WELFARE EXEMPTION

880.0080 **Dissolution Clause.** A dissolution clause whereby property of a welfare-exempt organization will be distributed to the federal or a state or local government does not run afoul of Revenue and Taxation Code Section 214(6) in that such proposed distributees are governmental entities, not private persons. C 10/25/82.

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October 25, 1982

Attorneys at Law

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Dear

This is in response to your September 21, 1982, letter regarding proposed amendments to the dedication and dissolution clauses in Faith Gardens' Restated And Amended Articles Of Incorporation.

The irrevocable dedication of the Corporation's property to charitable purposes meeting the requirements of Section 214 of the Revenue and Taxation Code (Article IV A) meets the requirements of Section 214(6) and 214.01.

As for the dissolution clause (Article IV C), upon further reflection, I believe that the proposed amendment does not run afoul of the second requirement of Section 214(6), namely, that upon liquidation, etc., the Corporation's property will not inure to the benefit of any private person except a fund, foundation, or corporation organized and operated for religious, hospital, scientific, or charitable purposes:

> "Upon dissolution or winding up of this Corporation, and after payment or provision for payment of all debts and liabilities, the assets of this Corporation shall be distributed to the City of Vista. If for any reason the City is unable or unwilling to accept the assets of the Corporation, said assets shall be distributed to the Federal Government or to a state or local government for charitable purposes, or to a nonprofit fund, foundation or corporation which is organized

> and operated exclusively for charitable purposes meeting the requirements of Section 214 of the California Revenue and Taxation Code, and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended."

This is because the City of Vista and federal, state, and local governments are governmental entities, not private persons, and because the dissolution requirement speaks solely to distributions to private persons. As to the latter, distribution to a non-profit fund, foundation, or corporation which is organized and operated exclusively for charitable purposes meeting the requirements of Section 214 of the Revenue and Taxation Code and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended, meets the second requirement of Section 214(5).

We suggest, for your consideration, deletion of "for charitable purposes" after "a state or local government" in the seventh line of Article IV C as we are not aware of any governmental entities whose purposes are charitable, as contrasted with governmental or proprietary purposes.

Regarding the provision for distribution of the Corporation's assets during its existence (Article IV B), such a provision is not required by Section 214, but our comments regarding the dissolution clause are equally applicable to this provision.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

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