common employer (or affiliated employers), to coverage under one or more collective bargaining agreements (with respect to benefits provided by reason of such agreement(s)), to membership in a labor union, or to membership in one or more locals of a national or international labor union. For example, membership in an association might be open to all employees of a particular employer, or to employees in specified job classifications working for certain employers at specified locations and who are entitled to benefits by reason of one or more collective bargaining agreements. In addition, employees of one or more employers engaged in the same line of business in the same geographic locale will be considered to share an employment-related bond for purposes of an organization through which their employers provide benefits. Employees of a labor union also will be considered to share an employment-related common bond with members of the union, and employees of an association will be considered to share an employment-related common bond with members of the association.

Treas. Reg. § 1.501(c)(9)-2(c)(2) provides that membership is voluntary if an affirmative act is required by an employee to become a member rather than the designation as a member due to employee status.

Treas. Reg. § 1.501(c)(9)-3 defines the benefits paid by voluntary employees' beneficiary associations including life, sick, accident, or other benefits.

Treas. Reg. § 1.501(c)(9)-3(a) provides that a voluntary employees' beneficiary association is not operated for the purpose of providing life, sick, accident, or other benefits unless substantially all of its operations are in furtherance of the provisions of such benefits.

In Harding Hospital, Inc. v. United States, 505 F.2d 1068 (1974), the court held that an organization seeking a ruling as to recognition of its exempt status has the burden of proving that it satisfies the requirements of the particular exemption statute.

Application of law

You are unlike an organization described in Section 501(c)(9) of the Code because your only activity is to collect dues from your members to fund your day to day operations such as roof, painting, parking lot, sidewalk and common areas maintenance. You do not provide for the payment of life, sick, accident, or other benefits to your members or their dependents or designated beneficiaries.

You are unlike an organization described in Treas. Reg. § 1.501(c)(9)-1 because you are not an association of employees.

You are also unlike an organization described in Treas. Reg. § 1.501(c)(9)-2(a)(1) and Treas. Reg. § 1.501(c)(9)-2(c)(2). Your membership is not voluntary. Your members become members by purchasing a unit of the condominium. Your members do not have any employment-related common bond nor do they have a common employer or affiliated employers. This precludes you from exemption under Section 501(c)(9) of the Code.

You do not provide for the payment of life, sick, accident, or other benefits to your members or their dependents or designated beneficiaries as described in Treas. Reg. § 1.501(c)(9)-3(a). You run the day-to-day operations such as fixing, repair and maintenance as obligated by your Restrictive Covenants. Therefore, you are excluded from exemption under Section 501(c)(9) of the Code.

You have not met the burden of proof as in Harding Hospital, Inc. v. United States that you qualify for exemption under Section 501(c)(9) of the Code.

Conclusion
Based on the information provided, we conclude that you are not organized as a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to its members or their dependents or designated beneficiaries. Accordingly, you do not qualify for recognition of exemption under Section 501(c)(9) of the Code.

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

- Your name, address, employer identification number (EIN), and a daytime phone number

- A copy of this letter highlighting the findings you disagree with

- An explanation of why you disagree, including any supporting documents

- The law or authority, if any, you are relying on

- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative

- One of the following declarations:

  For an officer, director, trustee, or other official who is authorized to sign for the organization:
  Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

  For authorized representatives:
  Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts 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 he or she hasn'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 provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

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

Where to send your protest

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:	Street address for delivery service:
Internal Revenue Service EO Determinations Quality Assurance Room 7-008 P.O. Box 2508 Cincinnati, OH 45201	Internal Revenue Service EO Determinations Quality Assurance 550 Main Street, Room 7-008 Cincinnati, OH 45202

You can also fax your statement 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 he or she received it.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

Enclosure:
Publication 892