

Internal Revenue Service  
Appeals Office  
San Jose Appeals, MS-7100  
55 S. Market St., Suite 440  
San Jose, CA 95113

**Department of the Treasury**

**Employer Identification Number:**

**Person to Contact:**

Date: **DEC 20 2018**

Number: **201911016**  
Release Date: 3/15/2019

UIL:  
0501.33-00  
0501.03-30

**Certified Mail**

Dear

This is a final adverse determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Section § 501(c)(3) of the Code.

We have hereby revoked the favorable determination letter to you dated October 2, 2014 and you are no longer exempt under Section 501(a) of the Code effective January 1,

We made the adverse determination for the following reason(s):

You are not operated exclusively for exempt purposes within the meaning of I.R.C. § 501(c)(3) and Treas. Reg. § 1.501(c)(3)-1(d) as your activities primarily benefit private interests. You do not engage primarily in activities that accomplish one or more of the exempt purposes specified in I.R.C. § 501(c)(3). More than an insubstantial part of your activities are in furtherance of a non-exempt purpose.

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

You're required to file Federal income tax returns on Forms 1120, U.S. Corporation Income Tax Return. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676).

If you were a private foundation as of the effective date of the adverse determination, we will consider you to be taxable private foundation until you terminate your private foundation status under section 507 of the Code. In addition to your income tax return, you must also continue to file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation, by the 15th Day of the fifth month after the end of your annual accounting period.

We'll make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

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

- United States Tax Court,
- The United States Court of Federal Claims,
- 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. Contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment. You can write to the courts at the following addresses:

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

US Court of Federal Claims  
717 Madison Place, NW  
Washington, DC 20005

U. S. District Court for the District of Columbia  
333 Constitution Ave., N.W.  
Washington, DC 20001

Note: We will not delay processing income tax returns and assessing any taxes due even if you file petition for declaratory judgment under section 7428 of the Code.

Please refer to the enclosed Publication 892, How to Appeals an IRS Determination on Tax -Exempt Status, for more information about the Appeals process.

You also have the right to contact the Taxpayer Advocate Service (TAS). 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. Advocate assistance, please contact the Taxpayer Advocate for the IRS office that issued this letter. You If you qualify for TAS assistance, which is always free. TAX will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court.

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

Sincerely,

Appeals Team Manager

Enclosure: Publication 892

cc:



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities  
Exempt Organizations Examinations  
324 25th St Rm 6025 Mail Stop 1112  
Ogden, UT 84401

Date:

MAY 31 2017

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact / ID Number:

Contact numbers:

Telephone:

Fax number:

Manager's Name / ID Number:

Manager's Contact Number:

Response Due Date:

**Certified Mail – Return Receipt Requested**

Dear

**Why you are receiving this letter**

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code. Enclosed is our report of examination explaining the proposed action.

**What you need to do if you agree**

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

**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 revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

**Effect of revocation status**

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

**What you need to do if you disagree with the proposed revocation**

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

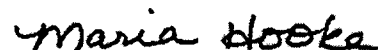
Internal Revenue Service

**For additional information**

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,



Director, EO Examinations

Enclosures:  
Report of Examination  
Form 6018  
Form 4621  
Copy of Form 1023EZ  
Copy of Determination Letter dated 10-02-2014  
Publication 892  
Publication 3498

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
	Explanation of Items	
Name of Taxpayer		Year/Period Ended 20XX

**Date of Notice: October 31, XX**  
**Revised Final Report with Governments Rebuttal**

**Issues:**

Whether the Organization qualifies for exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code.

**Facts:**

( ) was incorporated in the State of on June 13, 20XX. Per the Articles of Incorporation, they were formed for the following purpose:

"The Corporation is organized to perform religious, charitable, educational and recreational activities within the meaning of Section 501(c)3. The Corporation pledges that all its assets will be used exclusively for its exempt purposes. Specifically, but without limitation, the Corporation is organized for the purpose of providing special services and activities to enrich the lives of the residents and staff of  
 DBA in "

filed Form 1023EZ Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code on September 15, 20XX and was granted exemption as a 501(c)(3) on October 2, 20XX.

