REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

R.A. No. 9904; R.A. No. 8424;
RMC No. 9-2013;
BIR Ruling No. 399-2013;

A 580-2017 12/7/2017

SAN JOSE VILLAGE III HOMEOWNERS' ASSOCIATION, INC.
SJVIII Clubhouse, Mayon Street, Brgy. Biñan,
Biñan, Laguna 4024

Attention : **Ms. Rebecca B. Leng-Ay**
President

Gentlemen:

This refers to your letter dated August 5, 2015, requesting on behalf of SAN JOSE VILLAGE III 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 SAN JOSE VILLAGE III 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. , that San Jose Village III is situated and within the jurisdiction of Biñan, Laguna; and that among the purposes for which the Association was incorporated are the following:

1. *To promote, improve and advance the best interest, general welfare, prosperity and well-being of the owners, lessees, and occupants of the properties in the San Jose Village III in Biñan, Laguna, which comprise the area described in the Provisional Description hereto as Annexes A, B, C and D, and such additional or contiguous areas which the developer, Laguna Properties Holdings, Inc., shall include within the jurisdiction of San Jose Village III;*

2. *To adopt and indertake such measures and activities as may be necessary for the protection and security of the members of the Association and their property consistent with law;*

3. *To initiate, organize and undertake socio-cultural projects and activities which will awaken community consciousness and a sense of belonging;*

4. *To make, adopt and promulgate such rules and regulations concerning the use, enjoyment and occupancy of all the property as well as the construction of buildings and improvements inside the village;*

5. *To levy, assess and collect fees and charges that may be required or necessary for the efficient upkeep and maintenance of the common areas and facilities within the village as well as the maintenance of the Association and its activities;*

6. *To erect, construct, improve, equip, operate, supervise and maintain ornamental and functional structures inside the village;*

7. *To improve, light, provide for, beautify, equip, operate, supervise and maintain streets, parks, playgrounds and recreational areas of the village for the general use for the owners, lessees, and occupants and their guests;*

8. *To sweep, clean and maintain the streets, collect and dispose of the street sweeping, garbage, rubbish and the like, and to construct and maintain such public utilities or services as may be necessary in the premises of the village;*

9. *To enforce covenants, restrictions, reservations, servitude, easements, liens, collect assessments and charges which exist or may hereafter be imposed for the benefit of the properties in the village over which the Association has jurisdiction, to enforce the decisions and the rulings of the Association over any of the said properties, and to pay all the expenses to be incurred in connection with the foregoing;*

10. *To pay all expenses in connection with the organization and the conduct of business and activities of the Association, and all licenses, taxes and charges levied or imposed against the properties of the Association;*

11. *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, or others;*

12. *To hold, enjoy, lease, operate, maintain, and to convey, sell, lease, transfer, mortgage or otherwise encumber, dedicate for public use, or dispose of real or personal property in connection with or incidental to the business and activities of the Association; and*

13. *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 Association is organized.*

and that the City Administrator of Biñan, Laguna certified that:

"basic services as defined by Republic Act No. 9904, rendered to its constituents are being provided for by the Association itself and no assistance in any form shall come from the City Government."

SAN JOSE VILLAGE III 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, we regret to inform you that SAN JOSE VILLAGE III HOMEOWNERS' ASSOCIATION, INC. does not fall within the purview of those homeowners' associations which may be exempted under Section 18 of RA No. 9904. The requisite qualification that the **city or municipality concerned lacks resources to provide for basic services to its constituents in general and that the associations shall endeavor to tap the means to provide for the same** is absent from the Certification issued by the Office of the City Administrator of Biñan, Laguna, hence, your request cannot be granted for lack of factual and legal basis. (*BIR Ruling No. 399-2013 dated November 7, 2013*)

Consequently, SAN JOSE VILLAGE III HOMEOWNERS' 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:

Income Taxes

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code of 1997 on its income derived from association dues, rentals of their facilities, trade, business and other activities, 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 1/2% 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.

Value-Added Tax or Percentage Tax

Likewise, SAN JOSE VILLAGE III HOMEOWNERS' ASSOCIATION, INC.'s gross receipts from operations derived from association dues, rentals of their facilities, trade, business and other activities shall be subject to the 12% VAT imposed under Sections 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).

It should be understood that SAN JOSE VILLAGE III 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, SAN JOSE VILLAGE III 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.

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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