

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

DEC 31 1990

CERTIFIED MAIL

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The information submitted shows that you were incorporated under the State of [REDACTED] on [REDACTED].

Your specific purposes, as stated in your Articles of Incorporation, "... are to provide for the maintenance, preservation and control of the common elements within that certain tract of property described in Exhibits "A" and "B" of a certain Master Deed entitled "[REDACTED], a Condominium" recorded or intended to be recorded in the Office of the Clerk of [REDACTED] County, and to promote the health, safety and welfare of the residents within the above described property..."

The activities of [REDACTED] include the collection of membership fees from the residents each year for the specific purpose of maintenance and preservation and control of the common elements within the condominium community. Basically these funds are used for waste removal, snow removal, utilities, insurance, and any professional fees associated with the organization.

Your income is from membership dues.

Membership is limited to, "Every person or entity who is a record owner of a fee interest in any Unit which is subject to the Master Deed afore-said is subject to assessment by the Association, and qualifies in accordance with the By-Laws, shall be a member of the Association."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]	[REDACTED]	[REDACTED]		
Surname	[REDACTED]				
Date	10/28/90	NOV 28 1990	12/31/90		

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax of organizations that are organized and operated exclusively for charitable, educational and other specified purposes, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations requires that organizations seeking exemption under section 501(c)(3) have purposes which are exclusively charitable, educational, etc., as defined in section 501(c)(3).

Section 1.501(c)(3)-1(c)1 of the Income Tax Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

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

Based on Articles of Incorporation, application and information submitted with your application, your organization is not organized or operated exclusively for charitable, educational, and other specified purposes, and part of your net earnings inures to the benefit of your members, private shareholders or individuals.

Further, the private purposes of your members are being served as described below:

- A. Your organization is an association formed by unit owners of a condominium housing project operated to provide for maintenance and preservation and control of the common elements within the condominium community. The organization will not qualify, because the essential nature and structure of a condominium system of ownership, the rights, duties, privileges, and immunities of the members of an association of unit owners derive from, and are established by, statutory and contractual provisions and are inextricably, and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. Additionally, condominium ownership involves the maintenance and care of many common areas which necessarily constitutes the provision of private benefits for unit owners.

[REDACTED]

- B. Your membership is limited to persons or entities who are recorded owners of a fee interest in any unit. Your organization is not organized for a public, but rather for the private interest of your unit owners.
- C. Disbursements to or for the benefit of your members is not the type of activity carried on by or an organization organized and operated exclusively for the purposes described in section 501(c)(3).

Based on items "A" through "C" above, it is held that your organization is operated for the private benefit of your unit owners. Therefore, the organization fails the operational test. Further, you fail the organizational test since "...to provide for the maintenance, preservation and control of the common elements within that certain tract of property described in Exhibits "A" and "B" of a certain Master Deed entitled "[REDACTED], [REDACTED]" do not further the charitable, educational and other specified purpose in Income Tax Regulations 1.501(c)(3)-1(A)(1) and (iii). Therefore, it is concluded that you are not an organization described in section 501(c)(3) of the Code.

Contributions to your organization are not deductible under section 170 of the Code.

You are required to file federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

Sincerely,

[REDACTED]

District Director