



*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
L. FISINAN I MAGA'LAHI  
AGANA, GUAM 96910 U.S.A.

OCT 26 1988

The Honorable Franklin J.A. Quitugua  
Speaker, 19th Guam Legislature  
PO Box CB-1  
Agana, GU 96910

Dear Mr. Speaker:

I am pleased to transmit herewith Bill No. 533, which I have this date signed into law as Public Law 19-29.

Section 1 of this bill authorizes the sale of three Agana fractional lots to Melchoir Martinez at acquisition cost plus 25% administrative cost. The transaction has been approved by the Department of Land Management and meets with my approval as well.

Sections 2, 3 and 4, meanwhile, involves the rezoning of properties in Sinajana (Pago Bay) and Agana Heights. As you know, the rezoning had been approved by the Territorial Planning Commission in 1986; this legislation ensures that the owners are protected from changes in the midst of developing their property.

I have been informed that there is a technical flaw in the language of Section 3 of this bill. Judge Janet Healy Weeks has ruled that the phrase "Notwithstanding any other provision of law, rule of regulation to the contrary" creates a nullity. Since this Section serves as insurance to the owners and is not really vital, it probably doesn't affect it. However, I would respectfully suggest the language be amended at the Legislature's earliest opportunity in order to avoid conflict.

Overall, I am pleased with the scope of Bill No. 533 and am pleased to sign it into law as Public Law 19-29.

Sincerely,

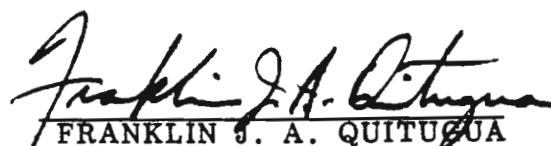
A handwritten signature in cursive script that reads 'Joseph F. Ada'.

JOSEPH F. ADA  
Governor


NINETEENTH GUAM LEGISLATURE  
1988 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

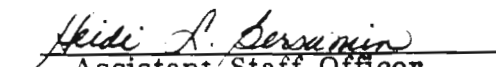
This is to certify that Substitute Bill No. 533, "AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO SELL LOT NOS. 13, 14, AND 19 ON BLOCK NO. 24 TO MELCHOIR MARTINEZ AND TO REZONE LOT NOS. 3329-1-4-R1 AND 3329-1-R4, SINAJANA FROM 'R-1' TO 'R-2'," was on the 7th day of October, 1988, duly and regularly passed.

  
FRANKLIN J. A. QUITUQUA  
Speaker

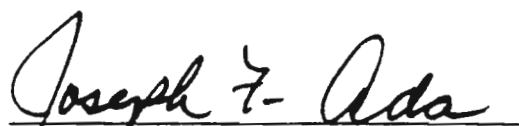
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 14<sup>th</sup> day of Oct, 1988,  
at 12:00 o'clock p.m.

  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

Date: October 26, 1988

Public Law No. 19-29

NINETEENTH GUAM LEGISLATURE  
1988 (SECOND) Regular Session

Substitute Bill No. 533  
As Substituted by  
the Committee on Rules

Introduced by:

F. R. Santos  
T. S. Nelson  
F. J. A. Quitugua

---

J. T. San Agustin  
D. Parkinson  
A. J. Shelton  
P. C. Lujan  
E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
F. J. Gutierrez  
M. K. Hartsock

AN ACT TO AUTHORIZE THE GOVERNOR OF  
GUAM TO SELL LOT NOS. 13, 14, AND 19  
ON BLOCK NO. 24 TO MELCHOIR MARTINEZ  
AND TO REZONE LOT NOS. 3329-1-4-R1 AND  
3329-1-R4, SINAJANA FROM "R-1" TO "R-2".

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. The Governor of Guam is hereby authorized to sell Lots  
3 Nos. 13, 14, and 19 of Block No. 24, New Agana, Guam, containing a total  
4 area of 1,507.43 square meters, as show on Land Management Map Drawing  
5 No. C-23, at acquisition cost plus an additional 25% fee for administrative  
6 services to the qualified applicant, Melchoir Martinez.

7 Section 2. Lot No. 3329-1-4-R1 and Lot No. 3329-1-R4, in the  
8 Municipality of Sinajana, Guam are hereby rezoned from R-1 (Single Family  
9 Dwelling) to R-2 (Multiple Family Dwelling).

10 Section 3. Notwithstanding any other provision of law, rule or  
11 regulation to the contrary, Lot No. 27-4 in the Municipality of Agana  
12 Heights as shown on Land Management Drawing No. F3-67534 is rezoned  
13 from "R-1" (Single Family Dwelling) to "R-2" (Multiple Family Dwelling).

1           Section 4. Any adjacent property owner affected by the rezoning in  
2 this Act, and not more than ninety (90) days after the effective date of  
3 this Act, may notify the Territorial Planning Commission that he desires  
4 that the area where his land is situated remain zoned as it is.

