REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 7279
BIR Ruling No. 360-2013 BIR Ruling No. 351-2012
#106-2016 4-5-2016

LAK-K BUILDERS CO.
Units 606 & 609 Jocfer Bldg.
Commonwealth Avenue, Quezon City

Attention: **MICHAEL ANGELO F. KALLOS**
Vice President/General Manager

Gentlemen:

This refers to your letter dated June 15, 2015 requesting, on behalf of **LAK-K BUILDERS CO.**, tax exemption on the low-cost housing project, **Pandi Residences 1 (Expansion Area) Resettlement Project**, located at Brgy. Mapulang Lupa, Pandi, Bulacan, pursuant to Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted show that **LAK-K BUILDERS CO.**, with Tax Identification Number is a General Partnership duly registered with the Securities and Exchange Commission (SEC) bearing SEC Registration No. that it is a real property developer habitually engaged in the business of developing and constructing housing subdivisions; that it acquired eleven (11) parcels of land located at Brgy. Mapulang Lupa, Pandi, Bulacan, covered by Transfer Certificates of Title (TCT) Nos. , , nd of the Registry of Deeds for Meycauayan, Bulacan, to wit:

TCT No.	Area (sq. m.)
	168
	2,097
	125
	126
	80
	122

[1] TCT Nos. and are formerly TCT Nos. , ,) (which in turn are transfers from TCT Nos. and , , and (formerly, TCT No.). The TCT Nos. and , on the other hand, are transfers from TCT Nos.) and R1-mentioned in the Memorandum of Agreement dated October 14, 2015 among LAK-K Builders Company, Pandi Residences Homeowners Association, Inc. and the National Housing Authority).

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	375
	2,087
	99
	25,173
	3,120
TOTAL AREA	**33,572**

On September 19, 2013, a Contract Agreement[5] was entered into by and between **LAK-K BUILDERS CO.** and **Pandi Residences Homeowner's Association, Inc. (PRHOAI)**, a homeowner's organization registered with the Housing and Land Use Regulatory Board (HLURB) with Registration No. whereby **LAK-K BUILDERS CO.** has agreed to sell to PRHOAI's individual members[6] the developed lots, including the completed housing units thereon under the Community Initiative Approach Program (CIAP) of the National Housing Authority (NHA) (TIN) for Pesos or every developed lot and completed housing unit per family.

On October 14, 2013, a Memorandum of Agreement[8] was executed by and among **LAK-K BUILDERS CO.**, as the landowner/developer/constructor, the members of PRHOAI, as the beneficiaries, and the **NHA**, as the lead agency in the implementation of the National Resettlement Programs of the government for Fiscal Year (FY) 2013, to ensure the timely, peaceful and orderly relocation and resettlement of the informal settler families living in danger areas, affected by calamities and those affected by the clearing of waterways, esteros and infrastructure projects of the government in Metro Manila.

Under the MOAs, members of the PRHOAI shall be provided by the NHA with a financial grant through the CIAP under the National Resettlement Program of the government for FY 2013 in the amount not to exceed Pesos (P) per lot per family and Pesos (per housing unit, respectively.

On June 15, 2015, **LAK-K BUILDERS CO.** and the NHA executed a Deed of Absolute Sale (DOAS) whereby the former transferred and conveyed to the latter Two Hundred Twenty (222) developed lots under Batch 1-2015 with a total aggregate

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[2] TCT Nos. and are all transfers from TCT No which, in turn, was a transfer from TCT No mentioned in the same Memorandum of Agreement dated October 14, 2013.

[3] Formerly TCT No.

[4] Formerly TCT No. which, in turn, was a transfer from TCT No. mentioned in the same Memorandum of Agreement dated October 14, 2013.

[5] (Financing the Acquisition of Developed Lots and Completed Housing Units) in Pandi Residences, Mapulang Lupa, Pandi, Bulacan.

[6] See attached Master List of Beneficiaries consisting of five (5) pages containing Two Hundred Twenty Two (222) beneficiaries.

r developed lot and per completed housing unit.

[8] (For Financing the Acquisition of Developed Lots and Financing the Acquisition of Completed Housing Units) Pandi Residences Resettlement

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saleable area of Nine Thousand Six Hundred Ninety Seven (9,697) square meters, more or less, situated in Pandi Residences 1 Resettlement Project in Brgy. Mapulang Lupa, Pandi, Bulacan, identified and more particularly described as portion of TCT Nos. (

and for and in consideration of
housand Pesos (P

In reply, please be informed that pursuant to Sections 19 and 20 of Republic Act (RA) No. 7279, pertinent portions of which state that:

> *"Sec. 19. Incentives for the National Housing Authority. — The National Housing Authority, being the primary government agency in charge of providing housing for the underprivileged and homeless, shall be exempted from the payment of all fees and charges of any kind, whether local or national, such as income and realty taxes. All documents or contracts executed by and in favor of the National Housing Authority shall also be exempt from the payment of documentary stamp tax and registration fees, including fees required for the issuance of transfer certificates of title.*
>
> *"Sec. 20. Incentives for Private Sector Participating in Socialized Housing. — To encourage greater private sector participation in socialized housing and further reduce the cost of housing units for the benefit of the underprivileged and homeless, the following incentives shall be extended to the private sector:*
>
> *xxx xxx xxx*
>
> *"(d) Exemption from the payment of the following:*
> *(1) Project-related income taxes;*
> *(2) Capital Gains Tax on raw lands used for the project;*
> *(3) Value-added tax for the project contractor concerned;"*

the landowner/developer of properties who sells its properties for use in a socialized housing project is exempt from the payment of the capital gains tax and project-related income taxes.

