



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities**

Date:

October 1, 2024

Taxpayer ID number (last 4 digits):

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Last day to file petition with United States

Tax Court: December 30, 2024

Release Number: 202452016

Release Date: 12/27/24

UIL Code: 501.04-07

CERTIFIED MAIL - Return Receipt Requested

Dear _____ :

Why we are sending you this letter

This is a final determination that you don't qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(4), for the tax periods above. Your determination letter dated _____, is revoked.

Our adverse determination as to your exempt status was made for the following reasons: You have not established that you are operated exclusively for the promotion of social welfare and other non-profitable purposes and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes under IRC Section 501(a) as described in Section 501(c)(4).

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms and information please visit **IRS.gov**.

What you must do if you disagree with this determination

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

How to file your action for declaratory judgment

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of Section 7428 of the Code in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. You can download a fillable petition or complaint form and get information about filing at each respective court's website listed below or by contacting the Office of the Clerk of the Court at one of the addresses below. Be sure to include a copy of this letter and any attachments and the applicable filing fee with the petition or complaint.

You can eFile your completed U.S. Tax Court petition by following the instructions and user guides available on the Tax Court website at ustaxcourt.gov/dawson.html. You will need to register for a DAWSON account to do so. You may also file your petition at the address below:

United States Tax Court
400 Second Street, NW
Washington, DC 20217
ustaxcourt.gov

The websites of the U.S. Court of Federal Claims and the U.S. District Court for the District of Columbia contain instructions about how to file your completed complaint electronically. You may also file your complaint at one of the addresses below:

US Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439
uscfc.uscourts.gov

US District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
dcd.uscourts.gov

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS or if you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Visit **TaxpayerAdvocate.IRS.gov/contact-us** or call 877-777-4778 (TTY/TDD 800-829-4059) to find the location and phone number of your local advocate. Learn more about TAS and your rights under the Taxpayer Bill of Rights at **TaxpayerAdvocate.IRS.gov**. Do not send your Tax Court petition to TAS. Use the Tax Court address provided earlier in the letter. Contacting TAS does not extend the time to file a petition.

Where you can find more information

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.

Find tax forms or publications by visiting **IRS.gov/forms** or calling 800-TAX-FORM (800-829-3676). If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

You may fax your documents to the fax number shown above, using either a fax machine or online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.

Keep the original letter for your records.

Sincerely,

A handwritten signature in black ink that reads "Lynn Brinkley". The signature is written in a cursive style with a large initial "L".

Lynn A. Brinkley

Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities**

Date:
05/30/2024
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:
Name:
ID number:
Telephone:
Fax:

Address:

Manager's contact information:
Name:
ID number:
Telephone:
Response due date:
6/29/2024

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(4).

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(4) for the periods above.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Larry D. Pugh Digitally signed by Larry D. Pugh
Date: 2024.05.30 13:05:34 -05 00
for Lynn A Brinkley
Director Exempt Organization
Examinations

Enclosures:
Form 886-A
Form 6018
Pub 892
Pub 3498

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

ISSUE

Do you qualify for exemption under Internal Revenue Code (IRC) Section 501(c)(4)?

FACTS

_____ was incorporated in the State of _____ on _____. _____ is a homeowner's association currently exempt under IRC Section 501(c)(4). _____ consists of _____ residential lots and is located in the greater _____ area. _____ mission or most significant activities include architectural zoning/monitoring, safety/law enforcement patrol, recreational/park maintenance, and common area maintenance (street lights, roads, and garbage service).

Exam agent reviewed _____ articles of incorporation. A provision in _____

The determination application (Form 1024) was worked by Internal Revenue Service (IRS) in _____. Form 1024 was signed on _____ and postmarked on _____. Final Determination letter notifying _____ they were exempt under Section 501(c)(4) was issued on _____. After reviewing the initial application for exemption, exam agent did not see any indication _____ was going to be a gated community. _____ response to the question if the access to any property or facilities it owns or maintains is restricted in any way was NO, and explanation provided on the initial application for exemption was as follows:

“

Operational interview was conducted on _____ between Exam Agent _____, Treasurer _____, and Onsite Manager _____.

Per Treasurer, _____ was created in the early _____ by _____. The neighborhood was started because there was a private golf club on the premises which was a big attraction for the homebuyers. At first, lots of large lots were sold but lots got smaller later on. _____ Controlled _____ initially. It was eventually turned over to _____ members around _____ (Treasurer was not certain exactly when that happened).

