

Internal Revenue Service

Department of the Treasury

District
Director

Employer Identification Number:

Person to Contact:

Telephone Number:

Refer Reply to:

Internal Revenue Service

CERTIFIED

Date: JUN 20 1994

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. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

You were incorporated on, [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your purpose as stated in your organizing document are as follows:

To serve as an association of unit owners who own real estate and improvements under the condominium form of ownership as provided in the Condominium Ownership Act under the laws of the State of [REDACTED].

To serve as a means through which the unit owners may collectively and efficiently administer, manage, operate, and control the Condominium in accordance with the Condominium Ownership Act, Declaration, and By-laws.

The activities carried on by your organization are as follows:

The ownership and maintenance of common areas within and without the condominium buildings, including vacant land designated as open spaces and pier and boat docking facilities on [REDACTED].

Section 501(c)(4) of the code 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.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations 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 with this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 74-17, 1974-1 C.B. 130, holds that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under Section 501(c)(4) of the Code.

Your organization does not qualify for exemption under Section 501(c)(4) of the Code because of the essential nature and structure of a condominium system of ownership. The rights, duties, privileges and immunities of the members of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owners acquisition and enjoyment of his property in the condominium. In addition, condominium ownership involves the maintenance and care of many so-called common areas which necessarily constitutes the provision of private benefits for the unit owners.

Based on the foregoing, we have concluded that your organization is operated primarily for the private benefit of your members and any benefits to the community are not sufficient to meet the requirement of the regulation that an organization be operated primarily for the common good and general welfare of the people of the community. Accordingly, we hold that you are not exempt from Federal income tax as a social welfare organization under Section 501(c)(4) of the Code and are required to file Federal income tax returns annually.

A homeowners association that is not exempt under Section 501(c)(4) and that is either a condominium management association or a residential real estate management association generally may elect, under the provisions of Section 528, to receive certain tax benefits that, in effect, permit the exclusion of its exempt function income from its gross income. The election is made each year by filing Form 1120-H. For more information, see Publication 588 Tax Information for Homeowners Associations.

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 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 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 892, 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 6018.

[REDACTED]

District Director

Enclosures:
Publication 892
Form 6018