NINETEENTH GUAM LEGISLATURE

ROLL CALL SHEET

Bill No. 535

DATE: 7/11

Res. No. \_\_\_\_\_

QUESTION: \_\_\_\_\_

SENATOR	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
<u>E. P. Arriola</u>	✓			
<u>J. G. Bamba</u>			✓	
<u>M. Z. Bordallo</u>	✓			
<u>H. D. Dierking</u>	✓			
<u>E. R. Duenas</u>			✓	
<u>E. M. Espaldon</u>			✓	
<u>F. J. Gutierrez</u>	✓			
<u>M. K. Hartsock</u>	✓			
<del>XXXXXXXXXXXX</del>	<del>✓</del>	<del>✓</del>	<del>✓</del>	<del>✓</del>
<u>P. C. Lujan</u>	✓			
<u>M. D. A. Manibusan</u>			✓	
<u>J. G. Miles</u>			✓	
<u>T. S. Nelson</u>	✓			
<u>D. Parkinson</u>	✓			
<del>XXXXXXXXXXXX</del>	<del>✓</del>	<del>✓</del>	<del>✓</del>	<del>✓</del>
<u>F. J. Quitugua</u>	✓			
<u>J. M. Rivera</u>			✓	
<u>M. C. Ruth</u>			✓	
<u>J. T. San Agustin</u>	✓			
<u>F. R. Santos</u>	✓			
<u>A. J. Shelton II</u>	✓			
	12		7	



# Nineteenth Guam Legislature

P.O. Box CB-1  
Agana, Guam H.S.A. 96910

SENATOR F. R. SANTOS

CHAIRMAN  
Committee on Housing  
& Community Development

VICE-CHAIRMAN  
Committee on Health, Welfare  
& Ecology  
Committee on Justice, Judiciary  
& Criminal Justice

September 11, 1987

The Honorable Franklin J.A. Quitugua  
Speaker, 19th Guam Legislature  
P.O. BOX CB-1  
Agana, Guam 96910

VIA: Chairman, Committee on Rules

Dear Mr. Speaker:

The Committee on Housing and Community Development to which was referred Bill 533, wish to report their findings and their recommendations TO PASS SUBSTITUTE BILL 533.

The Committee Voting Record is as follows:

TO PASS	<u>8</u>
TO NOT PASS	<u>          </u>
ABSTAIN	<u>          </u>
TO REPORT OUT	<u>1</u>
OFF-ISLAND	<u>          </u>

A copy of the Committees Report and all pertinent documents are attached for your information.

Sincerely,

F. R. SANTOS

ATTACHMENT



# Nineteenth Guam Legislature

P.O. Box CB-1

Agana, Guam H.S.A. 96910

## Voting Sheet

An act to authorize the Governor of Guam to sell Lot Nos. 13, 14 and 19 on Block No. 24, New Agana to Melchior Martinez and to rezone Lot Nos 3329-1-4-R1 and 3329-1-R4, Chalan Pago from "R1" to "R2".

### MEMBERS

TO  
DO PASS

TO  
NOT PASS

ABSTAIN

OFF  
ISLAND

TO  
REPORT (

*[Signature]*  
ATOR FRANK R. SANTOS

*[Signature]*  
ATOR PILAR LUJAN  
CE-CHAIRPERSON

*[Signature]*  
ATOR TED S. NELSON

*[Signature]*  
ATOR JOE T. SAN AGUSTIN

*[Signature]*  
ATOR ELIZABETH P. ARRIOLA

*[Signature]*  
ATOR HERMINIA DIERLING

ATOR PEDRO SANCHEZ

*[Signature]*  
ATOR JIM MILES

*[Signature]*  
ATOR MARTHA RUTH

*[Signature]*  
ATOR ERNESTO ESPALDON

NINETEENTH GUAM LEGISLATURE  
1987 (First) Regular Session

Substitute Bill No. 533  
(Substitute Bill by Committee)

Introduced by:

---

F. R. Santos

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO SELL  
LOT NOS. 13, 14, AND 19 ON BLOCK NO. 24, NEW AGANA  
TO MELCHIOR MARTINEZ AND TO REZONE LOT NOS 3329-1-4-R1  
AND 3329-1-R4, CHALAN PAGO FROM "R-1" TO "R-2".

Section 1. The Governor of Guam is hereby authorized  
to sell Lot Nos. 13, 14, and 19 of Block No. 24, New Agana,  
Territory of Guam, containing a total area of 1,507.43 square  
meters as shown on Land Management Map Drawing No. C-23,  
at acquisition cost plus an additional 25% fee for administrative  
services to the qualified applicant, Melchior Martinez.

Section 2. Lot No. 3329-1-4-R1 and Lot No. 3329-1-R4,  
in the Municipality of Chalan Pago, are hereby rezoned from  
R-1 (Single Family Dwelling) to R-2 (Multiple Family Dwelling).



JUL 23 '87

BILL NO. 533(LS)

INTRODUCED BY:

F.R. SANTOS  
*F.R. Santos*

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM  
TO SELL LOT NOS. 13,14 AND 19 ON BLOCK  
NO. 24, NEW AGANA TO MECHIOR MARTINEZ.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

SECTION 1. The Governor of Guam is hereby authorized to sell Lot Nos. 13,14 and 19 of BLOCK No. 24, New Agana, Territory of Guam, containing a total area of 1,507.43 square meters as shown on Land Management map drawing No. C-23, at acquisition cost plus an additional 25% fee for administrative services to the qualified applicant, Melchior Martinez.