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

Around _____, private golf club was sold to members and that's the year when _____ officially exited the neighborhood. Golf Club is a paying member of the _____ (the biggest paying member of the _____). Private golf club is exempt under IRC 501(c)(7). Some _____ members are also members of the golf club. _____ and the golf club are separate entities but they have a close relationship.

There are 3 entrances into _____ neighborhood: Residents Only, Main entrance, and Contractor Entrance. There are 3 gates with barrier arms restricting access. Main entrance and contractor entrance have manned gatehouses with a 24-hour security who monitor access. Exam Agent saw the gates and barrier arms during the tour of the grounds. Exam Agent saw the guards and security vehicles. Per Treasurer, access to property and facilities owned and maintained by _____ is unrestricted to residents and guests of residents. _____ resident has to notify the guards at the gate that they have guests. Otherwise, guests will not be allowed in. However, if an individual comes to the gate and says they are there to see the club, guards will ask for an identity document (ID) and then will let the individual in. Guards ask for the ID so they can have a record of who entered the premises. Once in the neighborhood, individuals are free to explore. Guards will not follow you around to see if you are really going to the club. There are security patrols throughout the neighborhood but those start at evenings. Patrols are to ensure teenagers do not loiter around and get into trouble.

Exam Agent asked if _____ has any voice in operations or policies of the private golf club. Per Treasurer, formally, _____ has no say. Practically, yes _____ has a say. Club and the _____ are intertwined and have a close relationship to each other. There is a need to coordinate between each other regarding certain activities. Per Treasurer, guards do not ask for proof that you are a club member to let you in. However, Treasurer explains it's also important about how you approach the gate and how you phrase and/or explain why you are there. For example, If you were to say I am here to see a specific resident, the guards will look at the list and if that resident has not notified the guards that he/she is expecting you, guards will not let you in. If you say you are just curious to see what is behind the gate and to see the neighborhood, guards should not let you in. If you say you are curious about the club, guards may ask you if you are there for a lunch, or tea party, or to play golf. They may still let you in, but may call and/or accompany you to the club to see if it is ok for you to be there. It is all about the phrasing and confidence in how you say why you are there.

Per Treasurer, important mitigating circumstance to consider are the golf tournaments. For example, The _____ tournaments are held at the golf club. During _____ tournament held on _____, _____ people came in and walked around the neighborhood and used the amenities. Per Treasurer, while _____ tournament is an annual event, there are maybe 5-10 other events that bring a large gathering within the neighborhood. Some examples of these other events include _____

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

Exam Agent drove through the neighborhood and toured the grounds on Park, basketball courts, and the splash pad area are the amenities available to the residents. The golf club house offers additional amenities such as golf, tennis, fitness center, spa, and dining. residents need to be members of the golf club to access the club amenities but club members have access to all of the amenities.

Per Form 990 – , expenses were reported as follows:

<u>Type of expense</u>	<u>\$ Amount</u>	<u>% of total expense</u>
------------------------	------------------	---------------------------

Per Form 990 – Schedule O, list of other expenses from part IX line 24e is as follows:

<u>Description of Expense</u>	<u>Amount</u>
-------------------------------	---------------

Total expenses reported on the Form 990 were \$. Biggest expense “Security” comprises % of total expenses. “Landscaping” was the second biggest expense coming in with % of total expenses. Third biggest expense is the miscellaneous “All other expenses” comprising % of total expenses. One of the other expenses listed on Schedule O of Form 990 is “Access Gates.”

Exam Agent reviewed board meeting minutes for tax year. Gated access and “Community Access Policy” was discussed at board meetings. Minutes provide that “Starting residents will be required to provide their security code to the guards when calling to authorize guests who are not on their account.” Per the meeting minutes, is the app that is used by residents to enter in authorized guests and contractors.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

Exam Agent reviewed Governing Documents. The following documents were reviewed:

- The instrument entitled " " provides for overall development, administration, maintenance, and preservation and provides procedures for its future expansion. It grants the Board authority to adopt rules and regulations regulating the use and enjoyment of the Common Areas.

The Board implemented a community access policy for and adopted rules and regulations policy regarding the use and enjoyment of the Common Areas.

