

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

JUN 24 1985

CERTIFIED MAIL

Dear Sir/Madam:

We have considered your application for recognition or exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code. We have determined that you do not qualify as an organization described in section 501(c)(3) of the Code.

The information submitted indicates you were incorporated in [REDACTED] on [REDACTED] for the following purposes:

1. To take, hold or mortgage properties known as the road and common properties of [REDACTED], [REDACTED], and to promote the recreation, health, safety and welfare of the residents of [REDACTED], and in particular for the improvement and maintenance of the common properties, roads, services and facilities related to the use and enjoyment of the roads and common properties of [REDACTED], and to do all things incidental, necessary or convenient in carrying out the foregoing purposes.

2. To provide funds for the carrying on of recreational programs, no part of the funds to inure to the benefit of any director or member of said corporation and no part of such funds to be expended in carrying on propaganda or otherwise attempting to influence legislation.

Your activities primarily consist of the maintenance and improvement to the community's private road network and common properties.

Every person or entity who holds a legal or equitable interest in any lot in [REDACTED] is a member of the association.

Your income is derived from dues and assessments of members. Expenses include "common roads and grounds maintenance", supplies and other operating fees.

Section 501(c)(3) relates to corporations, and any community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of, or in opposition to, any candidate for public office.

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in section 501(c)(3). It reads, in part, as follows: 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 each section. If an organization fails to meet either the organizational or the operational test, it is not exempt.

An organization is organized exclusively for one or more exempt purposes only if the articles of organization list the purposes of such organization to one or more exempt purposes. The term "exempt purposes" as used in this section, mean any purpose or purposes specified in section 501(c)(3).

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 the 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. It further provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest to meet this requirement, it is necessary for an organization to clearly establish that it is not organized or operated for the benefit of any private interests.

Based upon a review of your application for recognition of exemption, Form 1023 it is held that you are neither "organized nor operated" exclusively for one or more of the purposes specified in section 501(c)(3) of the Code. You are organized and operated primarily to serve a private rather than a public purpose.

We have also determined that you are primarily organized and operated to provide services for the common benefit of your member lot owners and not primarily for promoting in some way the common good and general welfare of the people of the community. Therefore, you also do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Code.

Your attention is called to Section 528 of the Internal Revenue Code which provides certain procedures by which qualifying Homeowners Associations may elect to be treated as a tax exempt organization. This section of the Code was included in the Tax Reform Act of 1976. If you determine that you qualify under Section 528, you must file Form 11208. If you determine that you do not qualify under Section 528, you must file corporate tax return Form 1120.

Accordingly, based on all of the information available, it is determined that you do not qualify for tax exemption as an organization described in Section 501(c)(3) of the Internal Revenue Code.

Based on the information supplied, exempt status will not be recognized under any related section of the Internal Revenue Code.

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

You are required to file Federal income tax returns on the form and for the years shown in the heading of this letter. File these returns with your key District Director for exempt organization matters within 60 days from the date of this letter, unless a request for an extension of time is granted. We will not delay processing of income tax returns and assessment of any taxes due because of your bringing suit for declaratory judgment under Code Section 7428. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 521. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

[REDACTED]

A copy of this letter will be sent to the appropriate state officials in accordance with Section 6104(c) of the Internal Revenue Code.

If you do not protest this proposed determination in a timely manner, it will be considered as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this Section shall not be issued to 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."

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 092

cc: State Attorney General