REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RMC No. 9-2013; R.A. No. 9904; R.A. No. 8424
BIR Ruling No. 103-14; BIR Ruling No. 105-14
#063-2018
1-24-2018

PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC.
Peninsula de Punta Fuego, Barangay Balaytigue,
Nasugbu, Batangas

Attention : **Engr. Benjamin D. Del Castillo**
Village Manager

Gentlemen:

This refers to your letter dated August 8, 2014, requesting on behalf of PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. for a Certificate of Tax Exemption enjoyed by Homeowners' Associations under Republic Act No. 9904 otherwise known as the "Magna Carta for Homeowners and Homeowners' Associations", as enunciated in Revenue Memorandum Circular No. 9-2013 which clarifies the taxability of association dues, membership fees, and other assessments/charges collected by Homeowners' Associations.

Documents submitted disclosed that PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. is a residential homeowners' association with Taxpayer's Identification Number (TIN) and duly registered with the Housing and Land Use Regulatory Board (HLURB) under Certificate of Registration No. dated September 13, 1999; that Punta Fuego Village is situated and within the jurisdiction of the municipality of Nasugbu, Batangas; and that among the purposes for which the Association was incorporated are the following:

1. *To promote and advance the best interest and general welfare of the residents, lot owners, lessees, tenants, and occupants in the Peninsula de Punta Fuego Village;*

2. *To provide services relating to safety, security, cleanliness and beautification, order, and the general upkeep and maintenance of the community's common area, infrastructure, landscape and facilities; These services include but are not limited to the following:*

    a. *Security and safety;*
    b. *Grounds management;*
    c. *Common area building and facilities;*
    d. *Garbage collection; and*
    e. *Community relations.*

3. *To construct, improve, manage, maintain, and operate adequate facilities and services for its members;*
4. *To construct, improve, operate, manage and maintain common area structures and facilities;*
5. *To construct, operate, and maintain such public utilities as may be necessary for the accomplishment of the purpose of the Corporation;*
6. *To acquire, accept donations, purchase, own, hold, develop, lease, mortgage, pledge, exchange, sell, transfer, or otherwise invest, deal in, or trade, in any manner permitted by law, real and personal property of every kind and description, or any interest therein, as may be necessary for the accomplishment of the purposes of the Corporation;*
7. *To borrow and otherwise contract indebtedness and issue notes, bonds, and other evidence of indebtedness and to secure payment therefor by mortgage, pledge, or deed of trust of, or through encumbrance on any or all of its then-owned or after-acquired real or personal properties and assets;*
8. *To enter into, make, perform, and carry out, or cancel and rescind contracts of every kind and for any lawful purpose with any person, firm, association, corporation, syndicate, domestic or foreign, others;*
9. *To levy fees and charges that may be required or necessary for the maintenance of the Corporation and its activities as may be necessary to carry out its purposes and objectives; and*
10. *To do and perform any other acts and things, and to have and exercise any other powers which may be necessary, convenient and appropriate to accomplish the purposes for which the Corporation is organized.*

that the Office of the Municipal Mayor of Nasugbu, Batangas certified that PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC.:

> *"provides and funds the basic services for its homeowners/members, such as but not limited to safety and security, garbage collection and disposal, upkeep of the common areas and beaches, repairs and maintenance of the village facilities such as street lights, sewage system, roads and other infrastructure.*

> *Our local government cannot cater the above-mentioned services being required and provided for by the PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. to its homeowners or members, for lack of resources to render such services."*

In support of its request, PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. has submitted the following required documents:

1) Letter application for tax exemption;

2) Certification issued by the HOA Registration Officer, HLURB Southern Tagalog Region, certifying that a Certificate of Registration with Registration No. was issued to PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. on September 13, 1999;

3) HLURB Certified true copy of the Amended Articles of Incorporation;

4) HLURB Certified true copy of the amended By-Laws;

5) Certified true copy of the Annual Information Return and Financial Statements for the last three (3) years of operation;

6) BIR Certificate of Registration;

7) Certification issued by the Revenue District Office No. 58, Batangas City certifying that the Corporation is not the subject of any pending investigation, on-going audit, pending tax assessment, administrative protest, claim for refund or issuance of tax credit certificate, collection proceedings, or a judicial appeal as of March 3, 2014; and

8) Other pertinent documents.

PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. bases its exemption on Section 18 of R.A. No. 9904, which provides:

> "**SECTION 18.** ***Relationship with LGUs.*** — Homeowners' associations shall complement, support and strengthen LGUs in providing vital services to their members and help implement local government policies, programs, ordinances, and rules.
>
> Associations are encouraged to actively cooperate with LGUs in furtherance of their common goals and activities for the benefit of the residents of the subdivisions/villages and their environs.
>
> Where the LGUs lack resources to provide for basic services, the associations shall endeavor to tap the means to provide for the same. In recognition of the associations' efforts to assist the LGUs in providing such basic services, association dues and income derived from rentals of their

> facilities shall be tax-exempt: *Provided*, That such income and dues shall be used for the cleanliness, safety, security and other basic services needed by the members, including the maintenance of the facilities of their respective subdivisions or villages. xxx"

In reply thereto, considering the fact that PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. is a duly registered Homeowners Association with the HLURB; that its financial statements show the delivery of basic community services defined under Sec. 3 (d) of R.A. 9904; and that the Local Government units covering the jurisdiction of the Homeowners Association have issued Certificate that they lack the resources to provide these services to the Association, hence, this Office hereby holds that the income derived from association dues and rentals of facilities of PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. is exempt from income tax, value-added tax or percentage tax, whichever is applicable. Provided, that such income and dues shall be used for the cleanliness, safety, security and other basic services needed by the members, including the maintenance of the facilities of their respective subdivisions or villages. *(BIR Ruling No. 103-14 dated March 26, 2014)*

However, PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. shall be subject to the applicable internal revenue taxes on its other income from trade, business or other activities. Specifically:

Income Tax

It shall be subject to the corresponding internal revenue taxes imposed under the Tax Code of 1997 on its income not derived from association dues nor rentals of its facilities, which income should be returned for taxation. Likewise, interest income from currency bank deposits and yield or any other monetary benefit from deposit substitute instruments and from trust funds and similar arrangements, and royalties derived from sources within the Philippines are subject to the 20% final withholding tax; provided, however, that interest income derived from it from a depository bank under the expanded foreign currency deposit system shall be subject to 7 ½ % final withholding tax pursuant to Section 27 (D) (1) in relation to Section 57 (A), both of the Tax Code of 1997. Moreover, it is required to file on or before April 15 of each year a profit and loss statement and balance sheet with the annual information return under oath, stating its gross income and expenses incurred during the year and a certificate showing that there has not been any change in its By-Laws, Articles of Incorporation, manner of operation and activities as well as resources and disposition of income. *(BIR Ruling No. 103-14 dated March 26, 2014)*

Value-Added Tax or Percentage Tax

Likewise, PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC.'s gross receipts from operations not derived from association dues nor rentals of its facilities shall be subject to the 12% VAT as imposed under Section 108 of the Tax Code of 1997, as amended, which tax payment may legitimately be passed on to buyers of such goods and services; or 3% percentage tax imposed under Section 116 in relation to Section

109(W) of the same Code if the gross sales or receipts from such sale of goods and services do not exceed One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00). *(BIR Ruling No. 105-14 dated March 26, 2014)*

It is requested that a copy of this letter of exemption be attached to the annual information return which PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. will file on or before the 15th day of the fourth month of each year.

Under Section 235 of the Tax Code of 1997, as amended, any provision of existing general or special law to the contrary notwithstanding, the Revenue District Officer shall conduct an audit of annual information return filed, the books of accounts and other pertinent records of PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. to determine compliance with the conditions set forth in this letter of tax exemption and tax liabilities, if any.

It should be understood that PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. shall be constituted as withholding agent of the government if it acts as an employer and its employees receive compensation income subject to the withholding tax under Section 57 of the Tax Code of 1997, as amended.

Finally, PUNTA FUEGO VILLAGE HOMEOWNERS' ASSOCIATION, INC. is also subject to the payment of the annual registration fee of PhP500.00 as prescribed in Section 236 (B) of the Tax Code of 1997, as amended. It is also required under Section 6 (C) in relation to Section 237 of the same Code to issue duly registered receipts for services rendered which do not comprise income from association dues and rentals of their facilities.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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