November 15, 2018

BIR RULING NO. 1363-18

Republic Act (RA) No. 7279; BIR Ruling No. 005-2011

Ana Maria Heights Homeowners Association, Inc.
Calamansian, Barangay 177, Zone 15
Camarin, Caloocan City

Attention: *AAA*

Gentlemen :

This refers to your letter dated March 28, 2018, requesting exemption from the payment of taxes relative to the transfer of title of land from Ana Maria Heights Homeowners Association, Inc. in favor of its qualified member-beneficiaries [1] pursuant to Republic Act (RA) 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted disclosed that Ana Maria Heights Homeowners Association, Inc. is the registered owner of several parcels of land covered by the following Transfer Certificate of Titles (TCTs) issued by the Registry of Deeds for Caloocan City:

No.	TCT No.	Location		Area	No.	TCT No.	Location		Area
		Blk. No.	Lot No.				Blk. No.	Lot No.	
1	C-412883	1	1	50	174	C-413090	5	27	36
2	C-412884	1	2	50	175	C-413091	5	28	36
3	C-412885	1	3	50	176	C-413092	5	29	36
4	C-412886	1	4	50	177	C-413093	5	30	36
5	C-412887	1	5	50	178	C-413094	5	31	36
6	C-412888	1	6	50	179	C-413095	5	32	36
7	C-412889	1	7	50	180	C-413096	5	33	36
8	C-412890	1	8	50	181	C-413097	5	34	36
9	C-412891	1	9	50	182	C-413098	5	35	36
10	C-412892	1	10	50	183	C-413099	5	36	36
11	C-412893	1	11	50	184	C-413100	5	37	36
12	C-412894	1	12	50	185	C-413101	5	38	36
13	C-412895	1	13	50	186	C-413102	5	39	36
14	C-412896	1	14	40	187	C-413103	5	40	36
15	C-412897	1	15	40	188	C-413104	5	41	36
16	C-412898	1	16	50	189	C-413105	5	42	36

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17	C-412899	1	17	50	190	C-413106	5	43	36
18	C-412900	1	18	50	191	C-413107	5	44	36
19	C-412901	1	19	50	192	C-413108	5	45	36
20	C-412902	1	20	50	193	C-413109	6	1	45
21	C-412903	1	21	50	194	C-413110	6	2	35
22	C-412904	1	22	50	195	C-413111	6	3	35
23	C-412905	1	23	50	196	C-413112	6	4	50
24	C-412906	1	24	50	197	C-413113	6	5	50
25	C-412907	1	25	50	198	C-413114	6	6	50
26	C-412908	1	26	50	199	C-413115	6	7	50
27	C-412909	1	27	50	200	C-413116	6	8	50
28	C-412910	1	28	50	201	C-413694	7	1	51
29	C-412911	1	29	50	202	C-413695	7	2	51
30	C-412912	1	30	50	203	C-413696	7	3	36
31	C-412913	1	31	50	204	C-413697	7	4	36
32	C-412914	1	32	50	205	C-413698	7	5	36
33	C-412915	1	33	50	206	C-413699	7	6	36
34	C-412916	1	34	50	207	C-413700	7	7	36
35	C-412917	1	35	50	208	C-413701	7	8	36
36	C-412918	1	36	37	209	C-413702	7	9	36
37	C-412920	2	1	72	210	C-413703	7	10	36
38	C-412921	2	2	50	211	C-413704	7	11	36
39	C-412922	2	3	49	212	C-413705	7	12	36
40	C-412923	2	4	48	213	C-413706	7	13	36
41	C-412924	2	5	48	214	C-413707	7	14	36
42	C-412925	2	6	48	215	C-413708	7	15	36
43	C-412926	2	7	48	216	C-413709	7	16	36
44	C-412927	2	8	48	217	C-413710	7	17	36
45	C-412928	2	9	48	218	C-413711	7	18	36
46	C-412929	2	10	48	219	C-413712	7	19	36
47	C-412930	2	11	48	220	C-413713	7	20	36
48	C-412931	2	12	48	221	C-413714	7	21	36
49	C-412932	2	13	48	222	C-413715	7	22	36
50	C-412933	2	14	49	223	C-413716	7	23	36
51	C-412934	2	15	49	224	C-413717	7	24	36
52	C-412935	2	16	50	225	C-413718	7	25	36
53	C-412936	2	17	50	226	C-413719	7	26	36
54	C-412937	2	18	50	227	C-413720	7	27	36
55	C-412938	2	19	50	228	C-413721	7	28	36
56	C-412939	2	20	50	229	C-413722	7	29	36
57	C-412940	2	21	53	230	C-413723	7	30	36
58	C-412942	3	1	67	231	C-413724	7	31	36
59	C-412943	3	2	68	232	C-413725	7	32	36
60	C-412944	3	3	50	233	C-413726	7	33	36
61	C-412945	3	4	50	234	C-413727	7	34	36
62	C-412946	3	5	50	235	C-413728	7	35	36
63	C-412947	3	6	50	236	C-413729	7	36	36
64	C-412948	3	7	50	237	C-413730	7	37	36
65	C-412949	3	8	50	238	C-413731	7	38	36
66	C-412950	3	9	50	239	C-413732	7	39	36
67	C-412951	3	10	50	240	C-413733	7	40	36

