



PO Box 892 • Joshua Tree, CA 92252

www.monumentmanorneighborhood.com

### **MMNA Board Meeting**

Sunday, April 24, 2022 @ 1 pm (Dan Stork's home)

Meeting was recorded.

### ***Minutes approved by the Board on May 10, 2022***

The meeting was led by Dan Stork.

Attendance: Terry Stone, Geary Hund, Mark Wheeler, Linda Doyle, Daniel Brenner, Dan Stork

Agenda: MMNA Incorporation status

Dan Stork gave a brief update on the process of acquiring Incorporation status as of today.

- He has consulted 4 tax preparers at stages of the process.
- Dan suspects none of these tax preparers are fully cognizant of the 501(c)4 process, although they may have had experience with the 501(c)3 process.
- He added that California treatment of exempt organizations is "modeled on" Federal treatment, but is not the same.

#### Federal status

- As of today, the IRS will not grant MMNA 501(c)4 status as a mutual benefit corporation.
- In IRS terms, an MBC benefits a small, defined group.
- Since our roads are open to the public, the public benefits, so we can't be a MBC.
- IRS has suggested to Dan that we present ourselves as a public benefit corporation.
- We'd have to change our 501(c)4 application and our articles of incorporation (i.e., bylaws).
- Dan found that a mutual benefit corporation cannot achieve 501(c)4 status.
- IRS person moved the date to May 17, 2022 to respond to her letter why we aren't a public benefit corporation.

Dan indicated that MMNA can withdraw our 501(c)4 application.

- We filed a 2021 return on form 1120h, which is for non-exempt homeowners associations.
- We had no tax liability.
- We can continue to file with the IRS in the future on this basis.
- We will not receive a refund on the \$600 filing fee for the 501(c)4 status request.
- We can continue to pursue the appeal of the \$922.65 penalty paid for late filing of the request to apply for 501(c)4 status.

## State of California status

- MMNA is officially a California MBC, as of 4/19/2021.
- If MMNA does not achieve exempt status with the state, MMNA may have a \$800 tax liability (State of California).
- Dan does not know if that State of California liability can be avoided for 2021.
- John Babrowski with Rarick Financial Group gave Dan the initial impression that it's not at issue. But Dan does not know if that's true.
- To get state exempt status, it appears that either form FTB 3500A or FTB 3500 must be filed.
- FTB 3500A is simple, and piggy-backs on IRS 501(c)4 status, which MMNA doesn't have, and may not get.
- FTB 3500 does not require Federal recognition, and is more complicated to complete. It's not clear to Dan how to complete it, nor is it clear which section of the California code applies to an organization like MMNA, and professional help would be needed.
- Discussion: Mark Wheeler questioned whether MMNA needs to achieve Incorporation status. Regarding the comment by the IRS person that, "Since our roads are open to the public, the public benefits, so we can't be a Mutual Benefit Corporation," Geary Hund stated that we have signs that say our roads are private and that people need permission to access/ride on them. Seeing that the MMNA and the JT Highlands Neighborhood Association are exactly the same, Terry Stone wondered how they received their 501(c)4 status.

## Actions

- Geary Hund will reach out to Yvonne LaGrice, Treasurer for JT Highlands Neighborhood Association regarding their 501(c)4 status.
- Rescind 1024A application for 501(c)4 status from IRS.
- Consult with tax preparer on how to deal with state issues.

## **POST-MEETING ACTIONS AND DECISIONS provided by Dan Stork on April 28, 2022.**

Here are findings and my recommendations for actions, based upon conversations with Yvonne LaGrice (treasurer of Joshua Tree Highlands Association) and John Babrowski (of Rarick Financial), plus some further research on my part:

### Action Steps

#### 1. Withdraw application to IRS for 501(c)4 status.

Comments from Dan Stork: MMNA has until 5/17 to do this, via fax. Joshua Tree Highlands Association claims 501(c)7 (social organization) status, as Yvonne LaGrice decided 501(c)4 was too politically wrought. Yvonne says it is not necessary to file for 501(c)7 status, and that you can just claim it when filing the annual informational form. MMNA will lose the \$600 paid for the 501(c)4 application, but still await action on our appeal of the \$922.65 late penalty MMNA paid in September in connection with getting permission to file it last August. The IRS has sent multiple computer-generated letters saying that they need "another 60 days" to get to the appeals Dan Stork filed in September and October 2021.