The purpose of Design Standards is to assist the owner and design personnel in achieving the desired level of site development and to enhance the aesthetics and provide for an orderly development of

Exam Agent reviewed the 3 aforementioned documents because the government needed to understand if was always meant to be a gated community. The government also needed to understand what is the current written policy regarding the use and enjoyment of the common areas.

document was executed on was executed came in for exemption in so both of those documents are before requested exemption under IRC Section 501(c)(4). document was signed and executed during the exam year.

Rules for Community Access are as follows:

1. Access to the Community is through the Entry Gates which are operable with an entry tag.
2. Each Resident and Club Member must complete an Application for Access to obtain access to the Community utilizing an entry tag and Club Members can complete an Application for Access.
3. Each Tenant or Lessee must complete an Application for Access to obtain access to the Community utilizing an entry tag. The Tenant or Lessee must pay \$ per tag that will be registered for access to the Community. All restrictions applicable to the Residents also apply to all Tenants or Lessees. The Owner is responsible for the actions of the Resident in relation to the Entry Gates.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

4. Club Employees without toll tags will be provided a _____ from the _____ will purchase their own _____ through the _____
5. After a completed Application for Access is submitted to and approved by the managing agent for the Association, access will be granted per entry tag.
6. Residents and Club Members without tags must purchase _____ from the Association's managing agent utilizing the process provided herein. _____ are currently \$ _____ and _____ are \$ _____. This Association may adjust the price of the _____ as needed.
7. Residents can enter through Gate 1, Gate 2, or Gate 3.
8. Lessees and Tenants can enter through Gate 1, Gate 2, or Gate 3.
9. Club Employees can only enter through Gate 2B (middle lane of Main Gate)
10. Club Members can only enter through Gate 2.
11. Contractors can only enter through Gate 3.
12. Guests of residents, lessees, and tenants must enter through Gate 2A (left lane at Main Gate) in order to check in with the Security Guards.
13. Non-Immediate Family Members, non-Residents, guests, vendors, contractors, service workers, household employees, or any other individual not residing in a Unit are not authorized and will not be authorized to register an entry tag for access to the Community. These individuals must check in with the security officer to gain access to the Community.
14. Pedestrian gate access is limited to residents only.
15. Should a resident, tenant, or lessee damage any of the gates, gate equipment or related property, they will be responsible for the cost of the repair and any fines.
16. Should a guest or contractor damage any of the gates, gate equipment or related property, they will be responsible for the cost of the repair and fines. Should they not pay the repair cost within 30 days, the responsibility will fall to the resident or club member who allowed them access into the community.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

The following excerpt (see below) is from " _____ " document. Excerpt mentions perimeter fencing, entry gates and gatehouses. As a reminder, this document was created and executed before _____ applied for the exempt status.

The following excerpt (see below) is also from "Amendment and Restatement of the Declaration of Covenants, Conditions, Restrictions and Easements for _____ " document. Excerpt mentions gates, identification for admission, and deny entry to unauthorized persons.

Exam agent noted _____ has right and authority to:

- a) control access to the Community or any portion thereof;
- b) to construct, install, operate, and staff entrance gates;
- c) to require identification for admission to the Community;
- d) to videotape or otherwise record and document all Persons and vehicles entering or exiting the Community;
- e) to screen and/or require registration of vehicles, guests, and others entering the Community
- f) to deny entry to the Community to unauthorized Persons.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

The following two excerpts (see below) are from " _____ " document.

Exam agent noted _____ is responsible for operating and maintaining the gate facilities and private streets leading to the Golf and Country Club. In consideration of their access and use of the gate facilities and roads maintained by _____, the owner(s) of the Golf and Country Club and its members agree to pay an annual maintenance fee to _____.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

The following excerpt (see below) is from _____ document.
 It provides that _____ is a gated community. As a reminder, this document was created
 and executed before _____ applied for exempt status.

The following excerpt (see below) is from the same document. It provides that _____ is a
 gated community. Construction access will be limited to designated and identified construction
 personnel.

The following excerpt (see next page) is from the same document. It provides that
 Contractors must meet with Association staff and prepare a Contractor’s vehicle pass list
 and the supporting information containing the description and identification of construction

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

employee's vehicles. No person or vehicle will be allowed onto _____ property until the requisite documents are on file and the appropriate passes have been issued. All Contractor personnel are required to enter and leave through the designated construction gate. _____ has a program of vehicle search that provides for the inspection and/or search of all vehicles entering and leaving the property.