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68	C-412952	3	11	50	241	C-413733	7	41	36
69	C-412953	3	12	50	242	C-413735	7	42	36
70	C-412954	3	13	50	243	C-413736	7	43	36
71	C-412955	3	14	50	244	C-413737	7	44	36
72	C-412956	3	15	50	245	C-413738	7	45	45
73	C-412957	3	16	50	246	C-413739	7	46	45
74	C-412958	3	17	50	247	C-413740	8	1	69
75	C-412959	3	18	50	248	C-413741	8	2	39
76	C-412960	3	19	50	249	C-413742	8	3	50
77	C-412961	3	20	50	250	C-413743	8	4	40
78	C-412962	3	21	50	251	C-413744	8	5	50
79	C-412963	3	22	50	252	C-413745	8	6	40
80	C-412964	3	23	50	253	C-413746	8	7	50
81	C-412965	3	24	50	254	C-413747	8	8	50
82	C-412966	3	25	50	255	C-413748	8	9	50
83	C-412967	3	26	50	256	C-413749	8	10	50
84	C-412968	3	27	50	257	C-413750	8	11	50
85	C-412969	3	28	50	258	C-413751	8	12	50
86	C-412970	3	29	50	259	C-413752	8	13	50
87	C-412971	3	30	50	260	C-413753	8	14	50
88	C-412972	3	31	50	261	C-413754	8	15	50
89	C-412973	3	32	50	262	C-413755	8	16	50
90	C-412974	3	33	50	263	C-413756	8	17	50
91	C-412975	3	34	50	264	C-413757	8	18	50
92	C-412976	3	35	50	265	C-413758	8	19	50
93	C-412977	3	36	50	266	C-413759	8	20	50
94	C-412978	3	37	60	267	C-413760	8	21	50
95	C-412979	3	38	50	268	C-413761	8	22	50
96	C-412980	3	39	57	269	C-413762	8	23	50
97	C-412981	3	40	68	270	C-413763	8	24	50
98	C-413014	4	1	59	271	C-413764	8	25	50
99	C-413015	4	2	59	272	C-413765	8	26	50
100	C-413016	4	3	50	273	C-413766	8	27	50
101	C-413017	4	4	50	274	C-413767	8	28	50
102	C-413018	4	5	50	275	C-413768	8	29	50
103	C-413019	4	6	50	276	C-413769	8	30	50
104	C-413020	4	7	50	277	C-413771	8	33	50
105	C-413021	4	8	50	278	C-413772	8	33	50
106	C-413022	4	9	50	279	C-413773	8	34	50
107	C-413023	4	10	50	280	C-413774	8	35	66
108	C-413024	4	11	50	281	C-413775	8	36	50
109	C-413025	4	12	50	282	C-413776	8	37	50
110	C-413026	4	13	50	283	C-413777	8	38	50
111	C-413027	4	14	50	284	C-413778	8	39	50
112	C-413028	4	15	50	285	C-413779	8	40	50
113	C-413029	4	16	50	286	C-413780	8	41	50
114	C-413030	4	17	50	287	C-413781	8	42	50
115	C-413031	4	18	50	288	C-413782	8	43	44
116	C-413032	4	19	50	289	C-413783	8	44	50
117	C-413033	4	20	50	290	C-413784	8	45	41
118	C-413034	4	21	50	291	C-413785	8	46	44