The Agana Fractional Lot Program (AFLP) was originated by the Naval Govt. prior to 1965. According to Joe Cruz of Land Management, it was established in 1945. The AFLP involved the condemnation of substandard Agana lots, totalling about 40,000 square meters, their consolidation and enlargement into new lots, and the sale of the new lots to the private sector, priority being given to former lot owners. Order of priorities can be found in Title XIV, Chapter VI, § 13509 of the Govt. Code of Guam (Vol. II). The objective of the program was to encourage economic development on the island. This program was also the subject of a Dept of Interior Inspector General review, protesting the sale of lots at less than fair market value.

On page 6 the I.G. draft report states:

"Some 20 years later, GovGuam still owns almost half of the land acquired under the program because it did not actively try to sell the lots. Instead, GovGuam waited for applications from the former owners to purchase the lots since they had priority entitlements. Hence, growth and development continue, not to progress in these areas of Agana.

One practice followed by Dept. of Land Management has been to give first priority to lot owners who owned the largest portion contiguous to or within any single new lots created.

To assist in the effort to redevelop Agana, Joe Cruz said that the U.S. Congress appropriated \$550,000 in 1966. Following that appropriation, the Agana Revolving Fund was established.

---

Fair Market Value v. Acquisition Cost and Administrative Service Fee

Senator Martha Ruth questioned DLM's practice of selling Agana govt. properties at less than fair market value. Administrator of Public Lands at DLM, Joe Cruz, explained that the Agana properties involved in the sale to Mr. Martinez was part of the Agana Fractional Lot Program. Although several administrations had attempted to charge fair market value to former Agana lot owners affected by the AFLP, one case, involving Francis & Yuklan Moylan, established the precedent of setting the sales price at the condemned price plus administrative costs. It is recorded in DLM memoranda that, in a pretrial conference (attended by the DLM Land Administrator, the A.G.'s office, attorney representing the Moylans & the Moylans ), Judge Duenas was quoted as saying that because of dilatory action on the part of GovGuam, the applicant/purchaser could not be penalized and therefore, the price should be set on the condemned price, plus certain administrative costs.

DLM Director, Frank Castro, stated that it was his opinion that Mr. Martinez should be sold the three lots at the rate at which he was paid when his property was condemned. He was careful to distinguish his personal opinion from that of the Administration's which is the same as the I.G.'s, i.e. to sell at fair market value.

Scope of Legislative Authority

Chairman Santos asked what the fair market value was of the three lots to be sold to Mr. Martinez and was told it was running at the rate of \$145 a square meter, approximately \$105 more than the condemnation price, which was about \$40 per square meter.

Scope of Legislative Authority (Cont'd)

Senator Nelson asked the rhetorical question of whether the legislature had the authority to establish the purchase price arbitrarily. He also asked the reason for the delay in handling Mr. Martinez' application and was told by Joe Cruz that each Administration differed in their opinion as to the proper way to handle such cases. Both Cruz and Castro of DLM emphasized the injustice of charging Melchior Martinez fair market value since all other landowners, who previously exercised their priority to purchase under the AFLP, were charged acquisition cost plus administrative cost. This is a question of equity or equitable treatment among people of like situation.

Inconsistency of the Condemnation Process

Applicant/purchaser Martinez originally asked to purchase lots 13, 14, 19, and 20. However, there was questionable ownership of lots 19 & 20, so he was granted permission to purchase lots 13 and 14 only originally. After a survey conducted by DLM, it was discovered that the Cristobal family, which was thought to have owned portions of both lots 19 & 20 did not have any ownership rights regarding lot 19; subsequently, applicant was granted permission to purchase lot 19 as well. It turns out that the Cristobal property was originally planned for condemnation but by some freak oversight was never condemned.

---

COMMITTEE RECOMMENDATION

The total land area, belonging to Mr. Martinez that was condemned by the Government of Guam, amounted to 668.82 square meters, for which he received compensation in the amount of \$26,653. After enlargement of the lots involved, MR. Martinez has priority to purchase 1,507.43 square meters at the rate of \$40 per square meters, amounting to a sum, including 25% administrative costs, of \$75,371.50.

Because of the fact that more than half of the land areas involved in the Agana Fractional Lot Program have been sold using the formula of acquisition cost plus administrative costs, the Committee decided to follow established precedent rather than charging fair market value. The inequity of charging the early purchasers acquisition cost plus administrative costs and the later purchasers fair market value figured in largely on this Committee's recommendation. Another factor taken into consideration by the Committee was the dilatory manner in which GovGuam carried out the Agana Fractional Lot Program. Non-uniformity of procedure was again another consideration.

In summary, all factors considered ---equitable principles, dilatory action by GovGuam, the questionability of GovGuam's authority initially to condemn property in excess of needs for public purposes--- the Committee recommends that , despite the loss of \$143,205.85 to GovGuam resulting from this particular transaction, Mr. Martinez be allowed to purchase 1,507.43 square meters at acquisition cost plus administrative costs.

---

Introduced

NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

JUL 23 '87

BILL NO. 533(15)

INTRODUCED BY:

F.R.SANTOS

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM  
TO SELL LOT NOS. 13,14 AND 19 ON BLOCK  
NO. 24, NEW AGANA TO MECHIOR MARTINEZ.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

SECTION 1. The Governor of Guam is hereby authorized to sell Lot Nos. 13,14 and 19 of BLOCK No. 24, New Agana, Territory of Guam, containing a total area of 1,507.43 square meters as shown on Land Management map drawing No. C-23, at acquisition cost plus an additional 25% fee for administrative services to the qualified applicant, Melchior Martinez.

