REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA No. 7279
BIR Ruling No. 109-13
#043-2016
1-28-2016

NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.
Upper Bonbonan, Brgy. Lobangon, Cebu City

Attention : **MARISSA L. ORTEGA**
President

Gentlemen:

This refers to the letter of Ma. Ana R. Oliveros, President of Social Housing Finance Corporation (SHFC) dated March 31, 2014, endorsing the sale transaction between **CECIL P. BACAYO** and **NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.** for exemption from the payment of Capital Gains Tax and other taxes in accordance with the Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted disclosed that:

CECIL P. BACAYO is the registered owner of a parcel of land, identified as Lot being a portion of Lot Cadastral Survey of Cebu, G.L.R.O. Rec. no. , covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds for Cebu City. The aforesaid property is situated at Upper Bonbonan, Brgy. Lobangon, Cebu City with an area of One Thousand Three Hundred Seventy-Seven (1,377) square meters more or less. **NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.** (TIN), on the other hand, is a homeowners' organization duly registered with the Housing and Land Use regulatory Board (HLURB) under Registration No. dated May 5, 2006.

On September 4, 2011, the parties executed a Deed of Absolute sale whereby **CECIL P. BACAYO** transferred and conveyed the aforementioned parcel of land to **NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.** at an agreed price of Pesos and Centavos (₱). Pursuant to the certification dated August 22, 2011 issued by SHFC, the purchase of the above-described property under the provisions of the Community Mortgage Program (CMP) is a bona fide transaction and qualifies for the capital gains tax exemption incentive provided in Section 32 (b) of Republic Act No. 7279. For this purpose, **NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.** secured a housing loan under the CMP, a

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financing assistance program of the SHFC a subsidiary of the National Home Mortgage Finance Corporation (NHMFC) for the acquisition of the lots that its qualified member-beneficiaries[1] occupy.

In support of its request, **NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.** has completely submitted on June 28, 2013 the following documents:

1) SHFC letter application for tax exemption;
2) Certification of the President of the SHFC that the subject property qualifies and is actually a CMP project;
3) Certified true copy of the Letter-Guaranty;
4) Certified true copy of the Deed of Absolute Sale to the Community Association;
5) Certified true copy of the Articles of Incorporation of the Community Association;
6) Certified true copy of the Masterlist of Qualified Beneficiaries duly certified by the SHFC;
7) Certified true copies of the TCT and latest Tax Declaration of the Property Sold to the Community Association;
8) Certified true copy of the Location Plan of the Lot Sold to the Community Association;
9) TIN/BIR Certificate of Registration of the sellers and the Homeowner Association; and
10) Other pertinent documents.

In reply, please be informed that pursuant to Section 32(b) of RA No. 7279, pertinent portions of which state that:

> *"Sec. 32. Incentives. — To encourage its wider implementation, participants in the CMP shall be granted with the following privileges or incentives:*
>
> xxx xxx xxx
>
> *(b) Properties sold under the CMP shall be exempted from the capital gains tax; and –"*

Thus, the landowner who sold her property under CMP for use in a socialized housing project are exempt from the payment of capital gains tax. Such being the case, the sale by **CECIL P. BACAYO** to **NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.** of the parcel of land described in TCT No. 127997 is exempt from the capital gains tax. Upon issuance of this letter of exemption, and upon registration of the document of sale, a lien on the Certificate of Title of the land to be

[1] See Annex for the masterlist of qualified beneficiaries.