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119	C-413035	4	22	50	292	C-413786	9	1	67
120	C-413036	4	23	50	293	C-413787	9	2	50
121	C-413037	4	24	50	294	C-413788	9	3	50
122	C-413038	4	25	50	295	C-413789	9	4	50
123	C-413039	4	26	50	296	C-413790	9	5	50
124	C-413040	4	27	50	297	C-413791	9	6	50
125	C-413041	4	28	50	298	C-413792	9	7	50
126	C-413042	4	29	50	299	C-413793	9	8	50
127	C-413043	4	30	50	300	C-413794	9	9	50
128	C-413044	4	31	50	301	C-413795	9	10	50
129	C-413045	4	32	50	302	C-413796	9	11	50
130	C-413046	4	33	50	303	C-413797	9	12	50
131	C-413047	4	34	50	304	C-413798	9	13	50
132	C-413048	4	35	50	305	C-413799	9	14	50
133	C-413049	4	36	50	306	C-413800	9	15	50
134	C-413050	4	37	50	307	C-413801	9	16	50
135	C-413051	4	38	50	308	C-413802	9	17	50
136	C-413052	4	39	50	309	C-413803	9	18	50
137	C-413053	4	40	50	310	C-413804	9	19	50
138	C-413054	4	41	50	311	C-413805	9	20	50
139	C-413055	4	42	50	312	C-413806	9	21	50
140	C-413056	4	43	50	313	C-413807	9	22	50
141	C-413057	4	44	50	314	C-413808	9	23	50
142	C-413058	4	45	50	315	C-413809	9	24	50
143	C-413059	4	46	50	316	C-413810	9	25	50
144	C-413060	4	47	50	317	C-413811	9	26	50
145	C-413061	4	48	50	318	C-413812	9	27	50
146	C-413062	4	49	57	319	C-413813	9	28	50
147	C-413063	4	50	59	320	C-413814	9	29	50
148	C-413064	5	1	40	321	C-413815	10	1	50
149	C-413065	5	2	40	322	C-413816	10	2	50
150	C-413066	5	3	41	323	C-413817	10	3	50
151	C-413067	5	4	36	324	C-413818	10	4	50
152	C-413068	5	5	36	325	C-413819	10	5	50
153	C-413069	5	6	36	326	C-413820	10	6	50
154	C-413070	5	7	36	327	C-413821	10	7	50
155	C-413071	5	8	36	328	C-413822	10	8	50
156	C-413072	5	9	36	329	C-413823	10	9	50
157	C-413073	5	10	36	330	C-413824	10	10	50
158	C-413074	5	11	36	331	C-413825	10	11	50
159	C-413075	5	12	36	332	C-413826	10	12	50
160	C-413076	5	13	36	333	C-413827	10	13	50
161	C-413077	5	14	36	334	C-413828	10	14	50
162	C-413078	5	15	36	335	C-413829	10	15	50
163	C-413079	5	16	36	336	C-413830	10	16	50
164	C-413080	5	17	54	337	C-413831	10	17	50
165	C-413081	5	18	36	338	C-413832	10	18	50
166	C-413082	5	19	54	339	C-413833	10	19	50
167	C-413083	5	20	36	340	C-413834	10	20	50
168	C-413084	5	21	54	341	C-413835	10	21	50
169	C-413085	5	22	36	342	C-413836	10	22	50

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170	C-413086	5	23	54	343	C-413837	10	23	50
171	C-413087	5	24	36	344	C-413838	10	24	41
172	C-413088	5	25	36	345	C-413839	10	25	42
173	C-413089	5	26	36					

that the aforesaid lots were acquired through a loan under the Community Mortgage Program (CMP), with the Foundation for Development Alternatives, Inc. (FDAI) as Originator, per Certification dated October 21, 2005 issued by the Social Housing Finance Corporation (SHFC); and that based on same Certification, said project was taken-out on May 31, 2004 in the loan amount of Php_____, involving 345 beneficiaries.

In reply, please be informed that the transfer of the subdivided lots in favor of the individual members-beneficiaries of Ana Maria Heights Homeowners Association, Inc. is not subject to either the capital gains tax (CGT) imposed under Section 27 (D) (5) of the National Internal Revenue Code of 1997, as amended, or the creditable withholding tax (CWT) imposed under Revenue Regulations (RR) No. 2-98, as amended, considering that said transfer is only a formality to finally effect the transfer of the subject property to its member-beneficiaries who actually bought the same from the former owner through the association. In other words, the association is merely transferring the ownership of the property to its member-beneficiaries who actually own the same.

Moreover, the said transfer is not subject to the donor's tax imposed under Section 99 of the National Internal Revenue Code of 1997, as amended, since there is no donative intent on the part of Ana Maria Heights Homeowners Association, Inc. to donate the property to its members-beneficiaries, considering that it could not donate property the ownership of which already belongs to the members-beneficiaries themselves.

Furthermore, under Section 196 of the National Internal Revenue Code of 1997, as amended, the deeds or documents subject to the documentary stamp tax (DST) imposed therein are those where the realty sold are granted, assigned, transferred, donated, or otherwise conveyed to a purchaser or purchasers, or to any other person or persons designated by such purchaser or purchasers, thereby excluding the instant case from its purview considering that the supposed purchasers are actually the owners thereof. Accordingly, the transfer of the subdivided lots in favor of the member-beneficiaries is not subject to DST under Section 196 of the National Internal Revenue Code of 1997, as amended. However, the notarial acknowledgment to the deed of conveyance/sale is subject to the DST of P30.00 [2] pursuant to Section 188 of the National Internal Revenue Code of 1997, as amended.

It is, however, understood that the Certificate Authorizing Registration (CAR) shall only be issued after the submission of the requirements provided under Revenue Memorandum Order (RMO) No. 15-2003 and after it is established upon proper verification by the Revenue District Officer (RDO) concerned that, considering the rules on valuation on real property, the actual selling price per sale transaction in this case does

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not exceed P450,000.00 [3] for house and lot and P180,000.00 for lot only for each qualified member-beneficiaries. [4]

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. Please see attached Masterlist of Beneficiaries consisting of ten (10) pages and containing 345 beneficiaries.
2. Republic Act (RA) No. 10963 increased the DST from P15.00 to P30.00 effective January 01, 2018.
3. HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013, approving the adjustment of price ceiling for horizontal socialized housing from P400,000.00 per house and lot to P450,000.00.
4. BIR Ruling No. 005-11 dated January 19, 2011.

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