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

RA No. 9904; RA No. 8424, as amended; RMC No. 09-2013;
BIR Ruling No. 733-2019
CT-[illegible]-2021
OCT 04 2021

ELARO HOMEOWNERS ASSOCIATION, INC.
Administration Office, Elaro Nuvali
Brgy. Canlubang, Calamba City
Laguna 4028

Attention : **MR. RUEL B. PABON**
Property Manager

Gentlemen:

This refers to your letter dated November 5, 2020, requesting for a ruling confirming the exemption from income tax and value-added tax (VAT)/percentage tax of **ELARO HOMEOWNERS ASSOCIATION, INC.**, pursuant to Republic Act (RA) 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 **ELARO HOMEOWNERS ASSOCIATION, INC.**, with Taxpayer's Identification No. - -000, is a non-stock and non-profit residential homeowners' association duly registered with the Housing and Land Use Regulatory Board under Certificate of Registration No. dated June 29, 2015; that it is situated and within the jurisdiction of the Calamba City, Laguna; that the purposes for which the Association was incorporated are the following:

1. *To promote and advance the best interest, general welfare, and prosperity, as well as safeguard the well-being of the lot-owners, homeowners, or long-term lessees of Elaro Subdivision, a residential subdivision registered with the Housing and Land Use Regulatory Board ("HLURB"), the territorial boundaries of which are the areas within the parcels of land identified and delineated in the sketch plan attached hereto as **Annex A**, and with the technical description attached hereto as **Annex B**, as well as such other areas or parcels which may be annexed to and made part of Elaro, as registered with the HLURB or its successor agency/agencies, such areas or parcels hereby being deemed part of the territorial boundaries of Elaro without need for any corporate action or further amendment of this Second Article, and it being understood that, for the purpose of determining the extent of the territorial boundaries of Elaro, the subdivision plans for other phases submitted to, and approved by, the HLURB or its successor agency/agencies shall be controlling.*

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Elaro is an integral part of a master-planned development called NUVALI. Consequently, the Association shall automatically become a member of the federation of associations for NUVALI, which is intended to be formed for the purpose of maintaining, administering, equipping, supplying, and providing the Association and other members of the federation with the common facilities, utilities, and services for NUVALI. The Association binds itself to pay all dues and assessments duly imposed by the aforesaid federation of associations for NUVALI, and to comply with the by-laws and reasonable rules and regulations thereof;

2. *To construct, manage, maintain and operate adequate facilities and services for the members of the Association;*
3. *To initiate and organize socio-cultural projects and activities which will awaken community consciousness and belonging;*
4. *To promote, enhance and foster the development and improvement of the quality of life of the members through livelihood projects and other economic activities;*
5. *To acquire, accept donations, purchase, own, hold, develop, lease, mortgage, pledge, exchange, sell, transfer, or otherwise invest, deal in or trade, in any manner permitted by law, as well as the rules and regulations of government regulatory or licensing agencies, real and personal property of every kind and description, or any interest therein, as may be necessary for the accomplishment of the purposes of the Association;*
6. *To borrow and otherwise contract indebtedness and issue notes, bonds, and other evidence of indebtedness and to secure payment thereof by mortgage, pledge, conveyance by way of trust, or encumbrance of any or all of its then-owned or after-acquired real or personal properties and assets as may be permitted by law;*
7. *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, whether domestic or foreign, or others;*
8. *To do and perform all other acts and things, and to have and exercise all other powers which may be necessary, convenient and appropriate to accomplish the purposes for which the Association is organized.*

and that on December 17, 2020, the City Mayor of Calamba City, Laguna, Hon. Justin Marc SB. Chipeco, certified that:

*"...**ELARO HOMEOWNERS ASSOCIATION, INC.** is non-profit homeowners' association with office address at Elaro Nuvali, Barangay Canlubang, Calamba City. It is further certified that the City Government of Calamba lacks the resources to render the basic services of the village such as streetlights, securing the safety of residents, repairs and maintenance, garbage collection and the like..."*

In reply, please be informed that Section 18 of RA No. 9904 provides that:

*"**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.*

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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.

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"

Thus, considering that **ELARO HOMEOWNERS ASSOCIATION, INC.** is a duly registered Homeowners Association with the HLURB; that its financial statements show the delivery of basic community services defined under Sec. 3(d) of RA No. 9904; and that the Local Government Unit having jurisdiction over the Homeowners Association issued a Certificate that it lacks resources to provide these services to the Association, this Office hereby holds that the income derived from association dues, membership fees, other assessments and charges collected in a purely reimbursement basis and rentals of facilities of **ELARO HOMEOWNERS ASSOCIATION, INC.** is exempt from income tax, VAT[1] or percentage tax, whichever is applicable. 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.

However, **ELARO HOMEOWNERS ASSOCIATION, INC.** shall be subject to the applicable internal revenue taxes on its other income from trade, business or other activities. Specifically:

1) Income Tax

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code Tax of 1997 (Tax Code), as amended, on its income derived from sources other than rental of its facilities, association dues, membership fees, other assessments and charges collected on a purely reimbursement basis 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 by 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, 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.

[1] Section 4.109-1 (B)(1)(y) of the RR No. 13-2018.

[2] Republic Act No. 10963 increased the tax rate from 7.5% to 15% effective January 1, 2018.

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2) *VAT or Percentage Tax*

Likewise, **ELARO HOMEOWNERS ASSOCIATION, INC.**'s gross receipts from operations not derived from rental of its facilities, association dues, membership fees, other assessment and charges collected in a purely reimbursement basis shall be subject to the 12% VAT as imposed under Section 108 of the Tax Code, 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(BB) of the same Code if the gross sales or receipts from such sale of goods and services do not exceed Three Million Pesos (P3,000,000.00)[3].

It is requested that a copy of this letter of exemption be attached to the Annual Information Return which **ELARO HOMEOWNERS ASSOCIATION, INC.** will file on or before the 15th day of the fourth month of each year.

Under Section 235 of the Tax Code, as amended, any provision of existing general or special law to the contrary notwithstanding, the Revenue District Officer shall conduct an audit of annual information return filed, the books of accounts and other pertinent records of **ELARO HOMEOWNERS ASSOCIATION, INC.** to determine compliance with the conditions set forth in this letter of tax exemption and tax liabilities, if any.

It should be understood that **ELARO 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, as amended.

Finally, **ELARO 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, 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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[3] Republic Act No. 10963 increased the VAT threshold from P1,919,500.00 to P3,000,000.00 effective January 1, 2018.