The Organization was selected for audit to ensure that the examined organization's activities and operations align with its approved exempt status.

An organization exempt under 501(c)(3) needs to be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes or to foster national and amateur sports competition.

Letter 3606 with Form 4564 IDR, Information Document Request, dated March 13, 20XX was sent to requesting description of activities and meeting minutes.

Reply from was received on May 1, 20XX. Organization sent description of activities with copy of social calendar and minutes from year to March 20XX.

replied that activities consisted of Director Meetings of officers and committees to discuss the needs of residents and how to address activities and events planned for residents. Management was also invited to listen to issues and concerns.

Resident Meetings were held to update residents on By-law revisions and election of officers.

One fundraiser event was held on May 20, 20XX. This event was a concert in the chapel by a local pianist. Residents paid \$0 for tickets to event. Money raised was used toward beautification of the grounds at

Memorial contributions were received in honorarium of a past resident who passed away. This money was used for the garden fund, which paid for a covered gazebo and associated landscaping.

Monthly speakers and performers of interest were provided to the residents free of charge.

has focused its efforts on providing education and entertainment at no charge to its residents.

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**Law:**

Section 1.501(c)(3)-1(a)(1) of the regulations provides that in order to be exempt under § 501(c)(3), an organization must be both organized and operated exclusively for one or more of the exempt purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it does not qualify for exemption.

Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in § 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. Section 1.501(c)(3)-1(c)(2) provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Section 1.501(a)-1(c) of the regulations defines the words "private shareholder or individual" in Section 501 of the Code to refer to persons having a personal and private interest in the activities of the organization.

Treas. Reg. Section 1.501(c)(3)-1(d)(1)(h) provides that an organization is not organized and operated exclusively for an exempt purpose unless it serves a public rather than a private interest. Thus, to meet this requirement, it is necessary for an organization to establish that it is not organized for the benefit of private interests.

Section 1.501(c)(3)-1(d)(1)(ii) 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. To meet the requirement of this subsection, the burden of proof is on the organization to show that it is not organized or operated for the benefit of private interests, such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) states, in part, that the term "charitable" in § 501(c)(3) includes relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; lessening of the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3)(i) states that the term "educational" in § 501(c)(3) includes the instruction of the public on subjects useful to the individual and beneficial to the community.

Section 1.501(c)(3)-1(e)(1) provides that an organization may meet the requirements of § 501(c)(3) although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business as defined in § 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes. An organization which is organized and operated for the primary purpose of carrying on an unrelated trade or business is not exempt under § 501(c)(3).

**Exempt purposes**

*Charitable defined*

- Relief of the poor and distressed or of the underprivileged
- Advancement of religion
- Advancement of education or science;

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- Erection or maintenance of public buildings, monuments, or works;
- Lessening the burdens of Government;
- Promotion of social welfare by organizations designed to accomplish any of the above purposes.

Revenue Ruling 69-175, 1969-1 C.B. 149, describes an organization which was formed by parents of pupils attending a private school. The organization provided bus transportation to and from the school for those children whose parents belong to the organization. The organization did not qualify for exemption under Section 501(c)(3) of the Code because it served a private rather than public interest.

Revenue Ruling 75-286, 1975-2 C.B. 210, held that a nonprofit organization with membership limited to the residents and business operators within a city block and formed to preserve and beautify the public areas in the block, thereby benefiting the community as a whole as well as enhancing the members' property rights, will not qualify for exemption under Section 501(c)(3) of Code because the organization was organized and operated for the benefit of private interests by enhancing the value of members' property.

Rev. Rul. 73-411, 1973-2 C.B. 180, shopping center merchants' association. A shopping center merchants' association whose membership is restricted to and required of the tenants of a one-owner shopping center and their common lessor, and whose activities are directed to promoting the general business interests of its members, does not qualify as a business league or chamber of commerce under section 501(c)(6) of the Code.