LAW

IRC Section 501(c)(4) provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or legal associations of employees, the membership of which is limited to the employees of the designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Treas. Reg. Section 1.501(c)(4)-1(a)(1) states an organization may be exempt if: (i) it is not operated for profit and (ii) it is operated exclusively for the promoting of social welfare.

Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) provides that 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.

Rev. Rul. 72-102, 1978-1 CB 149, describes non-profit organization formed to preserve appearance of a housing development and to maintain streets, sidewalks, and common areas for use of the residents that is found to be exempt under Section 501(c)(4). The ruling describes what

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

may constitute a community, which may be exemplified in a neighborhood, precinct, subdivision, or housing development. It states by administering and enforcing covenants, and owning and maintaining certain non-residential, non-commercial properties of the type normally owned and maintained by municipal governments, this organization is serving the common good and the general welfare of the people of the entire development,

Rev. Rul. 74-99, 1974-1 C.B. 132, modified Rev. Rul. 72-102. It clarified that to qualify for exemption under IRC Section 501(c)(4), a homeowners' association must:

1. serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental,
2. not conduct activities directed to the exterior maintenance of private residences, and
3. open its common areas or facilities it owns and maintains must for the use and enjoyment of the general public.

This ruling provides clarification for the term "community". Rev. Rul. 72-102 caused a misconception that "any housing development may qualify as a community for exemption purposes regardless of any other attendant facts and circumstances in the case." This ruling continues to explain, "A community within the meaning of IRC Section 501(c)(4) and the regulations is not simply an aggregation 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."

This ruling also provides clarification for the phrase "non-residential, non-commercial properties of the type normally owned and maintained by municipal government." It is further explained that the only areas and facilities encompassed were those traditionally recognized and accepted as being of direct governmental concern in the exercise of the powers and duties entrusted to governments to regulate community health, safety, and welfare. Thus, it was "intended only to approve ownership and maintenance by a homeowners' association of such areas as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners' association..."

Rev. Rul. 75-386, 1975-2 C.B. 211, describes an organization that contracts with a private firm to provide the community with security patrols assisted by guard dogs, works to improve public services, housing, and residential parking, and that publishes a newspaper distributed free of charge to all community residents and sponsors a community basketball league, holiday

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

programs, and meetings of community residents is operated exclusively for the promotion of social welfare and qualifies for exemption under IRC Section 501(c)(4).

Rev. Rul. 77-273, 1977-2 C.B. 195, describes a non-profit organization that provides-security services for residents and property owners of a particular community, who agree to voluntarily donate money at a specified hourly rate to defray the cost of the services, is carrying on a business with the general public in a manner similar to organizations operated for profit and does not qualify for exemption under IRC Section 501(c)(4).

Rev. Rul. 80-63, 1980-1 C.B. 116, provides further clarification of Rev Rul. 74-99 through specific questions. The answer to Question 1 reiterates that a qualifying association's common areas and facilities must be open for the use and enjoyment of the general public, as distinguished from areas and facilities whose use and enjoyment is controlled and restricted to members of the association, to satisfy the requirement of serving a community. The answer to Question 2 points out that an association will not qualify if it restricts the use of its recreational facilities (within the definition of ""common areas"), such as swimming pools, tennis courts, and picnic areas, to members of the association.

Commissioner v. Lake Forest. Inc.. 305 F. 2d 814 (4th Cir., 1962), denied exemption to a social welfare organization because the organization did not benefit the public at large, nor was its contribution of a public character. The case involved a non-profit membership housing cooperative that provided low-cost housing to its members. In denying exemption as a social welfare organization, the court found that although the organization's activities were available to all citizens eligible for membership, opining, "[I]ts contribution is neither to the public at large nor of a public character." The court looked to the benefits provided and not to the number of persons who received benefits through membership. In this case, benefits were largely directed to certain individuals rather than the general public, so the organization did not qualify as a social welfare organization.

Rancho Santa Fe Association v. U.S.. 589 F. Supp. 54 (S.D Cal.1984), held that a housing development functioning as a public municipality, constituted an independent community under Section 1.501 (c)(4)-1 of the Treasury Regulations, and that the homeowners' association representing the property owners within the housing development bestowed benefits on the entire community. Therefore, the association was exempt under Section 501(c)(4) even though the public was restricted from certain recreational facilities.

