

Internal Revenue Service

Department of the Treasury

District
Director

1100 Commerce St., Dallas, Texas 75242



Date: 8/17/68

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have completed our consideration of your application for tax exempt status under section 501(a) of the Internal Revenue Code as an organization exempted under section 501(c)(4).

You were incorporated [redacted] in the following [redacted] and perform all of the obligations and duties of the Corporation as set forth in the Articles of Incorporation and the Bylaws of the Corporation, and to exercise all powers and perform all duties imposed upon the Corporation in accordance with the Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements dated [redacted]. You were originally formed by the developer of the [redacted] subdivision. The Declaration of Covenants was amended and restated on [redacted] because the original declarant (the developer) no longer held title to any part of the property within the subdivision.

The [redacted] subdivision is a hotel, resort, and residential development [redacted]. Every property owner is a member and each owner member is entitled to one vote for each lot owned. In the case of condominiums and hotels, each condominium unit and hotel unit is considered a lot. Membership is mandatory. The dues are \$[redacted] for developed lots and \$[redacted] for all others. A breakdown of the dues on an annual basis is as follows: [redacted] developed lot owners: \$[redacted], hotel tower units = \$[redacted], and [redacted] condos and villas \$[redacted]. Most of your revenue is from dues. You also receive income from cable services you provide to members, including hotel units and condominiums. For the first eight months of [redacted], revenue from that source was \$[redacted]. Total revenue for [redacted] was \$[redacted]. Expenses amounted to \$[redacted] and included the following: security [redacted], mowing \$[redacted], esplanades \$[redacted], legal fees \$[redacted], repairs [redacted], cable expense \$[redacted], electricity \$[redacted], transformers \$[redacted], and other smaller expenses. Depreciable assets consist mostly of street lights and cable TV equipment.

Your activities consist of the following: mowing, landscaping and maintaining common areas like easements, unoccupied lots, large and numerous esplanades, and streets; providing security guards for the subdivision; the installation and maintenance of cable TV for member units; and enforcing deed restrictions and architectural control of the subdivision. All building, additions, modifications, and architectural changes are subject to the approval of [REDACTED]. [REDACTED] is the same as [REDACTED], which is the for-profit company that operates the resort and development. Also, according to the Declaration of Covenants, the streets within the subdivision have not been dedicated to the public. The common areas you maintain are accessible to the general public.

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

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 within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements.

You maintain that you should qualify for exemption because you meet the requirements for exemption for a homeowners association set forth in Revenue Ruling 74-29, 1974-1 C.B. 131. That is to say, you maintain your activities serve a community, you do not conduct exterior maintenance of residences, and your common areas and facilities are open to the public. We believe your operations are clearly distinguishable from a homeowners association of the type which may qualify for exemption under section 501(c)(4) and are not a homeowners association exclusively. Well over one-half of your voting units are represented by hotel rooms and resort condominiums of the [REDACTED]. They also maintain architectural approval of the subdivision. Further, we do not believe a combination hotel, resort, and residential development of this type is a community within the meaning of the revenue ruling. The subdivision is not a geographical unit similar to a governmental unit, like a precinct or municipality, etc.

[Redacted]

We believe your activities of cable TV service and security services primarily benefit the personal and business interests of homeowners and the resort development of [Redacted]. Likewise, maintaining common areas and enforcing covenants and deed restrictions serves to maintain the value, integrity, appearance and desirability of the subdivision. That benefits individual homeowners and the resort/hotel facility of [Redacted]. A community, rather than operating primarily to promote the general welfare of the people of the community, you operate for the private interests of your members, homeowners and the business interests of [Redacted]. Therefore, tax exempt status under section 501(c)(4) is denied. You should file a return for the year [Redacted].

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issues, please indicate this in your protest. The enclosed publication will give instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 1026 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, you may contact the person whose name, number, and address appears on the top of this letter.

Sincerely,

[Redacted Signature]

District Director

Enclosures
Form 1026
Form 1026