REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 32. RA No. 7279
BIR Ruling No. 053-15
#314-2016
6-28-2016

ORIENT MEADOW HOMEOWNERS ASSOCIATION, INC.
Session Road, Brgy. Batasan Hills, Quezon City

Attention : **GEMMA P. RELATA**
President

Gentlemen:

This refers to the letter of Ma. Ana R. Oliveros, President of the Social Housing Finance Corporation (SHFC) dated January 11, 2016, endorsing the sale transaction between Jovita Libunao et al., and Orient Meadow Homeowners Association, Inc. for exemption from the payment of Capital Gains Tax and other taxes in accordance with the Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted disclose that Jovita Libunao, (married to Conrado Layug) (1/3 share), Raymond L. Mabagos, (married to Rachel T. Mutia) (1/3 share) and Marina G. Libunao, Maria Theresa G. Libunao (1/3 share) are the registered owners of a parcel of land, identified as Lot 2, Blk. 15 of the consolidation and subdivision plan, Pcs-2877, being a portion of the consolidation of Lots 31-A and 31-B, described on plan, Psd-25516, Lots 38-A and 38-B, described on plan, Psd-30040 Lot 32 described on the original plan, Psu-32606, and Lot 24-B described on plan, Psd-10639, LRC (GLRO) Record no. 1037 covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds for Quezon City. The aforesaid property is situated at Brgy. Batasan Hills, Quezon City with an area of Six Hundred Twenty square meters (620 sq.m.), more or less. Orient Meadow Homeowners Association, Inc. (TIN on the other hand, is a homeowner's organization duly registered with the Housing and Land Use Regulatory Board (HLURB). On March 22, 2014[1], the parties executed a Deed of Absolute Sale whereby the landowner transferred and conveyed the subject properties to Orient Meadow Homeowners Association, Inc. at an agreed price of (P
Pursuant to the certification issued by SHFC, the subject property covered by TCT No. actually comprises a Community Mortgage Program (CMP) Project and shall be proportionately distributed to the association's qualified member-beneficiaries[2]. For this purpose, Orient Meadow Homeowners Association, Inc. secured a housing loan under the CMP, a financing assistance program of the SHFC a subsidiary of the National Home Mortgage Finance Corporation (NHMFC). Documentary Stamp Tax (DST) due on the sale has been paid.

042404

[1] Notarized on March 24, 2014
[2] see Annex for the masterlist of qualified beneficiaries consisting of one (1) page

#314-2016
6-28-2016

In support of its request, Orient Meadow Homeowners Association, Inc. has completely submitted on February 26, 2016 the following documents:

1) SHFC letter application for tax exemption;
2) Certification of the President of the SHFC that the subject property qualifies and is actually a CMP project;
3) SHFC Letter of Guaranty No.
4) Certified true copy of the Deed of Absolute Sale to the Community Association;
5) Certified true copy of the Articles of Incorporation of the Community Association;
6) Certified true copy of the Masterlist of Qualified Beneficiaries duly certified by the SHFC;
7) Certified true copies of the TCT and Latest Tax Declaration of the Property Sold to the Community Association;
8) Certified true copy of the Location Plan of the Lot Sold to the Community Association;
9) TIN ID /BIR Certificate of Registration of the seller and the Homeowner Association; and
10) *Other pertinent documents*

In reply, please be informed that pursuant to Section 32 of RA No. 7279, pertinent portions of which state that:

> *"Sec. 32. Incentives. — To encourage its wider implementation, participants in the CMP shall be granted with the following privileges or incentives:*
>
> *xxx xxx xxx*
>
> *(b) Properties sold under the CMP shall be exempted from the capital gains tax; and"*

the landowner who sold his properties under the CMP are exempt from the payment of capital gains tax.

Such being the case, the sale by landowner to Orient Meadow Homeowners Association, Inc. of the subject properties covered by TCT No. exempt from the capital gains tax.

Upon issuance of this letter of exemption, and upon registration of the document of sale, a lien on the Certificate of Title of the land to be issued in the name of the Homeowner's Association shall be annotated by the Register of Deeds having jurisdiction over the property, to the effect that the said property shall be used for socialized housing pursuant to RA No. 7279. (BIR Ruling No. 053-15 dated February 27, 2015)

However, the documentary stamp tax is not one of the taxes covered by the tax exemption clause in Sec. 32 of RA 7279. Accordingly, the landowners are liable to pay the documentary stamp tax on the document conveying the afore-stated property imposed under Section 196 of the Tax Code of 1997, based on the consideration contracted to be paid for such realty or its fair market value determined in accordance with Section 6 (E) of the said Code, whichever is higher.

It is, however, understood that this ruling is never intended and shall not be construed as giving authority to the concerned Register of Deeds to effect transfer of the land title in the name of the buyer without the necessary certificate of authority to

#314-2016
6-28-2016

register issued by this Bureau. In this regard, this ruling shall be presented to the Revenue District Office (RDO) concerned in order for the latter to issue the Certificate Authorizing Registration (CAR). The CAR shall only be issued after the submission of the requirements provided under RMO15-2003. (BIR Ruling No. 053-15 dated February 27, 2015)

Notwithstanding the foregoing, the Bureau of Internal Revenue shall conduct verification and post-audit that the actual occupants of the property transferred under the CMP are qualified beneficiaries and therefore, the sellers are entitled to exemption from capital gains tax or income tax imposed under the Tax Code of 1997.

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

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

K-1-JRC

042404
JUN 27 2016