

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date: 6/20/99

Employer Identification Number: [REDACTED]
Form: 1120
Tax Years: All

Dear Applicant:

This is a final adverse ruling as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

This ruling is made for the following reason(s):

You are not operated exclusively for charitable purposes. You serve private interests more than incidentally. Your net earnings inure to the benefit of private individuals.

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

You are required to file federal income tax returns on the above form. Based on the financial information you furnished, it appears that returns should be filed for the tax years shown above. You should file these returns with your key District Director for exempt organization matters within 30 days from the date of this letter, unless a request for an extension of time is granted. Returns for later tax years should be filed with the appropriate service center as indicated in the instructions for those returns.

If you decide to contest this ruling under the declaratory judgment provisions of section 7428 of the Code, you must initiate a suit in the United States Tax Court, the U. S. Court of Federal Claims, or the District Court of the United States for the District of Columbia before the 91st day after the date that this ruling was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. Processing of income tax returns and assessment of any taxes due will not be delayed because a declaratory judgment suit has been filed under section 7428.

4/1/02

[Redacted]

In accordance with section 6104(c) of the Code, the appropriate State officials will be notified of this action.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown above.

Sincerely yours,

[Signature]

Director, Exempt Organizations
Technical Division

cc: [Redacted]
Attn: EO Group

cc: [Redacted]

cc: w/Form 5998
State Officials of [Redacted]

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[Redacted]	[Redacted]	[Redacted]				
Surname							
Date	6-7-94	6-7-94	6-25-94				

901102

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

[Redacted]

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

FEB 14 1984

E.I.N.: [Redacted]
K.D.O.: Atlanta

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. Based upon the information submitted, we have concluded that you do not qualify for exemption under that section.

You were incorporated under the laws of [Redacted] on [Redacted]. Your purpose is to develop and maintain a group home residential facility for developmentally disabled adults within the [Redacted], [Redacted] area. You hope to accommodate 6 high functioning developmentally disabled adults between the ages of 18 and 45 years of age. You will have two professional house managers and will have a staff of personnel to assist the managers in various areas from time to time. Your goal is lifetime care for developmentally disabled persons.

The residents of the facility are for the most part self-sufficient and capable of holding jobs or working in sheltered workshops, socializing and travelling to work, and they require little supervision in doing so.

The group home was purchased in an effort to provide a stable residential facility for developmentally disabled adults in lieu of waiting for adequate facilities supported by the State of [Redacted]. In a [Redacted], News Release: "[Redacted] explained; As aging parents of developmentally disabled adults, we face a long-term shortage of public funding and we cannot wait eight to ten years, or longer, for the state to make group housing available for our loved ones. [Redacted] will provide the caring and supportive environment they have been accustomed to in our homes." The original mortgage agreement was signed by your parent/founders.

[REDACTED]

Your original Board of Directors consisted of persons who were parents, siblings and friends of developmentally disabled persons. These founding Directors provided \$ [REDACTED] as participation capital, partially as loans, and partially as credit to be applied towards the initial entry fee of the residents.

You now state that the group home is supported by contributions from parents whose children reside at the home, donations from community members, as well as organizational contributions. Individuals may name [REDACTED] as beneficiaries under their wills. You will also seek support in the form of governmental benefits received by the residents as a result of their disability including but not limited to Social Security Disability Income, and Supplemental Security Income which the residents may receive as entitlement.

Each resident is required to pay you an entry fee in the amount of [REDACTED] (\$ [REDACTED]). The \$ [REDACTED] initial fee provided the start-up capital to enable the corporation to purchase the home. In addition, each resident agrees to pay a service fee of \$ [REDACTED] to \$ [REDACTED] per month which pays the salaries of support personnel, provides money for food, utilities, meals, activities, housekeeping, security, transportation and insurance. This fee represents each residents pro-rats share of the monthly expenses.

Each resident or his or her legal representatives, is required by your bylaws to pre-qualify for and agree to become jointly obligated upon any mortgage agreement or other loan agreement held in the name of the corporation, when personal guarantees are required.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for one or more of the purposes specified therein.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations 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. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled by such private interests.

Rev. Rul. 69-175, 1969-1 C.B. 149 held that a nonprofit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children serves a private rather than a public interest and does not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 72-147, 1972-1 C.B. 147, provides that an organization formed to provide low income housing to families but giving preference for housing to employees of a farm proprietorship operated by the individual who created and controls the organization does not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 79-19, 1979-1 C.B. 195, provides that a nonprofit organization that provides specially designed housing to physically handicapped persons at the lowest feasible cost and maintains in residence those tenants who subsequently become unable to pay its monthly fees is operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the Code.

In W.L. Parker Rehabilitation Foundation, Inc., T.C.M. 1986-348, a not-for-profit corporation organized for the purpose of providing care and treatment for coma victims in stages of recovery was denied exemption from taxation. The adverse ruling was upheld by the Tax Court because a child of the founder and chief operating officer of the foundation was a substantial beneficiary of the services provided by the organization. This constituted inurement for the benefit of a private individual which is prohibited under section 501(c)(3) of the Code.

When a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. Your founders appear to have associated for such a purpose. At least 3 of the original 4 residents are related to your founders. There is no indication of any input from the general public in the selection of the initial residents. By providing a group home for the children and relatives of your founders, you enable the participating parents/founders to fulfill their individual responsibility of caring for their developmentally disabled children or relatives. Thus, you are serving a private rather than a public interest. See W.L. Parker Rehabilitation Foundation, supra. See also Rev. Rul. 69-175, and 72-147, supra.

Because the residents are required to qualify for and become liable for the mortgage debt, insurance and security of the home, the residents appear to be jointly undertaking the purchase and maintenance of the group home, which is titled in your name. Unlike the organization discussed in Rev. Rul. 79-19 you have not established that you will provide group home facilities that are open to the general public and within the financial reach of a significant segment of the community's developmentally disabled persons.

When the interests of charity are sacrificed to the private interest of the founders or of those in control, exemption is precluded because the organization is being made to serve those private interests. While there is nothing in the Code to prohibit all dealings between a charitable organization and its founders or with those in controlling positions, where those controlling an organization distributes funds to serve their business or family purposes, exemption is proscribed by section 1.501(c)(3)-1(d)(1)(ii) of the regulations.

Because you are operating for the private benefit of your creators, and you have not established that you are otherwise engaging in activities that are exclusively charitable or educational within the meaning of section 501(c)(3) of the Code, we can not recognize you as exempt under that section.

Contributions to you are not deductible under section 170 of the Code.

You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

[REDACTED]

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the United States Tax Court, the U.S. Court of Federal 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.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate state officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely yours,

[REDACTED]
 Chief, Exempt Organizations
 Rulings Branch 3

cc: [REDACTED]
 Attn: EO Group

cc: w/Form 5998
 State officials of [REDACTED]

cc: [REDACTED]

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Date	12-22-93	2/	/	/			