TRANSCRIPT OF PUBLIC HEARING

Committee on Housing & Community Development  
August 10, 1987

Santos : ...and authorizing the conveyance of a certain govt. of Guam land in the municipality of Barrigada & a commercial lease from the Govt. of Guam to Mr. Terlaje & another corporation, namely the Conrad & Sam Corporation. Sitting on my immediate right is Sen. Ted Nelson & on my immediate left is Sen. Martha Ruth. Representing the Administration is the Director, Mr. Frank Castro, together with the Administrator, <sup>of land</sup> Mr. Joe Cruz and the applicant on Bill 533, Mr. Melchior Martinez. We're talking on Bill 533.

Castro: Mr. Chairman, you will note on record that in prior times we have drafted legislative bills calling for the favorable transfer of the lands to Mr. Martinez based on the condemnation costs at the time. I would also like to cite that <sup>back</sup> /in 1986, Mr. Rufo Lujan, who was then the director of Land Management wrote a letter to Mr. Martinez, citing that the land will be sold at the fair market value as of the time. That needed Mr. Martinez' concurrence, which was never obtained. I, for one, support the concept that the lands should be sold to Mr. Martinez on the basis of the... as of the time that the condemnation was made plus of course administrative costs. Joe Cruz, who's <sup>public lands</sup> the     /     Administrator is more familiar with this case. I would like to ask him to make an input into that statement.

Santos: So you are recommending that Mr. Martinez be sold this

---

piece of property, consisting of ...

Castro: Personally/<sup>speaking</sup> Mr. Chairman, I favor that although I must clearly indicate that the present Administration, in its concept, based on the federal comptroller's recommendation that the land be sold on the fair market value of today. That's the front office position. I'm only stating my views as an individual. I cannot see why we should charge Mr. Martinez with today's market value, when in fact, it's really the govt.'s fault that this case lasted this long. It should have been settled years ago. I don't think that Mr. Martinez should be penalized for that inaction by the govt. That's my position.

Santos: Frank, for the record, what is /<sup>today's</sup> fair market value on the property in question, Lots 13, 14 and 19 of Block 24 in Agana? What is the fair market value on this piece of property?

Castro: It's indicated at \$145 per square meter.

Santos: This is today's price? \$145 per square meter?

Castro: That's right.

Santos: What was the cost per square meter then? At the time of the taking.

Castro: In the neighborhood of \$40 per square meter.

Santos: That's about \$100 difference. Let's assume that...

Castro: About \$105 above...

I would like to comment that other/<sup>sales</sup> transactions has been based on the condemnation price & it would really be an injustice to turn around and sell Mr. Martinez for something that he is not guilty of, charge him with



today's market value. This, Mr. Chairman, I like to clarify that this is my own

Santos: Your own personal feeling, not necessarily representing the Administration's. & the Administration's position is that Mr. Martinez should be sold at \$145 per square meter, at today's fair market value. That's the Administration's position.

Castro: Yes.

Nelson: Frank, last year we were conveying Agana lots for \$14, \$15 per square meter?

Cruz: They were based on the condemned price, always on the condemned price.

Nelson: What was that? For example, Moylan, because I think that's the last transactions.

Cruz: I'm not sure whether it's Moylan or Calvo's, Paul Calvo's last transaction. Anyway, nevertheless, in Calvo's, which is also situated in the same lot / <sup>with Mr.</sup> Martinez', we sold it at a condemned price plus administrative costs, which was \$40 at that point. In the Moylan's family also, we sold them at condemned price plus administrative cost.

Nelson: Which was how much?

Cruz: Which is \$37 & \$12-\$13 in the back part. Let me stress the case of Moylan's. It was even challenged by the Governor, former Governor Bordallo that point regarding the sales, regarding the value, even the previous directors during Calvo's administration challenged the value & wanted to raise it higher than the condemned price. Unfortunately, Moylan took it to Judge Duenas & we appeared

---

before Judge Duenas & one person from the A.G.'s office  
Judge Duenas specifically stated  
(inaudible)./that because of govt. delay of the transaction,  
the applicant should not be penalized, therefore, the price  
should be sold at the price at which it was condemned &  
whatever administrative costs applied.

Nelson: Was that true in the Calvo's case?

Cruz: That was also true of Calvo's case, the condemned...  
every transaction

Nelson: How about...I'm trying to find out on Mr. Martinez, I  
remember this was way back since the 18th, I believe

Cruz: 73 it's condemned, right.

Nelson: And what are you suggesting, for Mr. Martinez to buy  
this lot now?

Cruz: No. The Gentleman has been dropping in in our office  
practically every administration. Unfortunately,  
management failed to finalize the request made by  
Mr. Melchoir Martinez and when we reached the point of  
finalizing it, we keep bouncing back and forth between  
the administration, the governor's office, and the  
department, with respect to Mr. Martinez's case.

Nelson: Why? Why was he treated in such a manner?

Cruz: Different staff of the Governor's Office has different  
sense of direction of how it should be handled. I  
recollect one time Lisa Castro, legal counsel for  
Governor Bordallo at that point, recommended that the  
matter should be forwarded to the hands of the Attorney  
General and handled by the Attorney General, and all this  
delay...

