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March 22, 1977

Attorneys at Law

Dear Mr. :

This is in response to your February 16, 1977, letter to this Board wherein you enclosed the following documents relating to , Inc.'s claim for the welfare exemption for the 1976-77 fiscal year:

1. Certificate of Amendment of Articles of Incorporation.

2. Detail of certain budget items.

3. Brochure setting forth the organization's goals and activities.

With respect to the I.D. portion of the September 29, 1976, finding, Section 214 of the Revenue and Taxation Code provides that property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by a corporation organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation if:

* * *

"(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes, and upon the liquidation, dissolution, or abandonment of the owner 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;

* * *"

As to when property is "irrevocably dedicated" to such a purpose or purposes, Section 214.01 provides that for the purpose of Section 214, property shall be deemed irrevocably dedicated to

religious, charitable, scientific, or hospital purposes only if a statement of irrevocable dedication to only these purposes is found in the articles of incorporation of the corporation.

Article IV of the Corporation's Articles, as amended, provides, in part:

> "...The property, assets, profits and net income of this corporation are irrevocably dedicated to charitable, scientific, literary, educational and religious purposes, meeting the requirements for exemption provided by Section 214 of the Revenue and Taxation Code,...."

While some educational purposes are charitable purposes for purposes of the exemption, literary purposes are not. Thus, Article IV must be amended further in this regard to delete the reference to literary purposes:

> "...The property, assets, profits and net income of this corporation are irrevocably dedicated to religious, scientific, charitable, or educational purposes meeting the requirements for exemption as provided by section 214 of the Revenue and Taxation Code,...."

Thereafter, you should file the Certification of Amendment of Articles with the Secretary of State's Office, and you should forward a certified copy thereof to our Assessment Standards Division.

With respect to the N.E.U. portion of the September 29, 1976, finding, section 214 provides that property used exclusively for exempt purposes owned and operated by a corporation organized and operated for exempt purposes is exempt from taxation if:

> " * * *
>
> (3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.
>
> * ** *"

Of concern in this regard were the sources of the Corporation's revenues. In light of *Martin Luther Homes v. County of Los Angeles*, 12 Cal. App. 3d 205, wherein the corporation

was held to be ineligible for the welfare exemption where there was no showing that it had received any subsidies or donations from outside sources which it could or did pass on the recipients of its "charity", and in light of other court decisions, it is our position that an organization cannot be considered a qualifying charitable organization unless it can be demonstrated that it is in receipt of substantial donations from an outside source or sources which it, in turn, passes on to its recipients.

Conversely, any charitable aspect of the receipt and disbursement of government monies is not apparent. Rather, an organization which merely receives and disburses such monies is, in effect, a conduit of such monies, and it is engaging in activities which are merely extensions of government.

Thus, while the $48,554 amount received in 1975 was government money (Revenue Sharing, County - $39,213, and Office of Criminal Justice Program - $9,341), the $47,761 and $3,742 amounts were apparently donations received from organizations other than government organizations:

N		$24,342
G	Foundation	10,000
H	Fund	13,419
J	League	3,742

We would appreciate confirmation of this if such is, in fact, the case. If it is not the case, please advise further concerning N , G Foundation, and/or H Fund.

Also in this respect, the brochure indicates that many of the Corporation's activities utilize and rely upon volunteered-services of persons in the community. We would appreciate confirmation of this also, including some indication of how many volunteers are involved, the amounts of time ~~and~~ volunteered, and the activities the volunteers are engaged in, for donations of services from outside sources can also be passed on to recipients of an organization's "charity".

Finally, the activities set forth in the brochure are of a kind which we would recognize as being charitable for purposes of section 214. As indicated, of concern with respect to the N.E.U. portion of the finding are the sources of the Corporation's revenues.

Very truly yours,

J. Kenneth McManigal
Tax Counsel
County Assessor

JKM:fp
cc: Mr.