REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 7279
BIR Ruling No. 127-2015
#315-2016

6-28-2016

LAK-K BUILDERS CO.
Units 606 & 609 Jocfer Bldg.
Commonwealth Avenue, Quezon City

Attention: **MICHAEL ANGELO F. KALLOS**
Vice President/General Manager

Gentlemen:

This refers to the letter dated December 8, 2015 of Felicisimo F. Lazarte, Jr., Group Manager, Northern and Central Luzon Management Office of the National Housing Authority (NHA), requesting on behalf of **LAK-K BUILDERS CO.** for tax exemption on the latter's low-cost housing project, **Pandi Residences 3 Resettlement Project** located in Brgy. Mapulang Lupa, Pandi, Bulacan, pursuant to Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted show that **LAK-K BUILDERS CO.**, with Tax Identification Number , is a General Partnership duly registered with the Securities and Exchange Commission (SEC) with SEC Registration No. , that it is a real property developer habitually engaged in the business of developing and constructing housing subdivisions; that **LAK-K BUILDERS CO.** is the registered owner of the following lots, selected and identified by the various Local Government Units in Metro Manila and favorably endorsed by the Municipal Government of Pandi as the permanent resettlement site of the additional 700 informal settler families (ISFs) under Batch 3 living in danger areas affected by calamities, clearing of waterways, esteros and infrastructure projects of the government within the Metro Manila:

TCT No.	Area (sq. m.)
	35,339
	26,873
	26,823
	24,095
Total	**113,130**

[1] Formerly, TCT No. M)
[2] Formerly, TCT No (M)
[3] Formerly, TCT No. (M)
[4] Formerly, TCT No.
[5] Formerly, TCT No.
[6] Formerly, TCT No

№ 042405

#315-2016
6-28-2016

On October 10, 2014, a Contract Agreement[7] was entered into by and between **LAK-K BUILDERS CO.** and **Pandi Residences 3 Homeowner's Association, Inc.,** (**PR3HOAI**) a homeowner's organization registered with the Housing and Land Use Regulatory Board (HLURB) with Registration No. whereby **LAK-K BUILDERS CO.** has agreed to sell to **PR3HOAI**'s individual members the developed lots, including the completed housing units thereon under the Community Initiative Approach Program (CIAP) of the National Housing Authority (NHA) (TIN - for) for every developed lot and completed housing unit per family.

On various dates[9], **LAK-K BUILDERS CO.**, as the landowner/developer/constructor, the members of **PR3HOAI**, as the beneficiaries, and the NHA, as the lead agency in the implementation of the National Resettlement Programs of the government, executed four (4) Memoranda of Agreement (MOAs) to ensure the timely, peaceful and orderly relocation and resettlement of the informal settler families living in danger areas, affected by calamities and those affected by the clearing of waterways, esteros and infrastructure projects of the government in Metro Manila.

Under the MOAs, members of the **PR3HOAI** who are qualified for NHA financing shall be provided by the NHA with a financial grant through the CIAP under the National Resettlement Program of the government in the amount not to exceed per lot per family and per housing unit, respectively.

On various dates, **LAK-K BUILDERS CO.** and the NHA executed Deeds of Absolute Sale whereby the former transferred and conveyed to the latter portions of the following lots:

Date of Deed of Absolute Sale (DOAS)	TCT No.	Area Sold (sq. m.)	Number of Residential Lots	Batch No.
June 15, 2015		21,840	514[10]	1-2014
August 27, 2015		14,281	342[11]	2
October 1, 2015		14,836	358[12]	3
December 1, 2015		15,544	376[13]	4
TOTAL		**66,501**	**1,590**	

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[7] (Financing the Acquisition of Developed Lots and Completed Housing Units) in Pandi Residences 3, Brgy. Manulang Lupa, Pandi, Bulacan

[8] per developed lot and er completed housing unit.

[9] Four Memoranda of Agreement (MOAs) were executed on November 27, 2014, March 12, 2015 and September 14, 2015.

