

Person to Contact: [REDACTED]
Telephone Number: [REDACTED]
Refer Reply to Internal Revenue
Service
[REDACTED]

CERTIFIED

Date: JUN 24 1987

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.

You were formed as an association on [REDACTED] for the purpose of "(a) Considering and dealing by all lawful means with all problems relating to fireplaces of members of the association which are located on property within the plots of [REDACTED] Additions 1 through VII and Walden First Addition, County of [REDACTED], State of [REDACTED] (b) to do anything necessary and proper for the accomplishment of the purposes of the association including but not limited to hiring legal counsel, expert witnesses and others to aid in prosecuting legal action and/or aid in settling claims on behalf of the association and/or its members against all persons or entities that the association believes are responsible for any existing problems, with any association member's fireplace."

According to your application for exemption, your only activity was to initiate a lawsuit against your builder for defects in the fireplaces of your members. This lawsuit has been settled, and the only reason for applying for exempt status is so that no tax will be paid on the settlement funds, which are generating interest in a bank account.

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.

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			
Date	8/24/87	5/24/87	6/23/87	6/23/87			

Rev. Rul. 72-102, 1972-1 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)(6) of the Code.

Rev. Rul. 74-92, 1974-1 C.B. 111, which modified Rev. Rul. 72-102, holds that a homeowners association formed in connection 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 has a reasonably recognizable relationship to an area principally identified as governmental;
2. It must not conduct activities directed to the creation, maintenance or private inurement; and
3. The common area or facilities must be for the use and enjoyment of the general public.

Your organization cannot qualify for exempt status because you are organized for the private benefit of your members and not for the benefit of the community at large. In addition, the maintenance of individual members' libraries is not an exempt activity of a homeowners association as stated in the aforementioned Revenue Rulings.

Therefore, we hold you are not exempt from Federal income tax as an organization described in Section 501(c)(6) of the Code. Accordingly, you are required to file Federal income tax returns, 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 nearest office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and 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 921, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

[REDACTED]

Please keep this information letter in your permanent records.
If you agree with this determination, please sign and return the
enclosed Form 6012.

Sincerely yours,

[REDACTED]
Special Agent in Charge

Enclosure:
Publication 892
Form 5012