Nelson: Prior to Lisa, who was handling it in Governor Calvo's?

Cruz: Pardon me.

Nelson: Prior to Lisa Castro, who was handling it during Calvo's administration?

Cruz: I'm not certain who was the legal counsel at that point during...Oh, you mean during our administration...

Nelson: But they were involved? They were involved also?

Cruz: I think Governor Calvo's transaction was completed during Bordallo's..

Nelson: No, no, I'm talking during Calvo's administration, was Mr. Martinez there pounding on our doors to...

Cruz: Well, it's at that point, Mr. Pablo was the director also, and I was his deputy director.

Nelson: Alright. Now what I'm trying to get out Mr. Cruz, and Frank and Mr. Castro, is that if there's a history of the failure of the government to close this transaction, I don't believe that we should penalize the individual.

Cruz: That's our position at this point, senator. Unfortunately, Rufo Lujan was the director at that point disagreed with our position even to the point there's a written memorandum to Governor Bordallo regarding another particular case, Elaine Nauta, and Moylan's case, in relation to this, it was a similar case. Apparently, management refused to listen to us.

Nelson: Alright. Nauta case is how much per square meter?

Cruz: Condemned price also and at that point even Governor Bordallo rejected that.

Nelson: Alright. So just one question. Do we senators here have

Nelson: the authority to stipulate what price Martinez shall purchase the property?

Cruz: Certainly the senators have that authority over everything.

Nelson: I just want to make sure.

Cruz: You're the ones passing the bill.

Nelson: I think, Mr. Chairman, knowing the history now briefly and, of course, we have all kinds of documents before me, and I know we have been working on this since the last two terms, and I know Mike has been upset many times, I know this was up in the 18th under a different committee, different chairperson, but I don't know what happened then. But this being the case, I, would \$40 be acceptable, will it be just?

Cruz: Actually, in all fairness, senator, we wanted to dispose of the block system. At the same price that we give the other person the opportunity.

Nelson: Exactly.

Cruz: I think that's our concept here. We even argued to the Attorney General regarding that matter, with respect to the auditor's point of view.

Nelson: Mike, would \$40 be acceptable?

Martinez: Oh, yeah.

Nelson: Mr. Chairman, I set a...that's my position now and like I said I've been following this up for three or four years and with your support now, you being the chairman, perhaps it will be smooth sailing all the way through. I suggest that perhaps we transact this property to

---

Nelson: Mr. Martinez for at least \$40.

Castro: Senator, I would like to add, don't forget the 25% administrative cost. That has to be slapped on top of that.

Santos: Although Mike is our good friend, by the same token, we have a responsibility for this government if there's some administrative cost, that has to be considered. I'm sure the difference between \$145, the prevailing cost per square meter now, to that of the \$45 or \$50, that's about..pretty substantial...Senator Ruth.

Ruth: Thank you, Mr. Chairman. Mr. Castro, you said that personally you feel that Mr. Martinez should be sold the property at the price that was quoted to him then. What is your professional opinion? I mean perhaps the government may have erred in becoming too lax and selling the property at the time. On the other hand, we're not in the business of just selling land at prices of a year ago, ten years ago, or..you know, it seems like the people of Guam are crying to be paid land prices at fair market value, yet they turn around to attempt to buy government property at prices of some time ago...so based on the government's mistakes, I think it's inequitable for the government to sell the property at that price..so I wanted to know what your professional opinion was as a land manager.

Castro: My position on that, senator, is that this matter could have been settled with Mr. Martinez years ago.

Ruth: But it wasn't, that's the point.

---

Castro: And I don't think that we should penalize him for those delays. Secondly, that we have transacted quite a number of cases in the vicinity charging them for the price of the condemnation price. I don't think that it's appropriate to turn around and charge Mr. Martinez for the fair market value singling him out among the group. That's just how I see it and from a professional standpoint of view, I felt that we should sell him too for the same price.

Ruth: Singling him out from what group?

Castro: We have sold people at the condemned price plus the 25% administrative cost.

Ruth: Right, but they're condemned prices of today, not of last year, right?

Cruz: They're all the same. The time of the taking of this property is 1970. Everyone was condemned at that price. So what Mr. Castro is saying that the two transactions in that block system was given the expeditious actions of selling it back to them at a \$40, at the condemnation price. And I don't think it's fairly, grossly unjust to Mr. Martinez due to the inaction of the government by prolonging the transaction to be conveyed to him and this is our point, our direction, our petition..I could see the idea of selling it on a market today if that parcel was never condemned or that was not within the block system. When others were given the opportunity and they speeded up the processing of selling it to them at the condemned price, now Mr. Martinez's case has been dragged

---

Cruz: so many years due to the inaction of the department or the government, let's say. And he shouldn't be punished and this is what I indicated earlier with respect to Moylan's case. When during Calvo's administration the director wanted to raise the price other than the condemned price and unfortunately Mr. Moylan brought us before Judge Duenas on the matter and Judge Duenas indicated that because of the government delay of selling the property to the applicant the applicant shouldn't be penalized at the point of time. And we are stressing that point even to Governor Bordallo on a certain case, Elaine Cruz, Elaine Nauta. And even the Attorney General Opper also wanted to change it but I keep sending them memorandums indicating...

