Form 1937 A (Rev. 6-80) (Carbon Attached Version of Form 1937)

[redacted]

Person to Contact: [redacted]
Telephone Number: [redacted]
Refer Reply to: [illegible]

[redacted]

Date: DEC 22 1987

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted indicates that you were formed on [redacted] as an association.

Your purpose as stated in your Articles of [illegible] is "to provide the opportunity for our families to buy healthful foods which cannot be readily found in grocery stores and encourage one another in healthful eating."

Your activities include ordering food from a cooperative warehouse and distributing it among your members.

Membership is open to anyone who wishes to order healthy foods from the cooperative warehouse.

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes, no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Tax Regulations relates to the definition of the organization and operation of organizations described in section 501(c)(3). It is quoted in part, as follows:
"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		
Surname	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		
Date	[illegible]	[illegible]	12/ /87	[illegible]	[illegible]		

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[redacted]

operational test, it is not exempt. (i) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in section 501(c)(3).... "(c) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish 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. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals...."

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

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that "an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish 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 Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 73-349, 1973-2 [illegible], holds that an organization formed to purchase [illegible] for its membership at the lowest possible prices [illegible] is not exempt as a social welfare organization under section 501(c)(4) of the Code.

[redacted]

Your organization cannot qualify as exempt because your activities are not exclusively charitable and they do not benefit the entire community as a whole.

Your activities promote the private interests of your members as previously mentioned in Regulation Section 1.501(c)(3)-1(d)(1)(ii). In addition, the facts in your application are almost identical to the organization denied exemption in the aforementioned Revenue Ruling [illegible]. Although the organization in the revenue ruling was denied exemption under section 501(c)(4), the rationale for denial in that case, as in the instant case, private benefit to select individuals rather than a public benefit.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal income tax under section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with these conclusions, you may, within thirty 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 provided Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section

[redacted]

7428(b)(2) of the Internal Revenue Code provides in part that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code section 6104(c), we will notify the appropriate State officials of this action.

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

Sincerely yours,

[redacted]

[illegible]

Enclosures:
Publication 892
Form 6018