[10] See attached Annex "A" (Master List of Beneficiaries consisting of twelve (12) pages containing Five Hundred Fourteen (514) beneficiaries)

[11] See attached Annex "B" (Master List of Beneficiaries consisting of eight (8) pages containing Three Hundred Forty Two (342) beneficiaries)

[12] See attached Annex "C" (Master List of Beneficiaries consisting of eight (8) pages containing Three Hundred Fifty Eight (358) beneficiaries)

[13] See attached Annex "D" (Master List of Beneficiaries consisting of nine (9) pages containing Three Hundred Seventy Six (376) beneficiaries)

Nº 042405

#315-2016
6-28-2016

In reply, please be informed that pursuant to Sections 19 and 20 of Republic Act (RA) No. 7279, pertinent portions of which state that:

> *"Sec. 19. Incentives for the National Housing Authority. — The National Housing Authority, being the primary government agency in charge of providing housing for the underprivileged and homeless, shall be exempted from the payment of all fees and charges of any kind, whether local or national, such as income and realty taxes. All documents or contracts executed by and in favor of the National Housing Authority shall also be exempt from the payment of documentary stamp tax and registration fees, including fees required for the issuance of transfer certificates of title.*
>
> *"Sec. 20. Incentives for Private Sector Participating in Socialized Housing. — To encourage greater private sector participation in socialized housing and further reduce the cost of housing units for the benefit of the underprivileged and homeless, the following incentives shall be extended to the private sector:*
>
> *xxx xxx xxx*
>
> *"(d) Exemption from the payment of the following:*
>
> *(1) Project-related income taxes;*
> *(2) Capital Gains Tax;*
> *(3) Value-added tax for the project contractor concerned;"*

the landowner/developer of properties who sells its properties for use in a socialized housing project is exempt from the payment of the capital gains tax and project-related income taxes.

Such being the case, the sale transactions by **LAK-K BUILDERS CO.** to NHA of the following lots, to wit:

1. <u>**514**</u> developed lots under Batch 1-2014 on the <u>**21,840**</u> sq. m. portion of lots covered by TCT Nos. and per Deed of Absolute Sale dated June 15, 2015;
2. <u>**342**</u> developed lots under Batch 2 on the <u>**14,281**</u> sq. m. portion of lot covered by TCT No. per Deed of Absolute Sale dated August 27, 2015;
3. <u>**358**</u> developed lots under Batch 3 on the <u>**14,836**</u> sq. m. portion of lot covered by TCT No. per Deed of Absolute Sale dated October 1, 2015; and
4. <u>**376**</u> developed lots under Batch 4 on the <u>**15,544**</u> sq. m. portion of lot covered by TCT No. per Deed of Absolute Sale dated December 1, 2015.

are exempt from capital gains tax, project-related income taxes and consequently from withholding tax. (*BIR Ruling No. 127-2015* dated April 17, 2015)

Moreover, pertinent portions of *Revenue Memorandum Circular (RMC) No. No. 42-01* dated October 5, 2001, provide, viz.:

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042405

#315-2016
6-28-2016

> *A. National Housing Authority (NHA) — The NHA, being the primary government agency in charge of providing housing for the underprivileged and homeless citizens shall be exempted from the payment of the following national internal revenue taxes:*
>
> *(1) . . .*
> *(2) Documentary stamp tax on sales transactions executed by and in favor of the NHA in connection with socialized housing projects. Since Section 19 of R.A. 7279 exempts "all documents or contracts executed by and in favor of the NHA," the exemption from documentary stamp tax extends to the other party (either seller or buyer) that is dealing or transacting with the NHA.*
>
> *xxx xxx xxx*

The exemption from the documentary stamp tax of NHA, in connection with any of its socialized housing projects, extends to the other party (either seller or buyer) that deals or transacts with the NHA. Consequently, since NHA is a party to the sale, no documentary stamp tax shall be due on such sale, either on NHA or the party with which NHA is transacting. Accordingly, the sale transactions by **LAK-K BUILDERS CO.** to NHA of the following lots, to wit:

1. **514** developed lots under Batch 1-2014 on the **21,840** sq. m. portion of lots covered by TCT Nos. and . per Deed of Absolute Sale dated June 15, 2015;
2. **342** developed lots under Batch 2 on the **14,281** sq. m. portion of lot covered by TCT No. per Deed of Absolute Sale dated August 27, 2015;
3. **358** developed lots under Batch 3 on the **14,836** sq. m. portion of lot covered by TCT No. per Deed of Absolute Sale dated October 1, 2015; and
4. **376** developed lots under Batch 4 on the **15,544** sq. m. portion of lot covered by TCT No. per Deed of Absolute Sale dated December 1, 2015.