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issued in the name of the Homeowners Association shall be caused to be annotated by the Register of Deeds having jurisdiction over the property, to the effect that the said property shall be used for socialized housing pursuant to RA No. 7279. (BIR Ruling No. 109-13 dated March 21, 2013)

However, the documentary stamp tax is not one of the taxes covered by the tax exemption clause in Sec. 20 of RA 7279. Accordingly, the owner is liable to pay the documentary stamp tax on the documents conveying the afore-stated property imposed under Section 196 of the Tax Code of 1997, based on the consideration contracted to be paid for such realty or its fair market value determined in accordance with Section 6 (E) of the said Code, whichever is higher. (BIR Ruling No. 109-13 dated March 21, 2013)

It is, however, understood that this ruling is never intended and shall not be construed as giving authority to the concerned Register of Deeds to effect transfer of the land 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). The CAR shall only be issued after the submission of the requirements provided under RMO 15-2003.

Notwithstanding the foregoing, the Bureau of Internal Revenue shall conduct verification and post-audit that the actual occupants of the property transferred under the CMP are qualified beneficiaries and therefore, the seller is entitled to exemption from capital gains tax or income tax imposed under the Tax Code of 1997.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.
Upper Bonbonan, Brgy. Lobangon, Cebu City

	NAME OF BENEFICIARY	MI	OPEN SPACE		
			Block No.	Lot No.	Total
1	VILLAFLORES, MARIETA	A.	I	1	30.23
2	GABATO, ANACLITA	A.		2	30.23
3	ABELLA, REYNALDO	H.		3	35.73
4	PASTOR, EMELYN	A.		4	24.74
5	ABELLA, JOSEPH	H.		5	34.36
6	AMORES, ELOISE	C	II	1	32.98
7	CAMISORA, NORBERTO JR.	C		2	30.23
8	VIBAR, JUANITO	A.		3	30.23
9	ABELLANA, ANTONIETA	G.		4	30.23
10	DELLICA, LIZA	M.		5	30.23
11	AMORES, ISABEL	A.		6	30.23
12	TORILLO, ALEJANDRITA	M.		7	30.23
13	ALBURO, RENATO	A.		8	30.23
14	RUDAS, GEMMA	S		9	30.23
15	CABALIDA, ELIZABETH	G.		10	30.23
16	SANTILLAN, PRIMA	T		11	30.23
17	ICOT, SUSY MAY	F		12	30.23
18	SAUMBON, MILA	E		13	35.73
19	ORTIGA, ESPIRITU	P		14	30.23
20	ABELLA, ELVIRA	H.		15	27.49
21	DUCOY, EVANGELINE	O		16	27.49
	OPEN SPACE			17	0.00
22	BANGA, TEOFILA	S		18	27.49
23	BAFILAR, MARIDEL	B		19	31.61
24	VILLAFLORES, MARIO	A.	III	1	30.23
25	BASAN, FRANCISCO JR.	J		2	30.23
26	ARQUILLANO, DANTE	B		3	38.48
27	ABELLA, ADELAIDA	C		4	35.73
28	GONZAGA, MARIBEL	O	IV	1	30.23
29	NUNEZ, MIRIAM	O		2	30.23
30	CENIZA, ANA MAY	C		3	30.23
31	ORTEGA, MARISSA	A.		4	53.60
32	TAUTHO, LORGINA	E	V	1	24.74
33	DELORASO, CESARIO	C		2	24.74
34	BACULI, ARACELI	A.		3	27.49

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NAGKAHIUSANG LUMULOPYO SA UPPER BONBONAN HOMEOWNERS ASSOCIATION INC.

35	CABATAÑA, MA. LYN	T		4	24.74
36	HOTOHOT, NORMA	M		5	24.74
37	QUISA, LOURDES	M		6	24.74
38	MIER, JULIETA	A.		7	28.86
39	DEMAANGAY, EDEN	V		8	37.10
40	LINGO, ROSEMARIE	O		9	24.74
41	LANOJAN, JOEL	F		10	24.74
42	ESTRERA, SABINIANA	L		11	24.74
43	AMORES, NATHANIEL	A.		12	24.74
44	BURGOS, ROLANDO	M		13	24.74
45	BAPILAR, JIMMY	R		14	24.74
46	TITO, MARIBEL	P		15	31.61
	GRAND TOTAL				**1377.00**

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