#### 2. Continue to file IRS form 1120H (for non-exempt homeowners' association) in future years.

Yvonne LaGrice says that she files an informational 990N for Joshua Tree Highlands Association annually, as a 501(c)7. John Babrowski (from Rarick Financial) disputes that this ought be done without first applying for the status. He recommends continuing to file 1120H with the IRS as a non-exempt homeowners' association, as there was no tax due this year, and is unlikely to be any due in the future, assuming a comparable level of revenues and expenses.

3. MMNA is already recognized by California as a nonprofit corporation, and the \$800 annual corporation fee does not apply.

The application MMNA filed for California Mutual Benefit corporation explicitly says it's for nonprofit status. John Babrowski (from Rarick Financial) says the \$800 annual fee doesn't apply, even without tax-exempt status.

4. MMNA should file FTB 3500 (which is independent of Federal status) with California, applying for exempt nonprofit status, now.

Dan Stork provided the information needed for this form on the earlier request to the IRS for Federal exempt status (which he plans to withdraw), so Dan can copy it with minimal changes. Dan has already drafted most of this. Yvonne LaGrice says JTHA submitted this form in 2020, and the state took about 6 months to respond. The sticky point in this application is that it asks when we became an organization, and when we started activities, and it asks for a financial statement for 3 prior years and current year to date. The answer to the first question is 4/19/2021 (that's when the state recognized our corporate status), and one answer to the second is "about 60 years ago". See the problem? John recommends using a date of 1/1/2019 for the 2nd question, and to supply financial info from that date to fulfill the requirement of the 3rd question, wait to see if it's questioned, and explain at that time. John Babrowski says he believes that the state is only interested in catching abusers, and will accept explanations.

Yvonne LaGrice gave Dan a copy of the 3500 she filed for JTHA. It emphasizes the social aspect of JTHA, with an added "and we do some road work together". I will model on that, while still listing road care first among our activities, since the guidelines for the required narrative asks for relative weights of activities.

The 2020 version of the form submitted by Yvonne LaGrice (JTHA) provided a rigid detailed format for the financial statement. The 2021 version asks instead for an attached statement, leaving us to select the information to be provided, with certain guidelines. John Babrowski and Dan discussed how to do this.

5. We should file a 199N nonprofit informational return with California by May 15, in advance of receiving exempt status.

John Babrowski (from Rarick Financial) advised doing this, and to provide an explanation if questioned.

6. In future years, we should engage a professional (for the sake of organizational continuity) to file:

- form 1120H with the IRS (April 15)
- form 199N with the California FTB (May 15)
- Statement of Information with the California Secretary of State (every other April 30, starting in 2023)
- Turning this job over to someone outside the MMNA organization is inexpensive and prudent.
- The statement of information filed last year lists Bill Gilman as president of MMNA, and his home addresses, since the Secretary of State wants a physical address. There is no need to change that until next year's statement of information. The taxing authority (the Franchise Tax Board) is OK with a PO Box.

7. Dan Stork is prepared to implement items 1, 4, and 5 himself in the next few days. He will do so after MMNA board members have had the opportunity to ask questions or raise objections.

Dan has done all the legwork for these action items already. He does not feel it makes sense to pass it to John Babrowski now, although Dan may do so if he hit unexpected difficulties with step 5. John Babrowski said he'd do it for \$75. Dan paid him \$50 from MMNA funds for their recent conversation on Wednesday.