Rev. Rul. 78-85, 1978-1 C.B. 150, Public park maintenance. A nonprofit organization with membership open to the general public that was formed by residents of a city to help preserve, beautify, and maintain a public park located in a heavily trafficked, easily accessible section of the city that was commonly used by citizens of the entire city. The organization's support is derived from membership dues and contributions from the general public is operated exclusively for charitable purposes and qualifies for exemption under section 501(c)(3) of the Code; Rev.

In *Better Business Bureau of Washington D.C., Inc. v. U.S.*, 326 U.S. 279 (1945), the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. The Court found that a trade association had an "underlying commercial motive" that distinguished its educational program from that carried out by a university, and therefore, the association did not qualify for exemption.

In *Easter House v. United States*, 12 Cl.Ct. 476, 487 (1987), citing section 1.501(c)(3)-1(d)(1)(ii) of the regulations, without opinion, 846 F.2d 78 (Fed. Cir. 1988), an organization is not operated exclusively for exempt purposes if it serves a private rather than a public interest.

#### Application of Law Governments Position

Organization is not described under Section 501(c)(3) of the Code or Treas. Reg. Section 1.501(c)(3)-1(a)(1) because you do not meet the organizational or operational tests. If an organization fails either the organizational or operational test, it cannot qualify as an exempt organization under Section 501(c)(3) of the Code.

Organization is not described in Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii), because you are operating for the private interests of your members.

Organization is a group of tenants of ( ).

Organization is made up of a team of volunteers and board members who represent the interests of those tenants living at . You meet and conduct activities in connection with issues involving the operation and administration of .



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Organization has established a separate organization to represent the interests of those tenants about the issues involving operation and administration of

Organization conducts meetings with the residential council and residents to share concerns over communications, social activities, welcoming committees, maintenance, grounds and the need for volunteers.

The activities are directed at generally promoting business and benefiting your members who are tenants in , rather than accomplishing a 501(c)(3) purpose. Your activities are also like those of the organization in Rev. Rul. 73-411. Even though the organization in Rev. Rul. 73-411 applied for exemption under section 501(c)(6) of the Code, you are similar in that you do not qualify for exemption because you are serving the private interests of your members.

Organizations purpose was described as "providing special services and activities to enrich the lives of the residents and staff of DBA ". Review of your activities, minutes and social calendar reinforce this purpose.

Your goals and activities are organized for the interest and benefit of residents and are substantial in nature.

For this reason, you are not operating exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(c)(1). As a result, you do not satisfy the operational test requirement to be recognized as exempt under Section 501(c)(3) of the Code, and are not described in Section 501(c)(3) of the Code.

The group of parents in Rev. Rul. 69-175 provided a cooperative service for their own residents and thus served their own private interests. Like this organization, you were formed to provide benefits to your tenants. In your case, your activities consist of providing educational and entertainment activities for the tenants of . You hold meetings with management of , Board Members of and residents, to help enrich their lives at the

Organization is dissimilar to the organizations described in Rev. Rul. 70-186 and 78-85 in the sense that you have not engaged in preserving or maintaining public property. Rather, you are similar to the organizations described in Rev. Rul. 75-286 and in Ginsberg v. Commissioner, 46 T.C. 47 (1966) in that your activities serve private rather than public interests. Your activities are limited to the tenants, the money you collect are from honorariums and memorials which benefit the tenets by the beautification of the arbor which is not beneficial to the general public as a whole.

Organization does not satisfy the requirement of Treas. Reg. Section 1.501(c)(3)-1(e). Your activities do not directly further an exempt purpose. Organization operates for the primary purpose of the residents of . Activities conducted, benefit the residents at . This would be considered private benefit to designated persons.

Organization does not meet the requirements of Treas. Reg. Section 1.501(c)(3)-1(c)(1) because you are not operated exclusively for charitable purposes. An organization is operated for charitable purposes only if it engages primarily in activities that accomplish one or more exempt purposes. More than an insubstantial part of your activities furthers non-charitable purposes.

