REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Bureau of Internal Revenue Ruling

RMC No. 65-2012; RMC No. 9-2013.		R.A. No. 9904; #007-2018

January 10, 2018
Date

Person to Contact: Chief, Law Division
Tel Nos. 926-55-36 / 927-09-63

FLORA VISTA CONDOMINIUM CORPORATION
345 Peacock St. East Fairview,
Brgy. Commonwealth, Quezon City

Attention: **ATTY. MIGUEL ROMUALDO T. SANIDAD**
President

Gentlemen:

This refers to your letter dated February 20, 2013 requesting for a confirmatory ruling that **Flora Vista Condominium Corporation** is entitled to the exemption 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 **Flora Vista Condominium Corporation**, is a domestic condominium corporation registered with the Securities and Exchange Commission (SEC) under SEC Registration No. [illegible] and that its primary purpose is:

> "The Corporation is hereby formed to own or hold title to the land and the common areas in the condominium project known and identified as FLORA VISTA (the "Project") which has been constituted, pursuant to the provisions of republic Act No. 4726, on the properties described in and brought under the operations of said Act by the Master Deed with Declaration of restrictions executed by Willie J. Uy (the "Developer"), Doc. No. 178-H; Page No. 36; Book No. 06; Series of 2010 of Notary Public Atty. H. Fabre Luna, and such other further amendments as may be validly executed and duly files with the Housing and Regulatory Board (The "Master Deed"), as well as to manage, administer, maintain, and operate the Project pursuant to and in accordance with the provisions of the republic Act No. 4726 and the Master Deed, with the end view of promoting the safety, interest, welfare, health and happiness of all the residents in the Project."

In reply, please be informed that Revenue Memorandum Circular No. 9-2013 applies only to Homeowners' Associations as technically defined in Section 3 of Republic Act No. 9904, to wit:

> "'*Association*' refers to the homeowners' association which is a nonstoc nonprofit corporation registered with the Housing and Land Use Regulatory B

> (HLURB), or one previously registered with the Home Insurance Guarantee Corporation (now Home Guaranty Corporation) or the Securities and Exchange Commission (SEC), organized by owners or purchasers of a lot **in a subdivision/village** or other residential real property located within the jurisdiction of the association; or awardees, usufructuaries, legal occupants and/or lessees of a housing unit and/or lot in a government socialized or economic housing or relocation project and other urban estates; or underprivileged and homeless citizens as defined under existing laws in the process of being accredited as usufructuaries or awardees of ownership rights under the Community Mortgage Program (CMP), Land Tenure Assistance Program (LTAP) and other similar programs in relation to a socialized housing project actually being implemented by the national government or the LGU." (Emphasis ours.)

The term "*subdivision/village*", also defined in Section 3 of the same law, excludes condominium projects as it contemplates a "tract or parcel of land partitioned into individual lots, with or without improvements thereon, primarily for residential purposes".

Republic Act No. 4726 otherwise known as "The Condominium Act", the controlling law on condominium projects, defines "condominiums" and "condominium corporations" as follows:

> "Sec. 2. A condominium is an interest in real property consisting of separate interest in a unit in a residential, industrial or commercial building and an undivided interest in common, directly or indirectly, in the land on which it is located and in other common areas of the building. A condominium may include, in addition, a separate interest in other portions of such real property. Title to the common areas, including the land, or the appurtenant interests in such areas, may be held by a corporation specially formed for the purpose (hereinafter known as the "condominium corporation") in which the holders of separate interest shall automatically be members or shareholders, to the exclusion of others, in proportion to the appurtenant interest of their respective units in the common areas.
>
> "The real right in condominium may be ownership or any other interest in real property recognized by law, on property in the Civil Code and other pertinent laws."

From the foregoing it is clear that the conditional exemption provided for in Republic Act No. 9904 and reiterated in Revenue Memorandum Circular No. 9-2013 only applies to Homeowners' Associations of subdivisions and villages and not to condominium corporations covered by Republic Act No. 4726. The taxation of condominium corporations is covered by Revenue Memorandum Circular 65-2012. Thus, this request for exemption from Income Tax and Value-Added Tax (VAT) or Percentage Tax, whichever is applicable, is denied for lack of legal basis.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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