Such being the case, the sale transactions by **LAK-K BUILDERS CO.** to NHA of the **222** developed lots under Batch 1-2015 on the **9,697** sq. m. portion of lots covered by TCT Nos.

and are exempt from capital gains tax, project-related income taxes and consequently from withholding tax. (*BIR Ruling No. 360-2013* dated September 30, 2013)

Moreover, pertinent portions of *Revenue Memorandum Circular (RMC) No. No. 42-01* dated October 5, 2001, provide, viz.:

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A. National Housing Authority (NHA) — The NHA, being the primary government agency in charge of providing housing for the underprivileged and homeless citizens shall be exempted from the payment of the following national internal revenue taxes:

(1) . . .
(2) Documentary stamp tax on sales transactions executed by and in favor of the NHA in connection with socialized housing projects. Since Section 19 of R.A. 7279 exempts "all documents or contracts executed by and in favor of the NHA," the exemption from documentary stamp tax extends to the other party (either seller or buyer) that is dealing or transacting with the NHA.

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It must be noted that the exemption from the documentary stamp tax of NHA, in connection with any of its socialized housing projects, extends to the other party (either seller or buyer) that deals or transacts with the NHA. Consequently, since NHA is a party to the sale, no documentary stamp tax shall be due on such sale, either on NHA or the party with which NHA is transacting. Accordingly, the sale transactions by **LAK-K BUILDERS CO.** to NHA of the of the **222** developed lots under Batch 1-2015 on the **9.697** sq. m. portion of lots covered by TCT Nos.

and

are likewise, exempt from the payment of documentary stamp tax under Section 196 of the Tax Code of 1997, as amended. (*BIR Ruling No. 360-2013* dated September 30, 2013).

Pursuant to Section 20(d)(3) of RA 7279, the sale of a socialized housing as defined therein shall also be exempt from the payment of value-added tax (VAT). Relative thereto, Section 4.109-1 (B) (1) (p) (3) of RR No. 16-2005 states that:

"Section 4.109-1. VAT-Exempt Transactions. — (A) In general. — "VAT-exempt transactions" refer to the sale of goods or properties and/or services and the use or lease of properties that is not subject to VAT (output tax) and the seller is not allowed any tax credit of VAT (input tax) on purchases.

xxx xxx xxx

(B) Exempt transactions. — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:

xxx xxx xxx

(p) The following sales of real properties are exempt from VAT, namely:

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xxx xxx xxx

(3) Sale of real properties utilized for socialized housing as defined under RA No. 7279, and other related laws, such as RA No. 7835 and RA No. 8763, wherein the price ceiling per unit is P225,000.00 or as may from time to time be determined by the HUDCC and the NEDA and other related laws. . . . ."

Furthermore, pursuant to HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013 approving the adjustment of price ceiling for socialized housing, and as circularized by Revenue Memorandum Circular No. 35-2014, pertinent portion of which reads:

> *"THEREFORE BE IT RESOLVED, AS IT IS HEREBY RESOLVED that the price ceiling for horizontal socialized housing be adjusted from P400,000.00 to P450,000.00."*

thus, beginning December 18, 2013[9], the newly adjusted price ceiling of P450,000.00 for horizontal socialized housing shall apply to sale of real properties utilized for socialized housing, as defined under R.A. No. 7279 otherwise known as "Urban Development and Housing Act", and other related laws such as R.A. No. 7835 otherwise known as the "Comprehensive and Integrated Shelter Financing Act of 1994," and R.A. No. 8763, otherwise known as the "Home Guaranty Act of 2000".

Moreover, Section 2 of R.R. No. 17-2001 provides;

> *"Section 2. Definition of Terms. — As used in these Regulations, the following terms shall have the following meaning:*
>
> *xxx xxx xxx*
>
> *"A socialized housing unit shall not exceed P150,000.00 (now P450,000.00 per HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013) for a house and lot package, subject to periodic adjustment or increase as the Housing and Land Use Regulatory Board (HLURB) may effect from time to time. In the case of sale of homelots only, the price shall not exceed forty percent (40%) of the maximum limit prescribed for the house and lot package."*

Thus, the sale by **LAK-K BUILDERS CO.** to NHA of home lots valued at Pesos (P) and below, and house and lot packages valued at Pesos and below on its **Pandi Residences 1 (Expansion Area) Resettlement Project, Brgy. Mapulang Lupa, Pandi, Bulacan,** shall be exempt from VAT. However, its purchases of goods/articles shall be subject to VAT, even if the said purchases are to be used for the socialized housing project, since VAT is an indirect tax which can be passed on by the seller of the goods/services. Moreover, it shall be understood that **LAK-K BUILDERS CO.**

[9] HUDCC Resolution No. 1 Series of 2013 took effect on December 18, 2013 after having satisfied the publication requirement as circularized by HUDCC Memorandum Circular No. 01 Series of 2014.

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must issue non-VAT official receipts on its gross receipts from the said socialized housing project. (*BIR Ruling No. 351-12* dated May 21, 2012)

Upon application for exemption, a lien on the title of the subject parcel of land shall be annotated by the Register of Deeds having jurisdiction over the property, to the effect that the same is to be applied or is being applied to a socialized housing project pursuant to RA 7279.

Please take note that this ruling is never intended and shall not be construed as giving authority to the concerned Register of Deeds to effect the transfer of the 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) after the submission of the requirement provided under RMO 15-2003.

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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