Organizations activities do not fall within the definition of charitable as found in Treas. Reg. Section 1.501(c)(3)-1(d)(2). While you state your purpose is to benefit a charitable class of individuals, you have not demonstrated that the activities you conduct are exclusively charitable.

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Section 1.501(c)(3)-1(d)(ii) of the 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, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

**Taxpayers Position July 14, :**

The would like to appeal the recommendation made by the IRS that the 501 (c)(3) status it was granted in 20XX to present be revoked. We would like to make the appeal to the Appeals Office. We have prepared this document to correct the assumptions made in this decision that are not correct, and to show how we are promoting the general social welfare of our community in

As requested for the protest document, we have included the facts from the 30-day letter in Appendix A, the Applicable Law in Appendix B, the Government's position on the Applicable Law in Appendix C. We are appealing the revocation of our 501(c)(3) status because we feel, contrary to the findings, that we, as an organization, promote the social welfare of our community by providing features on our campus that are available to the general public and that promote wellness and, therefore, reduce government subsidized medical expenses in our county – thus lessening the burden of Government.

The (subsequently referred to as ) is comprised of all residents of the independent living section of the ( ) at is one of entities sharing the campus and the residents pay a monthly fee to cover all room and board to . The resident's association itself collects no fees or monies, has no management responsibilities, nor any administrative responsibilities of maintenance of common areas. This is to correct the incorrect assumption related to Rev. Rul. 70-186 and 78-85 that our activities are limited to collecting monthly fees from owners of the condominiums (we have no ownership in this property) to cover common costs. It should also be reiterated that any monies we have at our disposal come from memorial contributions and honorariums.

The residents rent small units of 0 - 0 square feet and pay no separate utilities, maintenance, or fees. Everything is included in the monthly rent and all management is done by the staff of . The was originally conceived as a way to represent the interests of the independent living residents to management. It should be understood that any increase in market value from improvements to our campus financed by the is not shared by the residents as we are simply renters, not owners. Any improvements would provide only intangible benefits to the entire campus (not exclusively). The use of Revenue Ruling 75-286, 1975-2 C.B. 210 is inappropriate for our resident's association because we cannot enhance our property values with our healing garden since the property is not ours.

The seven entities on our campus (see Appendix D) include independent living unit ( at ) consisting of 0 occupants, skilled nursing unit with 0 occupants, assisted living unit with 0 occupants, memory unit with 0 occupants, and affordable housing units (with occupants) where rent is subsidized. All entities share the common grounds of the campus. Unlike the statement in the "Application of Law Governments Position" that we are tenants of , we are tenants of campus and any improvement we help achieve on that campus benefits the entire campus - not just those residents of (Independent Living).

Since we are a retirement community of age 55+, we began right away to lose residents. When that happened, memorials began to come in. The had already incorporated within the state of so we applied to the IRS for 501(c)(3) status to honor the memorials we were receiving (which the donors assumed to be tax deductible). Research showed healing gardens provided substantial health benefits (see Appendix E) and are incorporated into many health care facilities, hospices, general acute care hospitals, outpatient clinics, assisted living and skilled nursing facilities, mental and behavioral health facilities, and special facilities such as rehabilitation, pediatric, and cancer hospitals and clinics. We chose

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to build a healing garden for our campus and named it . The garden is centrally located on the campus and is available not only to the entire campus but outside community members as well as the

It took a long period of planning working with the draw up a blueprint that would allow us to build and enhance the healing garden incrementally as funds were available. Although the management has been very supportive of our effort they have informed us that the incremental maintenance costs incurred are the responsibility of and not . The memorials and honorariums that we receive make this possible. Our healing garden includes a covered arbor with furniture and abundant seasonal flowers, a water feature that provides the soothing background sound of babbling springs, and surrounding shade trees.

We are working with the organization to increase the habitat. We are working with the organization to increase the habitat for Monarch and other butterflies as well as many other pollinators whose numbers have decreased drastically in the last few years in county. As part of this project, we have joined a national consortium and established a Monarch Waystation into our garden. This has drawn the entire campus and outside community members into our healing garden to observe the transition of pupa to full-grown Monarch - a very interesting phenomenon.