Of note, the Rancho Santa Fe development was significant in size, separated geographically from the central area of a large city, and had its own post office and zip code. In addition, the organization performed the functions of a governmental entity, and it brought about civic betterments and social improvements on an unrestricted basis that would be sorely missed by the community without the activities of the organization. The homeowners' association owned 600 acres and the remainder was owned by individual members. Of the 600 acres owned by the

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

Association, 300 acres were dedicated to parkland and open space, 165 acres were improved as playgrounds, athletic fields, a public parking lot, a community clubhouse, and hiking and bridle trails. The remaining 135 acres comprised a golf course and tennis courts. In sum, out of the 600 acres owned directly by the Association, 465 of these acres were available for use by the general public on an unrestricted basis. The remaining 135 acres were available to all the members of the Rancho Santa Fe community and to the general public, but only when the public used the inn located in Rancho Santa Fe. The court summarized, "The critical factor is that the Association benefits the community it serves and represents on an unrestricted basis."

Flat Top Lake Ass'n v. United States. 868 F.2d 108 (4th dr., 1989), held that a homeowners' association that encompassed a very large area but restricted use of its facilities to its members did not qualify for exemption under Section 501(c)(4). Of note, in Flat Top Lake there were no schools, churches nor commercial establishments within the bounds of the property, nor was commercial development permitted by the Association. They undertook certain tasks of a quasi-governmental nature; they constructed a bridge within the development maintained certain common areas including the road, a park, and the lake itself; and provided waste disposal for residents. Finally, they arranged for law enforcement by obtaining the appointment of a conservator of the peace pursuant to local state code. The conservator is paid by the local sheriff's department which is in turn reimbursed by the Association. The factual circumstances presented in Rancho Santa Fe are distinguishable from the instant case. The housing development served by the organization in Rancho Santa Fe was much larger than Flat Top and, functioned as a public municipality. Access to the development by nonresidents was unrestricted and the use of a substantial portion of the development's recreational facilities by the general public was unlimited. Unlike the inhabitants of Flat Top Lake, there was no indication that the inhabitants of Rancho Santa Fe sought to shut themselves off from society and to hold the outside world at arms' length. While the court in Rancho Santa Fe did believe that a development that attained "community" status could exclude the public at large and still obtain Section 501(c)(4) exemption, that conclusion must be regarded largely as dicta in light of the actual nature of Rancho Santa Fe. Flat Top Lake Association created a wholly private environment for its members.

APPLICATION OF LAW

Although the government considered circumstances such as golf tournaments, and fundraisers for other charities, our findings show you place significant barriers with the goal of restricting the general public from accessing your grounds. (IRC Section 501(c)(4), Revenue Ruling 74-99, Revenue Ruling 80-63). You are a gated community; no one can get past your gates unless they are one of the Authorized Persons. Authorized Persons include Owners, residents, and their guests and invitees; members and guests of the Golf and Country Club; police, fire, and emergency medical personnel in the performance of their official duties; and contractors and other service providers authorized by Owners or residents of Units. The government contends that you do not operate as IRC Section 501(c)(4) and Treas. Reg. Section 1.501(c)(4)-1(a)(1) because your activities do not primarily promote social welfare.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

Specifically, the government contends that you do not operate as a 501(c)(4) organization for the following reasons:

1. " " and " provide evidence you were a gated community since the beginning. That means the gates were present before and during initial Form 1024 application process. You did not reveal that your "common areas" are via gated access when you applied for exemption. Therefore, exemption was granted to you without all of the facts and circumstances.
2. A provision in " of your Articles Of Incorporation states that one of your purposes is " " This is a problematic provision in your Articles of Incorporation since IRC Section 501(c)(4) should be operated exclusively for the promotion of social welfare.
3. Your total expenses in " were \$ ". Biggest expense "Security" amounts to \$ " which comprises % of total expenses in ". Per Schedule O, one of the other expenses listed is " " amount of \$ ". Your organization spends time and resources on security, which supports the Examining Agent's position that you are trying and, very successfully, keeping people out. This is contradictory to what a 501(c)(4) organization should do: provide social welfare to the general public.
4. Exam Agent's observations and findings during the tour of the grounds and initial interview provide sufficient evidence you are a gated community. There are 3 entrances into " neighborhood: Residents Only, Main entrance, and Contractor Entrance. There are 3 gates with barrier arms restricting access. Main entrance and contractor entrance have manned gatehouses with a 24-hour security who monitor access.

