Internal Revenue Service

District Director

[redacted]

Department of the Treasury

[redacted]

Date: APR 07 1994

Person To Contact: [redacted]

Telephone Number: [redacted]

Refer Reply To: [redacted]

Dear Sir or Madam:

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] [redacted] to provide maintenance, preservation and architectural control of the residential lots and common area of [redacted], a subdivision in [redacted] County, [redacted], or any other areas created by the annexation of additional property and to promote the health, safety and welfare of the residents within the above described property.

The Association was formed by [redacted]. The homes in the subdivision consist of single family residences. All of the residents are required to pay an annual assessment to the Association. The Association contracts with private companies for garbage disposal, security service, and pool maintenance for the residents. The Association provides social activities for the members such as annual summer party, Womens club, childrens easter egg hunt, etc.

The subdivision is in the city limits of [redacted]. The city of [redacted] would provide garbage collection for the residents. The Association contracts with a private company for garbage collection for the residents and pays for it from the annual assessments.

The information submitted discloses that you have a Clubhouse, swimming pool and a tennis court and the public can use the facilities for a small fee. There is no record in your by-laws or directory of public use of your facilities. Your Association directory states that in order to enter the general community area, you will need a card key to open the gate. [redacted] stated that for a $[redacted] fee the public can receive a card and use it indefinitely. He stated that when they come to the pool the lifeguard will let them in and collect the fee. He also said the lifeguard would issue a temporary permit or have them call him.

[redacted]

He said that there is a deposit required to use the clubhouse and it is returned if there is no damage. The directory states that the clubhouse is available for Association meetings and resident private parties. Residents may also reserve the clubhouse for use by their business organization, social club, or any non-profit group, but a fee of $[redacted] will be charged in addition to the refundable deposit. He stated that they earned income from the County for holding elections there.

He stated that if a nonresident wanted to use the pool the lifeguard would let them in and the nonresident could pay the lifeguard.

He also said later that the lifeguard would take the money or instruct them to get hold of him ([redacted]). They would have to call him at his office and he would contact them.

He stated that they could purchase a card key for $[redacted] and have indefinite use of the pool. He said the members cards are replaced free. The newsletter states "card keys are given free of charge to all new residents. If you need a replacement card or additional cards, they are available for $[redacted] from [redacted]". He said that provision was only there to discourage people from abusing them. He said they are free. He stated they received $[redacted] for sale of cardkeys. He then stated that [redacted] were for replacement cards and the rest were from non residents.

He said that last year the received $[redacted] for [redacted] cards and [redacted] of them were replacement cards.

He stated that the purpose of the card key was to keep up with who is at the pool because they might bring others in. He said no more than [redacted] can be in the pool. They like to know who is coming in. He said that last year [redacted] nonresidents used the pool.

He said that a large part of the budget is for police security, about $[redacted] last year and only a small part was for the pool.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

[redacted]

(4) 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 regulations provides, in part, as follows:

(a)(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 Regs. 1.501(c)(3)-1 and is not an "action" organization as set forth in paragraph (c)(3) of Regs. 1.501(c)(3)-1.

Revenue Ruling 74-99, 1974-1, C.B. 131, provides that for a homeowners' association to qualify for exemption under section 501(c)(4) of the Code, it must serve a community which bears a reasonable recognizable relationship to an area ordinarily identified as governmental.

"A community within the meaning of section 501(c)(4) of the Code and the regulations is not simply an aggregration of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein. Although an exact delineation of the boundaries of a "community" contemplated by section 501(c)(4) is not possible, the term as used in that section has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof."

[redacted]

Based on the information presented, we have concluded that you do not meet the requirements for exemption as a social welfare organization described in section 501(c)(4) of the Internal Revenue Code. The Organization is not operated exclusively for the promotion of social welfare of the community as set out in Revenue Ruling 74-99 but provides private benefits of garbage disposal, security service, and social and recreational activities to its members. It is essentially and primarily formed and operated for the benefit of the members.

The Association is not a community as defined by Revenue Ruling 74-99. It is a real estate subdivision.

You are not exempt from Federal income tax under Code Section 501(c)(4). You are required to file Federal income tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[redacted]

District Director

Enclosures:
Publication 892
Form 6018