The residents of feel that under Law section 501(c)(3)-(d)2 we are lessening the burdens of the government by promoting better health through the enjoyment of our healing garden. Research showed that positive outcomes, including a decrease in stress, result from both a passive and active connection with nature in an outside healing garden and improve all five dimensions of wellness: spiritual, intellectual, social, physical, and occupational. Increasing wellness and feelings of value and worth will result in a decrease in illnesses and medical expenses; and, in the case of a retirement community, these medical expenses are subsidized by government programs such as Medicare and Medicaid. Therefore, we feel this is a very appropriate use of the memorials and honorariums that we receive from time to time.

Operationally, our funds (all coming from unsolicited contributions) are dedicated to , but we also provide non-monetary support to local organizations. Our time is also committed to supporting such community efforts as providing a fundraising for the , building self-propelled handicap carts for to be used in , sewing stuffed rag dolls for children in , sewing blankets for animals in the local animal shelter, and serving as mentors to local high school students in a formal mentoring program whose curriculum was developed by the

### **Governments Rebuttal:**

To qualify for exemption under Section 501(c)(3) of the Code you must be both organized and operated exclusively for exempt purposes as described in Treas. Reg. Section 1.501(c)(3)-1(a)(1). You do not qualify for exemption because you are operated for the non-exempt, substantial private benefit of your members

To satisfy the operational test under Treas. Reg. Section 1.501(c)(3)-1(c)(1) an organization must establish that it is operated exclusively for one or more exempt purposes. You were formed for the non-exempt purpose of providing a substantial private benefit to your members by providing special services and activities to enrich the lives of the residents and staff of DBA in

In organizations response of May1, 20XX they provided minutes which included the Directors meetings with officers and committee chairmen. These minutes discussed the needs of residents regarding their living expectations of . The minutes addressed activities and events planned

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for residents. invited Residents Association to attend meetings and to update the tenants on management activities at and to listen to their issues and concerns. The meetings were conducted by the President

The Program Committee of the ( ) provided monthly speakers and performers to the residents at no charge.

The " has focused its efforts on providing education and entertainment at no charge to its residents and has worked with the City of to improve the traffic safety of its residents and neighbors. It has worked to enrich the environment by adding landscaping features such as the gazebo, water feature, trees, flowers, and butterfly garden. It has also worked with management to plan an expansion of one of our food venues to incorporate garden area into eating area".

Organization has stated " is centrally located on the campus and is available to the entire campus but also to the outside community". The organization is surrounded by gates, shrubs and buildings and is not openly available or easily accessible to the public. The organization has not established that it advertises, promotes or publicizes its special services and activities, which enrich the lives of the residents and staff, to the public or what level the general community is aware of these services and activities. Without making efforts to publicize the organization's services and activities outside of its campus how would the public know what is available?

Minutes from March 20XX discussed a situation with personnel who are caregivers and those who are employed by agencies and other guests needing to wear badges anytime they are at . (exempt for children who are under the age to drive) Do guests need to report anytime they come on the property to enjoy the services of ?

Minutes have discussed "outsiders wearing badges to identify who they are" and "if we should invite outsiders to the musical performance of "

No documentation was received from organization to substantiate the public use of or that the public is welcome to any of the activities at

These activities provide a private benefit to the residents of . Minutes you provided substantiate the activities were for the benefit of the as well as the statement in your Articles of Incorporation stating, "Corporation is organized for the purpose of providing special services and activities to enrich the lives of the residents and staff of DBA in ."

A substantial portion of your activities consists of providing social and recreational activities for your members. Your social events may conduct educational topics but they are designed for the members of your organization. The activities of socializing and developing friendships do not fulfill 501(c)(3) purpose.

In response dated July 14, 20XX organization stated "they provide non-monetary support to community efforts as providing a fundraising crawfish boil for the , building self-propelled handicap carts for to be used in , sewing stuffed rag dolls for children in , sewing blankets for animals in the local animal shelter, and serving as mentors to local high school students in a formal mentoring program whose curriculum was developed by the ".