Your board minutes provide sufficient evidence you are a gated community. Per your " , access is restricted to the general public and only a residents, guests of residents, club members, or guests of club members have unlimited access.

This illustrates you do not primarily operate to promote social welfare within the meaning of IRC Section 501(c)(4). Moreover, you do not meet the provisions of Treas. Reg. Section 1.501(c)(4)-1(a)(2)(i) because your activities are focused on providing services and amenities to " homeowners and do not primarily promote civic betterment or social welfare.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (<i>last 4 digits</i>)	Year/Period ended

5. Further, your activities do not convey benefits to the community beyond your restricted gated community as shown by the fact that your activities are directed toward benefitting the limited persons who may enter inside your gated community. Furthermore, while you provide such services such as architectural zoning/monitoring, safety/law enforcement patrol, and common area maintenance (street lights, roads, and garbage service), these services are not available to the general public but are available only to your residents, guests of residents, and members and guests of the co-located private golf club. Thus, you are not operating in the manner contemplated by Rev. Rul. 74-99 which provided exemption to homeowners' associations under IRC Section 501(c)(4).

You are not similar to the organization described in Rev. Rul. 75-386, which provided a community at large with security patrols. Security services were not limited to those who are dues-paying or fee-paying persons. You are not similar to the instant organization because you are not providing services to a "community" as clarified and explained in Rev. Rul. 74-99. You are providing security services solely to your members and members of a co-located private golf club, which is not the community at large.

The manner in which you provide security services is similar to the denied organization described in Rev. Rul. 77-273, which provides security services only to residents who pay fees for such services. Likewise, your security services only directly benefit those who fall within the limited membership criteria for your homeowners' association and members of a certain private golf club, when they are on your premises.

The general public does not significantly benefit from your organization. (Commissioner v. Lake Forest, *supra*, Flat Top Lake Association, Rancho Santa Fe Association v. U.S.A. *supra*). You operate to restrict the general public from access to your facilities, thereby failing to confer a benefit onto the community. Where there is failure to serve the community, there is a failure to promote social welfare, which is a requirement for a 501(c)(4) organization. A 501(c)(4) organization must operate "exclusively for the promotion of social welfare" which is further explained by the Regulations thus: being primarily engaged in promoting in some way the common good and general welfare of the people of the community. Revenue Ruling 74-99 confirms that the benefit must be conferred to "the community". Revenue Ruling 80-63 clarifies Revenue Ruling 74-99 stating that while a "community" cannot be strictly defined, that if the association owns and maintains common areas and facilities for the use and enjoyment of the general public as distinguished from areas and facilities whose use and enjoyment is controlled and restricted to members of the association then it may satisfy the requirement of serving a community.

You are not similar to the qualifying organization described in Rancho Santa Fe. Of note, Rancho Santa Fe did not have physically restricted access, as you do. Any person could access their property at will and utilize all common areas, with the exception of the golf and tennis facilities, which comprised less than a quarter of the organization's property per

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended

square foot. You, however, do have physically restricted access to your property in the form of a 24-hour guarded gates which only-admit your homeowners-members and members of the co-located private golf club. No parallel is able to be drawn between the golf and tennis club at Rancho Santa Fe and the golf club within your gates. In your cases the golf club is a separate entity, in which you have no formal voice in operations nor policies. Thus, any leniency with respect to golf and tennis facilities limited to certain persons in Rancho Santa Fe has no bearing on you.

You are similar to the denied organization described in Flat Top Lake; you are a residential homeowners' association who has undertaken certain road, common area, and landscape maintenance, as well as provision of security, which benefits only your members and members of the co-located private golf club when they are on your premises, due to the restricted physical access to your property.

TAXPAYER'S POSITION

The taxpayer's position is solicited.

CONCLUSION

You are not described under IRC Section 501(c)(4) because you are not operated exclusively for the promotion of social welfare. You are not primarily engaged in promoting the common good and general welfare of the people of the community within the meaning of the regulations. Your activities serve to benefit only the select few who are permitted to enter your guarded gate. Accordingly, we are proposing revocation of your tax-exempt status. If the proposed revocation becomes final, appropriate state officials will be notified of such action in accordance with §6104(c) of the Internal Revenue Internal Revenue Code.