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. 105-14;
OT- 0380-2020

JUL 03 2020

THE PROMENADE RESIDENCES
HOMEOWNERS ASSOCIATION, INC.
Brgy. Salawag, Dasmariñas City,
Cavite 4114

Attention: **DURABEL DURAIN**
Secretary

Gentlemen:

This refers to your letter dated July 11, 2018, requesting for tax exemption of **THE PROMENADE RESIDENCES HOMEOWNERS ASSOCIATION, INC.** 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 **THE PROMENADE RESIDENCES HOMEOWNERS ASSOCIATION, INC.** is a non-stock and non-profit residential homeowners' association, with Taxpayers Identification No. and duly registered with the Housing and Land Use Regulatory Board (HLURB) with Registration No. ; that it is situated and within the jurisdiction of the Municipality Government of Malay; that among the purposes for which the Association was incorporated is "*to manage and maintain the common areas in the subdivision project known and identified as The Promenade Residences (the "Project") located at Brgy. Salawag, Dasmariñas, Cavite, which has been constituted, pursuant to the provisions of the Presidential Decree No. 957, on the properties described in, and brought under the operation of said Decree by, the Deed of Restrictions (the "Deed") executed by One Asia Development Corporation (the "Developer") through its President, Mr. Victor H. Manarang, annexed to, and made an integral part of, the Contracts to Sell, executed by the Developer and the respective buyers of the subdivided lots, as well as to operate, manage and maintain the said Project pursuant to and in accordance with the provisions of the Home Financing Act, the Corporation Code, the rules and regulations promulgated by the Housing and Land Use Regulatory Board and the Deed as well as other relevant contractual agreements between the Developer and the respective buyers of the subdivided lots, with the end in view of promoting the safety, interest, welfare, health and happiness of all the occupants/lot owners in the Project;* and that the Office of the City Mayor of Dasmariñas, certified on May 25, 2018 that:

OT-0380-2020
JUL 0 3 2020

*"**THE PROMENADE RESIDENCES HOMEOWNERS ASSOCIATION, INC. (TPRHAI)** is a non-profit Homeowners' Association (HOA) situated at the Promenade Residences, Brgy. Salawag, City of Dasmariñas, Cavite*

The homeowners's association provides basic community services to its residents such as cleanliness, safety, security and maintenance of the facilities within the subdivision.

This further certifies that the City of Dasmariñas, composed of 75 Barangays and more than 250 Homeowners' Associations within its jurisdiction, lacks the resources to render the said services being provided by the homeowners' association."

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THE PROMENADE RESIDENCES HOMEOWNERS ASSOCIATION, INC. bases its request for 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.

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, considering that **THE PROMENADE RESIDENCES 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 R.A. 9904; and that the Local Government Unit covering the jurisdiction of the Homeowners Association has issued a Certificate that it lacks the 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 **THE PROMENADE RESIDENCES HOMEOWNERS**

OT-0360
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ASSOCIATION, INC. is exempt from income tax, value-added tax[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, **THE PROMENADE RESIDENCES HOMEOWNERS ASSOCIATION, INC.** shall be subject to the applicable internal revenue taxes on its other income from trade, business or other activities. Specifically:

Income Tax

It shall be subject to the corresponding internal revenue taxes imposed under the Tax Code of 1997, 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 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

Likewise, **THE PROMENADE RESIDENCES 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 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(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 **THE PROMENADE RESIDENCES HOMEOWNERS ASSOCIATION, INC.** will file on or before the 15th day of the fourth month of each year.

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[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.

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

OT-0300-2020
JUL 03 2020

Under Section 235 of the Tax Code of 1997, 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 **THE PROMENADE RESIDENCES 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 **THE PROMENADE RESIDENCES 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, **THE PROMENADE RESIDENCES 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 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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