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

Section 32, RA No. 7279
BIR Ruling No. 053-15
162-2016
5-4-2016

GK-LOS BAÑOS VILLE HOMEOWNERS' ASSOCIATION, INC.
GK Los Baños Ville, Brgy. Tuntungin-Putho
Los Baños, Laguna

Attention: **LOLITA PANTALEON**
President

Gentlemen:

This refers to your letter dated December 6, 2011 requesting for the exemption from the payment of Capital Gains Tax on the transfer of real property by Raoul C. Cinco, et al., to GK-Los Baños Ville Homeowners' Association, Inc. in accordance with the Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted disclose that Raoul C. Cinco, Rosanna Cinco-Flores, (married to Jose Luis Flores), Cecilia Marie Cinco-Killen, (married to Robert Killeen), Roberto Nemesio C. Cinco, (married to Romina Garcia), Ronaldo Ciriaco C. Cinco, (married to Marina Acosta) and Patrick Sam Raoul C. Cinco, (married to Ashlee Wilcox (hereinafter collectively referred to as "Landowners") are the registered owners of a parcel of land, identified as Lot 1 of the Consol.-Subd. Plan, Pcs-04-012060, being a portion of the consol. of Lots D-2-A-1-B, D-2-A-1-C, D-2-A-1-D, D-2-A-1-G and D-2-A-1-H (LRC) covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds for Province of Laguna, Calamba Branch. The aforesaid property is situated at Brgy. Tuntungin, Los Baños, Laguna with an area of Nineteen Thousand Seven Hundred Fourteen square meters (19,714 sq.m.), more or less. GK-Los Baños Ville Homeowners' Association, Inc. (TIN on the other hand, is a homeowner's organization duly registered with the Housing and Land Use Regulatory Board (HLURB). On December 6, 2011, the parties executed a Deed of Absolute Sale whereby the Landowners, through their Attorney-in-Fact, Celerina F. Cinco, transferred and conveyed Nineteen Thousand Three Hundred Sixty Five and 13/100 square meters (19,365.13 sq.m.) portion of the subject property to GK-Los Baños Ville Homeowners' Association, Inc. for an agreed price of Pesos and . Pursuant to the certification issued by SHFC, 19,365.13 sq.m.

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out of 19,714 sq.m. covered by TCT No. actually comprises a Community Mortgage Program (CMP) Project and shall be proportionately distributed to the association's qualified member-beneficiaries[1]. For this purpose, GK-Los Baños Ville Homeowners' 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 28, 2011.

In support of its request, GK-Los Baños Ville Homeowners' Association, Inc. has completely submitted on March 18, 2016 the following documents:

1) SHFC letter application for tax exemption;
2) Certification of the President of the SHFC that 19,365.13 sq.m. portion of the subject property qualifies and is actually a CMP project;
3) SHFC Letter of Guaranty No. 0746;
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 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 landowners who sold their property for use in a socialized housing project is exempt from the payment of capital gains tax.

Such being the case, the sale by the landowners, through their Attorney-in-Fact, Celerina F. Cinco to GK-Los Baños Ville Homeowners' Association, Inc. of 19,365.13 sq.m. out of 19,714 sq.m. covered by TCT No. is exempt from the capital gains tax.

[1] see Annex for the masterlist of qualified beneficiaries consisting of eight (8) pages

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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 Homeowner's 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 landowners are 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 realty or its fair market value determined in accordance with Section 6 (E) of the said Code, whichever is higher.

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

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 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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