Reply from organization did not list any of these activities nor were they identified in meeting minutes received from organization. Activities conducted by must be done so in the name of . Activities can't be conducted by individuals on their own behalf and then be included as part of . Activities conducted by are not activities conducted by must be able to stand alone in the activities they conduct.

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In your reply of July 14, 20XX you state "you are appealing the revocation of our 501(c)(3) status because you feel, contrary to the findings, that you, as an organization, promote the social welfare of our community by providing features on our campus that are available to the general public and that promote wellness and, therefore, reduce government subsidized medical expenses in our county – thus lessening the burden of Government".

Organization has not established or identified how the garden is available to the general public. The property is surrounded by buildings, bushes and gates which make it difficult for the public to access. How would they know what is available?

Organization stated in reply of July 14, 20XX "The resident's association itself collects no fees or monies, has no management responsibilities, nor any administrative responsibilities of maintenance of common areas. This is to correct the incorrect assumption related to Rev. Rul. 70-186 and 78-85 that our activities are limited to collecting monthly fees from owners of the condominiums (we have no ownership in this property) to cover common costs".

In response to the organizations Rev. Rul. 70-186 and 78-85 argument the property you are enhancing might not be owned by the tenants of but they do receive a significant private benefit from the beautification and enjoyment of the property. The benefits derived from the organization's activities flow principally to the members of the association and those related to the / . The money you receive from memorial contributions and honorariums benefit the by beautifying the property in which you live.

Rev. Rul. 75-286, 1952-2 C.B. 210 which holds, in part, that an organization with membership limited to the residents, property owners, and business operators within a city block and formed to preserve and beautify the public areas on the block, does not qualify for exemption under section 501(c)(3) of the Code, is distinguishable because the organization in that Revenue Ruling serves the private interests of its members within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations.

Organization states that by providing the features of the healing garden which includes a covered arbor with furniture, seasonal flowers, water feature and surrounding shade trees you are promoting wellness and therefore reduce government subsidized medical expenses in our country -thus lessening the burden of the government.

**Rev. Rul. 85-1** holds that lessening the burdens of government occurs only if the governmental unit formally recognizes the activities of the organization to be its burden. This objective manifestation may be evident in the interrelationship between the organization and the governmental unit. The organization's activities were an integral part of a larger governmental program and the organization funded governmental expenses.

The fact that a governmental unit expresses approval of an organization's activities doesn't establish that the organization is lessening the burdens of government.

**Rev. Rul. 85-2** sets forth two requirements for an organization to qualify for exemption under IRC § 501(c)(3) by lessening the burdens of government. These requirements are:

1. An organization's activities must be activities that a governmental unit considers to be its burdens, and
2. The activities of the organization must actually lessen such governmental burdens.

An organization which claims to lessen the burdens of government must demonstrate that any private benefit received by individuals or businesses is both qualitatively and quantitatively incidental to its exempt purposes. To be qualitatively incidental, the private benefit must be a necessary concomitant of activities

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which benefits the public at large. To be quantitatively incidental, the private benefit must be insubstantial in the context of the overall public.

**Conclusion:**

Based on the above facts and analysis \_\_\_\_\_ does not meet the operational test for exempt status under section 501(c)(3) of the Internal Revenue Code because \_\_\_\_\_ has failed to establish that it is operated exclusively for charitable purposes. The regulations define "exclusively" as engaging primarily in activities that accomplish one or more of the exempt purposes specified in section 501(c)(3) of the Code. \_\_\_\_\_ benefits the private class of residents who reside at \_\_\_\_\_ / \_\_\_\_\_.

Accordingly, you do not qualify for exemption as an organization described in § 501(c)(3) and you must file federal income tax returns.

Contributions to the organization are not deductible under § 170.

\_\_\_\_\_ at \_\_\_\_\_ exemption is revoked to effective date of exemption, January 1, 20XX.