

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 2508
Cincinnati, OH 45201

[Redacted]

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO

Date:

NOV 5 1986

*No Protest fee
12-29-86*

[Redacted]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1954 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

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 since you are a corporation.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

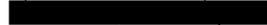
You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892 (Rev. 7-85), "Exempt Organizations Appeal Procedures 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 or she must file a proper

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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.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,



District Director

Enclosures: 3

Enclosure I

The information submitted in your application for exemption discloses that you were incorporated [REDACTED], as a [REDACTED] not for profit corporation. Your purposes as set forth in your articles of incorporation are:

The purpose of this Association shall be to further the individual and collective welfare of its members and the public at large by creating cultural, charitable, social and fraternal advantages.

According to your By-laws section III, the geographical area served by the association is:

The area to be covered and encompassed by the activities of this Association shall be bounded on the North by [REDACTED] and on the East by [REDACTED], on the South by [REDACTED] and on the West by [REDACTED].

According to your By-laws, section IV, regarding membership:

a) Membership shall be open to all businesses/individuals in the Fraser Industrial Park Sub-Division. Any person owning, renting or leasing property in [REDACTED] shall be eligible for membership upon application, approved and accepted by the Board of Directors of the Association.

b) Every member shall be eligible to vote on all matters affecting this Association and shall be entitled to all membership privileges therein.

Your application states that the activities to be carried on by the organization are:

Upgrade appearance of the Industrial Park; pay for mailings of various communications to membership; engage in cooperative educational efforts between the local high school and colleges and the business community; contribute to community related projects as the Board sees fit and appropriate.

When we asked for additional information as to the activities of the organization you stated your plans are:

...to form an association of various businesses located in an industrial park which association intends to act as a single unit, petitioning various city and state authorities concerning matters pertaining to taxes, compliance with local zoning ordinances and health

Enclosure I

ordinances, compliance with any state requirements concerning maintaining clean air and general environment for the welfare of the park and the public at large. The industrial park is adjacent to the local high school and the association participates with the school board and the city in promoting educational opportunities and training for high school students as well as taking an active part in promoting work opportunities for the various community colleges and businesses in the area. The association does not produce any product nor does it engage in any sales activity. The only source of income that the association has is its dues collection and any voluntary contributions that the association members may make to promote the activities of the association. The association itself does not engage in any "business activity," but merely wishes to act, and does act, as a liason between itself and the city and county to promote education opportunities and provide job opportunities to the City of [REDACTED] and [REDACTED] County at large.

You have also stated that you believe the organization should be exempt "because its primary activity is not performing particular services for members, but rather is engaged in promoting the welfare of the City of [REDACTED], maintaining the industrial park as a desirable business location for new businesses to bring new jobs into the area and providing education and work opportunities for the youth in the area."

The industrial park houses several hundred different types of entities in various different types of businesses.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues, chambers of commerce, real-estate boards, boards of trade or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Regulations states that a business league is an association of persons having some common business interest the purpose of which is to promote such common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

Enclosure I

In order to comply with the requirements of the Code and regulations, an organization must meet the following basic tests:

(a) it must be an association of persons having some common business interest, and its purpose must be to promote this common business interest;

(b) it must not be organized for profit;

(c) no part of its net earnings may inure to the benefit of any private shareholder or individual;

(d) its activities must be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons; and

(e) its purpose must not be to engage in a regular business of a kind ordinarily carried on for profit, even if the business is operated on a cooperative basis or produces only sufficient income to be self-sustaining.

A section 501(c)(6) organization must be primarily engaged in activities or functions constituting the basis for its exemption.

A section 501(c)(6) organization's primary activity cannot be performing particular services for members.

Chambers of commerce and boards of trade are organizations of the same general type as business leagues, and the requirements for exemption of business leagues are equally applicable to these organizations. (I.R. Regs 1.501(c)(6)-1.) However, chambers of commerce and boards of trade usually direct their efforts at promoting the common economic interests of all the commercial enterprises in a given trade community. Rev. Rul. 73-411, 1973-2 C.B. 180.

In Rev. Rul. 73-411, 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 include promotional affairs and advertising to publicize the center, does not qualify as a business league or chamber of commerce under section 501(c)(6) because these activities are directed to promoting the general business interest of its members only, rather than of the industry as a whole.

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Rev. Rul. 73-411 explains that to be considered exempt as a chamber of commerce or similar organization, the common business interest is usually the general economic welfare of a community. Membership is voluntary and open generally to all business and professional men in the community.

Your organization will be composed of various types of business concerns whose membership in your organization is restricted to a specific "Park". This does not fit the definition of a chamber of commerce type organization since the "Park" is not a geographical or political community in the usual sense.

Your activities primarily serve special interests of your members related to their status as persons owning, renting or leasing property in the Park rather than to the status of your members as representatives of the common interests of a community.

Therefore, we have concluded that you do not meet the requirements to be exempt from section 501(c)(6) of the Code because you are not a business league or chamber of commerce. As in the case in Rev. Rul. 73-411 cited above, your principal activity will be the performance of particular services to members. They are not activities directed at the improvement of business conditions of one or more lines of business or business conditions of any community as a whole, within the meaning of section 501(c)(6) of the Code.