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

RA No. 7279
BIR Ruling No. 053-15
#117-2016
4-12-2016

BORNAY HOMEOWNER'S ASSOCIATION, INC.
C. Bornay St., Brgy. Kalawaan, Pasig City

Attention : **MELITA E. BAES**
President

Gentlemen:

This refers to the letter of Ma. Ana R. Oliveros, President of Social Housing Finance Corporation (SHFC) dated dated January 21, 2016, endorsing the sale transaction between ATMT Construction Corporation and Bornay Homeowner's 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 disclose that ATMT Construction Corporation (TIN hereinafter referred to as Landowner) is the registered owner of a parcel of land, identified as Lot 3, Plan Psu-125794, LR Case No. , L.R.C. Rec. No. covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds for Pasig. The aforesaid property is situated at Brgy. Kalawaan, Pasig City with an area of Twenty Nine Thousand One Hundred Seven square meters (29,107 sq.m.), more or less. Bornay Homeowner's Association, Inc. (TIN , on the other hand, is a homeowner's organization duly registered with the Housing and Land Use Regulatory Board (HLURB). The parties executed an undated Deed of Absolute Sale whereby the Landowner transferred and conveyed Four Thousand Two Hundred Thirty One and 50/100 square meters (4,231.50 sq.m.) portion of the subject property to Bornay Homeowner's Association, Inc. at an agreed price of Pesos (. Pursuant to the certification issued by SHFC, 4,231.50 sq.m. out of 29,107 sq.m. covered by TCT No. actually comprise a Community Mortgage Program (CMP) Project and shall be proportionately distributed to the association's qualified member-beneficiaries[1]. For this purpose, Bornay Homeowner's Association, Inc. secured a housing loan under the CMP, a financing assistance program of the SHFC a subsidiary of the National Home Mortgage Finance Corporation (NHMFC). Documentary Stamp Tax (DST) due on the sale has been paid on December 22, 2015.

040376

[1] see Annex for the masterlist of qualified beneficiaries consisting of three (3) pages

In support of its request, Bornay Homeowner's Association, Inc. has completely submitted on March 4, 2016 the following documents:

1) SHFC letter application for tax exemption;
2) Certification of the President of the SHFC that 4,231.50 sq.m. portion of the subject properties qualifies and is actually a CMP project;
3) SHFC Letter-Guaranty No. 1148;
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 copy 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 ID /BIR Certificate of Registration of the seller and the Homeowner Association; and
10) *Other pertinent documents*

In reply, please be informed that pursuant to Section 32 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"*

the landowner who sold its 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 the landowner, Bornay Homeowner's Association, Inc., to Bornay Homeowner's Association, Inc. of the 4,231.50 sq.m. out of 29,107 sq.m. covered by TCT No. 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 issued in the name of the Homeowners Association shall 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. 053-15 dated February 27, 2015)

However, the documentary stamp tax is not one of the taxes covered by the tax exemption clause in Sec. 32 of RA 7279. Accordingly, the landowner is liable to pay the documentary stamp tax on the document 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 realties or their fair market values determined in accordance with Section 6(E) of the said Code, whichever is higher. (BIR Ruling No. 053-15 dated February 27, 2015)

040376

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 titles 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 RMO15-2003. (BIR Ruling No. 053-15 dated February 27, 2015)

Moreover, under Section 109 (1) (P) of the Tax Code of 1997, as amended by R.A. 9337, the sale of real properties utilized for low-cost and socialized housing as defined by R.A. No. 7279 shall be exempt from value-added tax (VAT). thus, the sale of the 4,231.50 sq.m. out of 29,107 sq.m. covered by TCT No.
by the landowner to Bornay Homeowner's Association, Inc. is exempt from the imposition of VAT. (BIR Ruling No. 304-2013 dated August 6, 2013)

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 sellers are entitled to exemption from capital gains tax or income tax imposed under Sec. 27 (D)(5) the Tax Code of 1997, as amended.

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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