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

R.A. No. 9904;
R.A. No. 10963;
RMC No. 09-2013;
BIR Ruling No. 399-2013
OT- 0575 - 2020

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VERMONT PARK RESIDENTS ASSOCIATION, INC.
218 Multi-Purpose Hall, Harrison St., Vermont Park Exec. Village,
Marcos Highway, Brgy. Mayamot, Antipolo City

Attention : **ATTY. JULIO REGINO I. DESAMITO, JR.**
President

Gentlemen:

This refers to your letter dated November 10, 2014, requesting for a ruling confirming the exemption from income tax and value-added tax/percentage tax of **VERMONT PARK RESIDENTS ASSOCIATION, INC.** pursuant to 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 **VERMONT PARK RESIDENTS ASSOCIATION, INC.** with Taxpayers Identification No. , is a non-stock and non-profit residential homeowners' association, and duly registered with the Housing and Land Use Regulatory Board (HLURB) under Certificate of Registration No. 20007; that it is situated and within the jurisdiction of Antipolo City; and that among the purposes for which the Association was incorporated are the following:

1. *To initiate and promote a healthy and harmonious neighborhood by developing the civic, spiritual, social and cultural awareness and consciousness of its members;*
2. *To conduct and sponsor seminars, symposia and technical training to be conducted by expert trainers and resource speakers;*
3. *To promote and maitain peace and order as well as cleanliness in the community in coordination with the proper government agencies;*
4. *To act as intermediary with the different government agencies tasked with the delivery of basic necessities and services to the community;*
5. *To seek the assistance and guidance of government and private institutions necessary to achieve the full realization of the association's objectives;*
6. *To organize and undertake workshop for livelihood projects and other socio-economic activities, for the benefits of its members; and*
7. *To do and perform all other acts and deeds as may be necessary, convenient and appropriate for the accomplishment of the foregoing purposes.*

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and that the letter of Ms. Rowena T. Zapanta from the City Planning and Development Office of Antipolo City, dated June 08, 2018, states that:

> *"The City Legal Office has rendered again its legal opinion stating that the City Government, cannot just issue such certification[1] required by the BIR, for the sole purpose of facilitating the HOA's income tax exemption. Further, the reason why the City Government currently not rendering the basic services under Section 3(d) of RA 9904, is due to the fact that the subdivision road lots and open spaces are still not donated to the City Government, hence, the same remains a private property"*

VERMONT PARK RESIDENTS ASSOCIATION, INC. bases its claim for tax 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 environments.*
>
> *<u>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.</u> xxx"*

In reply thereto, we regret to inform you that **VERMONT PARK RESIDENTS ASSOCIATION, INC.** does not fall within the purview of those homeowners' associations which may be exempted for income tax under Section 18 of RA No. 9904 considering that the requisite qualification that the **city or municipality concerned must be lacking in resources to provide for basic services** is absent from the certification issued by the City Planning and Development Office of City of Antipolo. *(BIR Ruling No. 399-2013 dated November 7, 2013)*

Consequently, **VERMONT PARK RESIDENTS ASSOCIATION, INC.**, shall be subject to the applicable internal revenue taxes on its income from association dues, rentals of their facilities, trade business and other activities. Specifically:

<u>Income Tax</u>

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code of 1997, as amended, on its income derived from association dues and 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

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[1] Certification from the local government unit, having jurisdiction (CITY or MUNICIPALITY) over the HOA, identifying that the basic services being rendered by the homeowners' association and stating that such City or Municipality lacks resources to render such services.

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income derived from it from a depository bank under the expanded foreign currency deposit system shall be subject to 15%[2] final withholding tax pursuant to Section 27 (D) (1) in relation to Section 57 (A), both of the Tax Code of 1997, as amended. 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.

Value-Added Tax or Percentage Tax

VERMONT PARK RESIDENTS ASSOCIATION, INC.'s gross receipts from association dues, membership fees, and other assessment/charges collected in purely reimbursement basis by a homeowners' association are not subject to VAT[3] or percentage tax. However, gross receipts from the operation not derived from rental of its facilities, association dues, membership fees, other assessment and charges collected in purely reimbursement basis shall be subject to the 12% VAT imposed under Section 108 of the Tax Code of 1997, as amended, or to the three percent (3%) tax imposed under Section 116 in relation to Section 109(BB) of the same Code if the gross sales or receipts from such sale of goods and services do not exceed Three Million Pesos (₱3,000,000.00)[4].

It should be understood that **VERMONT PARK RESIDENTS 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, **VERMONT PARK RESIDENTS 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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COPY FURNISHED:

REVENUE REGION NO. 7B – East NCR
Attention: Revenue District Office No. 45 – Marikina City

PHILIPPINE COUNCIL FOR NGO CERTIFICATION (PCNC)
6/F SCC Bldg., CFA-MA Compound, 4427 Interior Old Sta. Mesa Road, Sta. Mesa 1016 Manila

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[2] As amended by Republic Act No. 10963.
[3] Section 4.109-1(B)(1)(y) of Revenue Regulation (RR) No. 13-2018.
[4] Republic Act No. 10963 (TRAIN Law) increase the VAT threshold from ₱1,919,500 to ₱3,000,000.00 effective Jan. 01, 2018.