REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

R.A. No. 9904;
R.A. No. 8424;
RMC No. 9-2013;
BIR Ruling No. 399-2013;

Date

AVIDA RESIDENCES STA. ARCADIA HOMEOWNERS ASSOCIATION, INC.
Brgy. Sta. Arcadia, Cabanatuan City, Nueva Ecija

Attention: **ENGR. FLORDELIZA S. MELENDRES**
Property Manager

Gentlemen:

This refers to your letter dated May 13, 2014 requesting for a confirmatory ruling that the **AVIDA RESIDENCES STA. ARCADIA HOMEOWNERS ASSOCIATION, INC.** is entitled to exemption from value-added tax.

Documents submitted disclosed that **AVIDA RESIDENCES STA. ARCADIA HOMEOWNERS ASSOCIATION, INC.**, with Taxpayers Identification No. is a non-stock and non-profit residential homeowners association duly registered with the Housing and Land Use Regulatory Board under Registration No. ; and that the Office of the City Treasurer of the City of Cabanatuan has issued a Certification in favor of **AVIDA RESIDENCES STA. ARCADIA HOMEOWNERS ASSOCIATION, INC.** stating that:

> "is providing basic community services as defined under Section 3(d) of R.A. No. 9904 such as, but not limit to security, street lights; maintenance; repairs and cleaning of streets; garbage collection and disposal; and other similar services.
>
> This is to further certify that these services being provided by the association are not within the budget or not covered by the financial resources of the City of Cabanatuan."

AVIDA RESIDENCES STA. ARCADIA HOMEOWNERS ASSOCIATION, INC. bases its request for exemption from value-added tax on Section 18 of R.A. No. 9904, which provides:

> "**SECTION 18.** ***Relationship with LGUs.*** — Homeowners' associations shall complement, support and strengthen LGUs in

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> 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 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. xxx"

In reply thereto, we regret to inform you that **AVIDA RESIDENCES STA. ARCADIA HOMEOWNERS ASSOCIATION, INC.** does not fall within the purview of those homeowners' associations which may be exempt under Section 18 of RA No. 9904. The requisite qualification that the **city or municipality concerned lacks resources to provide for basic services** being absent from the Certification issued by Office of the City Treasurer of the City of Cabanatuan, your request cannot be granted for lack of factual and legal basis. (*BIR Ruling No. 299-2013 dated November [illegible]*

Consequently, **AVIDA RESIDENCES STA. ARCADIA HOMEOWNERS ASSOCIATION, INC.** shall be subject to the applicable internal revenue taxes on its income from association dues, rentals of their facilities, [illegible] business and other activities. Specifically:

Income Taxes

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code of 1997 on its income collected from association dues, rentals of their facilities, trade, business and other activities from 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 7 1/2% final withholding tax pursuant to Section 24 (B)(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 duly audited, the annual information return under oath, stating its gross income and expenses 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 sources and disposition of income.

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Value-Added Tax or Percentage Tax

Likewise, **AVIDA RESIDENCES STA. ARCADIA HOMEOWNERS ASSOCIATION, INC.**'s gross receipts from operations derived from association dues, rentals of their facilities, trade, business and other activities shall be subject to the 12% VAT imposed under Sections 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(W) of the same Code if the gross sales or receipts from such sale of goods and services do not exceed One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00).

It should be understood that **AVIDA RESIDENCES STA. ARCADIA 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.

Finally, **AVIDA RESIDENCES STA. ARCADIA 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.

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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