

[REDACTED]

[REDACTED]

[REDACTED]

26 FEB 1985

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 corporation laws of the State of [REDACTED].

As stated in your Articles of Incorporation, "the purposes of this corporation shall be to make the area hereinafter described a desirable, attractive and congenial place in which to live, and to maintain the area as such. Further, it is the desire of the membership to marshal itself to work for the general needs of the neighborhood, and to promote and stimulate social activities and interaction within the neighborhood."

Form 1024 and subsequent correspondence indicates the following:

- (a) Funds will be used for neighborhood improvement projects.
- (b) The neighborhood contributed \$[REDACTED] for a school bus shelter.
- (c) You are located in a subdivision which contains [REDACTED] homes. Approximately [REDACTED] homes are members of your organization.
- (d) There are approximately [REDACTED] families whose children use the bus shelter if they so desire.
- (e) You do not elect a chief executive officer or council with the power to tax.

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.

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)(4)-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 (iv) of Section 1.501(c)-1 if it otherwise qualifies under 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. 74-59, 1974-1 C.B. 171, which modified Rev. Rul. 72-102, 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 services or facilities must be for the use and enjoyment of the general public.

You have only a clubhouse from a subdivision of [redacted] houses. You clearly are not a governmental unit. The school bus shelter, located where it is, can be utilized only by families in your subdivision. You do not meet the requirements of Revenue Ruling 74-59.

After careful consideration of the evidence submitted, we have concluded that you are not primarily engaged in promoting the common good and general welfare of the people of the community and, therefore, you are not operating exclusively for the promotion of social welfare. Accordingly, we hold that you do not qualify for exemption from Federal income tax as a social welfare organization described in Section 501(c)(4) of the Internal Revenue Code of 1954.

Therefore, we hold you are not exempt from Federal income tax as an organization described in Section 501(c)(4) of the Code. Accordingly, you are required to file Federal income tax returns, Form 1120B.

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 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 602, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

Please keep this determination letter in your permanent records.

If you agree with this determination please sign and return the enclosed Form 6010.

Sincerely yours ,

District Director

Enclosures
Publication 602
Form 6010