are exempt from the payment of documentary stamp tax under Section 196 of the Tax Code of 1997, as amended. (*BIR Ruling No. 127-2015* dated April 17, 2015)

Moreover, pursuant to Section 20(d)(3) of RA 7279, the sale of a socialized housing as defined therein shall also be exempt from the payment of value-added tax (VAT). Relative thereto, Section 4.109-1 (B) (1) (p) (3) of RR No. 16-2005 states that:

> *"Section 4.109-1. VAT-Exempt Transactions. — (A) In general. — "VAT-exempt transactions" refer to the sale of goods or properties and/or services and the use or lease of properties that is not subject to VAT (output tax) and the seller is not allowed any tax credit of VAT (input tax) on purchases.*
>
> *xxx xxx xxx*
>
> *(B) Exempt transactions. — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:*
>
> *xxx xxx xxx*

042405

F315-2016
6-28-2016

(p) The following sales of real properties are exempt from VAT, namely:

xxx xxx xxx

(3) <u>Sale of real properties utilized for socialized housing as defined under RA No. 7279</u>, and other related laws, such as RA No. 7835 and RA No. 8763, wherein the price ceiling per unit is P225,000.00 or as may from time to time be determined by the HUDCC and the NEDA and other related laws. . . . ."

Furthermore, pursuant to HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013 approving the adjustment of price ceiling for socialized housing, and as circularized by Revenue Memorandum Circular No. 35-2014, pertinent portion of which reads:

> *"THEREFORE BE IT RESOLVED, AS IT IS HEREBY RESOLVED that the price ceiling for horizontal socialized housing be adjusted from P400,000.00 to P450,000.00."*

thus, beginning December 18, 2013[14], the newly adjusted price ceiling of for horizontal socialized housing shall apply to sale of real properties utilized for socialized housing, as defined under R.A. No. 7279 otherwise known as "Urban Development and Housing Act", and other related laws such as R.A. No. 7835 otherwise known as the "Comprehensive and Integrated Shelter Financing Act of 1994," and R.A. No. 8763, otherwise known as the "Home Guaranty Act of 2000".

Likewise, Section 2 of R.R. No. 17-2001 provides;

> *"Section 2. Definition of Terms. — As used in these Regulations, the following terms shall have the following meaning:*
>
> *xxx xxx xxx*
>
> *"A socialized housing unit shall not exceed P150,000.00 (now P450,000.00 per HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013) for a house and lot package, subject to periodic adjustment or increase as the Housing and Land Use Regulatory Board (HLURB) may effect from time to time. In the case of sale of homelots only, the price shall not exceed forty percent (40%) of the maximum limit prescribed for the house and lot package."*

Thus, the sale by **LAK-K BUILDERS CO.** to NHA of home lots valued at and below, and house and lot packages valued at and below in **Pandi Residences 3 Resettlement Project** located at Brgy. Mapulang Lupa, Pandi, Bulacan, shall be exempt from VAT. However, its purchases of goods/articles shall be subject to VAT, even if the said purchases are to be used for the socialized housing project, since VAT is an indirect tax which can be passed on by the seller of the goods/services. Moreover, it shall be understood that **LAK-K BUILDERS CO.** must issue non-VAT

042405

[14] HUDCC Resolution No. 1 Series of 2013 took effect on December 18, 2013 after having satisfied the publication requirement as circularized by HUDCC Memorandum Circular No. 01 Series of 2014.

#315-2016
6-28-2016

official receipts on its gross receipts from the said socialized housing project. (*BIR Ruling No. 351-12* dated May 21, 2012)

Upon application for exemption, a lien on the title of the subject parcel of land shall be annotated by the Register of Deeds having jurisdiction over the property, to the effect that the same is to be applied or is being applied to a socialized housing project pursuant to RA 7279.

Please take note that this ruling is never intended and shall not be construed as giving authority to the concerned Register of Deeds to effect the transfer of the title in the name of the buyer without the necessary certificate of authority to 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) after the submission of the requirement provided under RMO 15-2003.

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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JUN 27 2016

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