Ruth: So the mistake is condemning the land and setting a price at that time when your department or whoever's supposed to approve it doesn't do anything about it, right. So has land management learned not to set prices on these pieces of property? Because you're not, I don't think the department then is looking out for the interests of the people of Guam and looking out for the interests of government land if you're setting prices arbitrarily because it was condemned at that time. Yet you don't know when the property would be sold or...and then you have to quote this case of Moylan vs. Guam.

Cruz: Senator, this program was so-called special program that was initiated in 1945 by the Navy with intent to consolidate the fractional lot so that it'd be better

---

Cruz: useful lot configuration is established and economically use at that point. And that's why even the Federal appropriated \$550,000 at that point for the rehabilitation of fractional lot block system. And the intent there is to sell it back to the owner within that property.

Ruth: So if you refer to the map, that's this one here, Lot 13, 14, and 19. Can you tell me what existing lots Mr. Martinez owns? Without asking Mr. Martinez himself.

Cruz: We forgot the analysis but Mr. Martinez owns 151, 152, 166,

Ruth: Where are you?

Cruz: We have the listing, condemnation listing.

Ruth: I'm referring to the map that is attached to the exhibit.

Cruz: That map is not clear. That's just a general location. We have a better map here.

Ruth: So I don't know why this was submitted if it's not clear.

Cruz: It should be attached with an overlay map or fractional lot.

Santos: The attachments all came from your department. We didn't get it at Minondo River.

Ruth: Mr. Chairman, what he's saying is that what we have is not clear, not good enough so this is what..

Santos: That's the clear one now.

Ruth: Apparently, I would like to know which lots Mr. Martinez currently owns according to your records. Do they wrap around 13, 14 and 19? The yellow spots are Mr. Martinez's property? So you own one lot on one side of the street and two lots, or rather trying to get one lot. So the

---



Ruth: Government of Guam property basically surrounds your property.

Martinez: I have two lots on the other side of the street and one lot..

Cruz: When you say government property, you've not considering property condemned, only originally owned by the government.

Ruth: Condemned, yes.

Cruz: It's all condemned property now. If you want to consider that all government land now, that's

Ruth: So he owns the center of

Cruz: All those that are color-coded, yes. That's original lot.

Ruth: And he's trying to get these three: 19, 13 and 14. Who is this 20?

Cruz: I think If I'm not mistaken, Cristobal.

Ruth: According to Mr. Rufo Lujan's letter, it,his approval was incumbent on whether Mr. Martinez will be able to obtain lot 20.

Cruz: That was an error on our part when the survey completed the severance map, it was determined that Cristobal was not involved on the 19th. It was totally an error on the letter of transmittal.

Ruth: Well, whether or not he owns part of 19, that's fine. We can establish that. How about 20? He still owns 20, right? So there is a letter from Mr. Lujan that says that there is a slight problem.

Cruz: Well, on the 19 and 20, but on the 19 there is no problem.

Ruth: Forget 19.. How about the 20? Is the problem resolved?

Cruz: 20 still belongs to Cristobal. He hasn't shown up to

---

Cruz: request to purchase any of the remaining lots within that new lot.

Santos: Was the Cristobal property condemned?

Cruz: No, it was an oversight again.

Santos: How did all the contiguous lots ~~were~~ condemned and not the Cristobal property?

Cruz: That's a good question, senator. We are unable to answer that at this point.

Santos: Isn't that unusual?

Cruz: Probably just an oversight of the department when they start listing out...

Santos: Isn't all the movement then to condemn all fractional lots?

Cruz: Right, true. However, there's an exception in the past policy of the department that if there is a structure on that particular parcel, they will not condemn that structure.

Santos: There were also structures on another piece of property that were condemned.

Cruz: Which one?

Santos: Right in that particular area in Anigua.

Cruz: In the block system?

Santos: Isn't there one?

Cruz: Not in 24. Not on block 24.

Santos: So all the properties surrounding the Mr. Martinez property were condemned with the exception of the Cristobal property and that's an oversight of this government.

Cruz: No. Not only Cristobal. There's another two fractional

---

Cruz: lots there..I'm not sure...that we're not included in the condemnation also. There's another party there involved that were not included in the condemnation. I can't recollect at this point...if I'm not mistaken, there's three parcels in the block 24. As a matter of fact, I drafted up a memorandum to amend the condemnation. Fortunately, it didn't go through as far as amending the condemnation.

Nelson: Let me just inject something here. What's the status of 85-6 Executive Order? Has it been repealed by Governor Ada or..

Cruz: Is that the commercial list?

Nelson: Yes. No, just in passing, I need that information.

Cruz: No, not to my knowledge, it's not been repealed. It's still ongoing. As a matter of fact, there's an amendment to that and the Attorney General hasn't seen the amendments yet, with respect to Governor Ada's approval.

Nelson: Okay, that's another matter but...other than that, Mr. Chairman, I..

Santos: Do you have anything to say? Alright, then it's the position of the administration then that the Mr. Martinez will be sold at the time of condemnation plus administrative costs and not that of the prevailing rate...That's the recommendation.

Castro: That's our position, senator..

Cruz: That's the department's not the administration's...

Santos: But you are representing them... send us your position and then we'll take a look....alright, anything else

---

Santos: Mr. Martinez? Alright, thank you very much for your presence. And we'll consider that Bill No.533 is duly given a public hearing and Mike, we know that you're very busy and thank you for coming in.

