August 30, 2018

BIR RULING NO. 1134-18

RMC No. 9-2013; R.A. No. 9904; R.A. No. 8424; BIR Ruling No. 103-14; BIR Ruling No. 105-14

Grand View Homes 1 Homeowners Association, Inc.
Barangay Bilibiran, Binangonan,
Rizal 1940

Attention: *AAA*

Gentlemen :

This refers to your letter dated May 17, 2016, requesting on behalf of GRAND VIEW HOMES 1 HOMEOWNERS ASSOCIATION, INC. for a Certificate of Tax Exemption enjoyed by Homeowners' Associations 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 GRAND VIEW HOMES 1 HOMEOWNERS ASSOCIATION, INC. is a residential homeowners' association with Taxpayer's Identification Number (TIN) 000-000-000-000 and duly registered with the Housing and Land Use Regulatory Board (HLURB) under Certificate of Registration No. 18847 dated June 8, 2011; that Grand View Homes 1 Subdivision is situated and within the jurisdiction of Binangonan, Rizal; and that its primary concern is: *To facilitate the delivery of adequate social services and economic advantages for the association to improve the quality of life and wellbeing of its members*; that the Office of the Municipal Mayor of Binangonan, Rizal certified that:

1. *The Local Government Unit lacks resources to provide for basic services for the homeowners association and the latter had to endeavor to tap means to provide for the same;*

Copyright 2020 CD Technologies Asia, Inc.

2. *The homeowners association is billing its members for association dues and other charges to provide basic community services and facilities for the cleanliness, safety and security, and vicinity street lights, maintenance, repairs and cleaning of streets and other similar services and facilities.*

GRAND VIEW HOMES 1 HOMEOWNERS ASSOCIATION, INC. bases its 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 environs.
>
> 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. x x x"

In reply thereto, considering the fact that GRAND VIEW HOMES 1 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 have issued Certificate that it lacks the resources to provide these services to the Association, hence, this Office hereby holds that the income derived from association dues and rentals of facilities of GRAND VIEW HOMES 1 HOMEOWNERS ASSOCIATION, INC. is exempt from income tax, value-added tax 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. *(BIR Ruling No. 103-14 dated March 26, 2014)*

However, GRAND VIEW HOMES 1 HOMEOWNERS ASSOCIATION, INC. shall be subject to the applicable internal revenue taxes on its other income from trade, business or other activities. Specifically:

Copyright 2020 CD Technologies Asia, Inc.

Income Tax

It shall be subject to the corresponding internal revenue taxes imposed under the Tax Code of 1997 on its income not derived from association dues nor rentals of its facilities, 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% [1] final withholding tax pursuant to Section 27 (D) (1) in relation to Section 57 (A), both of the Tax Code of 1997. 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. *(BIR Ruling No. 103-14 dated March 26, 2014)*

Value-Added Tax or Percentage Tax

Likewise, GRAND VIEW HOMES 1 HOMEOWNERS ASSOCIATION, INC.'s gross receipts from operations not derived from association dues nor rentals of its facilities 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 (1) (W) 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). [2]

It is requested that a copy of this letter of exemption be attached to the annual information return which GRAND VIEW HOMES 1 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 of 1997, as amended, any provision of existing * conduct an audit of annual information return filed, the books of accounts and other pertinent records of GRAND VIEW HOMES 1 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 GRAND VIEW HOMES 1 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.

Copyright 2020 CD Technologies Asia, Inc.

Finally, GRAND VIEW HOMES 1 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,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. Republic Act No. 10963 increased the tax rate from 7.5% to 15% effective January 1, 2018.
2. Republic Act No. 10963 increased the VAT threshold from P1,919,500.00 to P3,000,000.00 effective January 1, 2018.

Copyright 2020 CD Technologies Asia, Inc.