

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

EP:EO

Date:

APR 23 1984

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code of 1954.

Information submitted with your application indicates that the [REDACTED] [REDACTED] was formed [REDACTED]. Bylaws of the Unit Owner's Association of [REDACTED] were adopted [REDACTED]. According to the by-laws, you were formed to exercise the following powers and duties:

- (a) Care, upkeep, maintenance, and operation of the common elements;
- (b) Determination of amounts required to defray common expenses of the condominium (such as amounts required for operation and maintenance of the common elements);
- (c) Collection of common charges from unit owners;
- (d) Maintenance of detailed and accurate records, in chronological order, or receipts and disbursements arising from the operation of the Property, which records shall be made available for examination by unit owners and mortgagees at convenient hours on weekdays;
- (e) Authorization and prosecution, in the name of the association, of any and all actions and proceedings deemed necessary or appropriate in furtherance of the interests of unit owners generally, including suits to foreclose liens for nonpayment of common charges or to recover money judgments for unpaid common charges;
- (f) Entry into any and all contracts deemed necessary or appropriate in furtherance of the interests of unit owners generally;
- (g) Employment and dismissal of personnel necessary or appropriate for the maintenance and operation of the Property, the common areas and facilities, and the restricted common areas and facilities.

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- (h) Adoption and amendment of Rules and Regulations, not inconsistent with these Bylaws, covering the details of operation and use of the Property, subject to the right of a majority of unit owners to change such Rules and Regulations;
 - (i) Establishment of bank accounts in the name of the condominium, and authorization of signatories therefore;
 - (j) Purchasing, leasing, or otherwise acquiring in the name of the Board of Managers, or its designee, corporate or otherwise, on behalf of all unit owners, units offered for sale, lease, or surrender by their owners to the Board of Managers;
 - (k) Purchasing units at foreclosure or other judicial sale in the name of the Board of Managers or its designee, corporate or otherwise, on behalf of all unit owners;
 - (l) Selling, leasing, mortgaging, or otherwise dealing with units acquired by, and subleasing apartment units leased by, the Board of Managers or its designee, corporate or otherwise, on behalf of all unit owners;
 - (m) Organizing corporations to act as designees of the Board of Managers in acquiring title to or leasing units on behalf of all unit owners;
 - (n) Granting of vending machine licenses;
 - (o) Procuring of insurance for the condominium Property, including the units thereof, as hereinafter provided;
 - (p) Contracting for repairs of and additions and improvements to the Property, and for repairs and restoration of the Property in accordance with the provisions of these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

[REDACTED]

The Declaration of Condominium Ownership of [REDACTED]
[REDACTED] describes the common elements as the following:

- (1) The parcel of land described in Exhibit A.
- (2) In Building Type 1, a basement garage of [REDACTED] square feet containing [REDACTED] parking spaces with [REDACTED] stairwells of [REDACTED] square feet, each leading to the ground floor lobby and a garage of [REDACTED] square feet containing [REDACTED] parking spaces with access directly to the ground floor of unit Type C. In Building Type 11, a basement garage of [REDACTED] square feet containing [REDACTED] parking spaces with one stairwell of [REDACTED] square feet leading to the ground floor lobby and a garage of [REDACTED] square feet containing [REDACTED] parking spaces with access directly to the ground floor of Unit Type C.
- (3) [REDACTED] ground floor lobbies in Building Type 1 consisting of [REDACTED] square feet each including a stairwell to the upper level. A single ground floor lobby of [REDACTED] square feet in Building Type II including a stairwell to the upper level.
- (4) Exterior parking facilities for [REDACTED] vehicles consisting of parking stalls 9' wide x 19' deep, as shown on the Drawings.
- (5) The following facilities located throughout the project:
 - a. The foundations, columns, beams, supports, exterior walls (not including portions thereof on unit sides of blockwork of such walls), walls and partitions separating units from other common areas (not including portions on unit sides of the blockwork of such walls), all blockwork walls separating units, those portions of drywall partitions separating units between the center lines of the drywall on each side of such partition, all concrete floors and all roofs.
 - b. All lobbies and stairwells, pavements, entrances and exits of the buildings.

c. Central and appurtenant installation for services such as power, telephone, light, gas and hot and cold water.

d. All sewer pipes.

e. All gardens, recreational and community areas.

f. All other parts of the Property necessary or convenient to its existence, maintenance and safety which are normally in common use.

Section 501(c)(4) of the Code provides in part that "civic leagues or organization not organized for profit but operated exclusively for the promotion of social welfare" qualify for recognition of exemption.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides in part, that:

...an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promotion 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. 74-17, 1974-1C.B. 130, states in part:

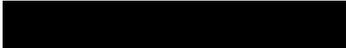
...An organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the Code....

As your organization is a condominium association described in Rev. Rul. 74-17, we hereby propose to deny your application for recognition of exemption under section 501(c)(4) of the Code.

Consideration was given to obtaining exemption under other subsections of 501(c) of the Internal Revenue Code and your organization does not qualify under any other subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

However, it is our opinion that your organization is the type described in section 528 and you may elect to file under section 528 to receive certain tax benefits which, in effect, permits the exclusion of exempt function income. The election by a homeowners association to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations.


If you are in agreement with the above, please sign and return the enclosed Form 6018, Consent to Proposed Adverse Action.

You have a right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 632 (Rev. 7-83), "Exempt Organization Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

Sincerely yours,



District Director

Enclosures (2)