---

*Sp/1/10*  
*Sam*  
*Juan*  
*[Signature]*

August 19, 1986

Mr. Melchoir Martinez  
P.O. Box 21803  
GME, Guam 96921

Dear Mr. Martinez:

This office has just completed its review of your request to purchase Lots 13, 14, 19 and 20 of Block 24, New Agana.

In this regard, I have determined that Lots 13 and 14 of Block 24, New Agana can be granted favorably to you since your properties reflected that you own the largest size lots. This gives you a paramount priority to purchase said lots. With respect to Lots 19 and 20, there is a slight problem. It was discovered that Lot 140 was inadvertently omitted from the condemnation. Therefore, Lots 19 and 20 of Block 24, New Agana cannot be disposed at this time unless the following action is initiated:

1. Negotiate with the present owner of Lot 140 to sell that portion within Lot 19 and in return to grant favorably Lot 20, Block 24, New Agana. If successful, Lot 19, Block 24, New Agana will be granted favorably to you being the largest size owner.

With respect to the selling price for Lot 13 and 14, Block 24, New Agana, I have concluded the fair market values are as follows:

1. Lot 13, Block 24, New Agana is valued at \$145.00 per square meters.

510.59 s.m.  
x 145.00 per s.m.  
-----  
74036.55 Sub-total (Value)

+ 25% Administrative Cost  
\$18,508.88

\$92,544.43 Grand Total (Value)

2. Lot 14, Block 24, New Agana is valued at \$145.00 per square meters.

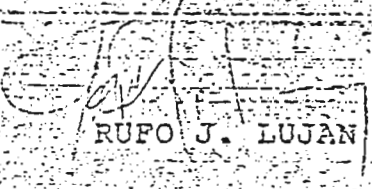
510.97 s.m.  
x 145.00 per s.m.  
74090.65 Sub-total (Value)  
+ 25% Administrative Cost  
\$18,522.66

\$92,613.31 Grand Total (Value)

If you agree of the above, a space is provided below to affix your signature.

Upon affixing your signature, please return a signed copy for our record purposes as well as to initiate further processing. However, should you wish to discuss the matter further, please call my Secretary, Mrs. Carmen Dela Cruz at 472-8851 thru 472-8854 to set an appointment of our meeting.

Sincerely yours,

  
RUFINO J. LUJAN

AGREED: \_\_\_\_\_

\_\_\_\_\_  
MELCHOIR MARTINEZ

DATE: \_\_\_\_\_

Attachment

FILED  
District Court of Guam  
Agana, Guam

AUG 10 1973

IN THE DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

*[Signature]*  
CLERK

THE GOVERNMENT OF GUAM,  
Plaintiff,

vs.

CIVIL CASE NO. 1140

4,966.20 SQUARE METERS OF LAND,  
MORE OR LESS, SITUATED IN AGANA,  
GUAM, and TOMAS SANTOS TANAKA,  
ET AL., and UNKNOWN OWNERS,

Defendants.

NOTICE OF CONDEMNATION

TO: THE DEFENDANTS NAMED IN SCHEDULE A,  
ATTACHED TO AND MADE A PART HEREOF,  
and all other persons unknown  
claiming any estate, right, title or  
lien in, to, or upon the real  
property hereinafter described, or any  
part thereof, and to all to whom it  
may concern:

You are hereby notified that a Complaint in Condemnation  
and a Declaration of Taking have heretofore been filed in the office  
of the Clerk of the District Court of Guam, in Agana, Guam, for the  
taking of title in fee to the lands described in Exhibit A, and  
delineated on Exhibit B, attached to and made a part of the Complaint  
filed herein, for public use for promotion of the economic develop-  
ment of Guam, particularly the economic, aesthetic, and community  
development of Agana, the capital city of Guam, by consolidating  
and making usable, lots in Agana presently in multiple and fractional  
ownerships.

The authority for the taking is the Act of Congress approved  
November 4, 1963 (Public Law 38-170), the Act of Congress approved  
June 28, 1965 (Public Law 89-52), Section 1001 of the Civil Code of  
Guam, and the Act of the Guam Legislature approved March 9, 1965  
(Public Law 3-14).

You are further notified that if you desire to present  
any objection or defense to the taking of your property you are

AUG 24 1973

IN THE DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

*Edward L. G. Aguon*  
CLERK

148-73

THE GOVERNMENT OF GUAM,  
  
Plaintiff,  
  
vs.  
  
4,966.20 SQUARE METERS OF LAND,  
MORE OR LESS, SITUATED IN AGANA,  
GUAM, and TOMAS SANTOS TANAKA,  
ET AL, and UNKNOWN OWNERS,  
  
Defendants.

CIVIL CASE NO. \_\_\_\_\_  
  
CLERK'S RECEIPT OF DEPOSIT

I, EDWARD L. G. AGUON, Clerk of the District Court of Guam do hereby state that on August 10, 1973, I received from the Government of Guam, plaintiff, for deposit into the registry of this Court the sum of \$198,761.00, which is the amount of the estimated compensation for the lands described in a declaration of taking filed in this action, the deposit being made simultaneously with the filing of said declaration of taking, the original complaint herein having been filed on that date.

Dated: August , 1973.

Edward L. G. Aguon  
EDWARD L. G. AGUON  
Clerk, District Court of Guam

By: *Soledad B. Santos*  
SOLEDAD B. SANTOS  
Deputy Clerk, District Court of Guam



AUG 10 1973

*[Signature]*  
CLERK

IN THE DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

THE GOVERNMENT OF GUAM,  
  
Plaintiff,  
  
vs.  
  
4,966.20 SQUARE METERS OF LAND,  
MORE OR LESS, SITUATED IN AGANA,  
GUAM, and TOMAS SANTOS TANAKA,  
ET AL, and UNKNOWN OWNERS,  
  
Defendants.

CIVIL CASE NO 148-7

DECLARATION OF TAKING

WHEREAS, pursuant to the Act of Congress approved November 4 1963 (Public Law 88-170), the Act of Congress approved June 28, 1965 (Public Law 89-52), Section 1001 of the Civil Code of Guam, and the Act of the Guam Legislature approved March 9, 1965 (Public Law 8-14), the above entitled condemnation proceeding was instituted;

NOW, THEREFORE, pursuant to the provisions of Public Law 8-14 of the Guam Legislature, I do hereby make and cause to be filed this Declaration of Taking and by virtue of the authority thereof do hereby state that title in fee simple absolute to 4,966.20 square meters of land, more or less, in the Municipality of Agana, more particularly described in Exhibit A attached to and made a part hereof, are taken for the use and benefit of the Government of Guam. The lands so taken are delineated on Land Management Sketch No. 1106, attached hereto and made a part hereof as Exhibit B.

The use for which the property is to be taken is to promote the economic development of Guam, particularly the economic, aesthetic, and community development of Agana, the capital city of Guam, by consolidating and making usable, lots in Agana presently in multiple and fractional ownerships.

And I hereby state that the sum of money estimated by me to be just compensation for the lands hereby taken is One Hundred Ninety-Eight Thousand Seven Hundred and Sixty-One (\$198,761.00), which amount is herewith deposited in the Registry of the District Court of Guam for the use and benefit of the persons entitled thereto, whose names so far as now known are set out in Schedule A, attached to and made a part of this Declaration.

I am of the opinion that the ultimate award for the taking of these lands will be within the limits prescribed by law.

IN WITNESS WHEREOF, I have signed this Declaration of Taking in the City of Agana, this 9th day of August, 1973.

/s/ Carlos G. Camacho

ATTEST:

/s/ KURT S. MOYLAN

S.W.

N.W.

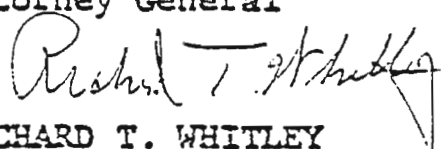


required to serve your answer on the plaintiff's attorney at the address herein designated within twenty (20) days after the date of service for this notice upon you.

Your answer shall identify the property in which you claim to have an interest, state the nature and extent of the interest you claim, and state all of your objections and defenses to the taking of your property. All defenses and objections not so presented are waived. And in case of your failure so to answer the complaint, judgment of condemnation of that part of the above-described property in which you have or claim an interest will be rendered.

But without answering, you may serve on the plaintiff's attorney a notice of appearance designating the property in which you claim to be interested. Thereafter you will receive notice of all proceedings affecting it. At the trial of the issue of just compensation, whether or not you have previously appeared or answered, you may present evidence as to the amount of the compensation to be paid for your property, and you may share in the distribution of the award.

/s/ KEITH L. ANDREWS  
KEITH L. ANDREWS  
Attorney General

  
RICHARD T. WHITLEY  
Assistant Attorney General

Attorneys for Plaintiff  
the Government of Guam

DATED: August 9, 1973

<u>OLD LOT</u>	<u>NEW LOT</u>	<u>OSTENSIBLE OWNERS</u>	<u>METERS AREA</u>	<u>ESTIMATED COMPENSATION</u>
100-1	3-4	Tomas Santos Tanaka	74.00	\$ 2,960.00
101-	3-4	Segundo C. Aguon Eufracia Aguon Adarle Josefa Aguon Denorcy Jesus C. Aguon Isabel Aguon Casten Martina Aguon Basila	101.16	4,046.00
102	3-4	Rita M. Bamba	86.86	3,474.00
104-1	2	Ana C. San Agustin Jesus T. Cruz	69.00	2,760.00
107	1-2	Juan Rosario Chargualaf	343.00	13,732.00
108-1	1	Vicente Unchangco Concepcion	81.00	3,240.00
109-1	1	Vicente Unchangco Concepcion	94.00	3,760.00
110-1	1	Ermete Pelacani H.O.	32.00	1,280.00
112-1	1	Jesus C. Guevara Ana C. Guevara	20.00	800.00
127-1	18-19	Ignacio S. Aguon	8.00	320.00
128-1	19	Antonio Muna Losongco	2.00	80.00
130-1	20	Pedro Lujan Camacho H.O.	11.00	440.00
131-1	22-23	Mongsr. Felixberto C. Flores	18.00	720.00
132-1	23	Paul M. Calvo Rosa B. Calvo	16.00	640.00
133-1	23-24	Vicente Untalan Atoigue	22.00	880.00
134-1	25	Joaquin G. Cruz	21.00	840.00
137	22-23	Agustin I. Laguana Ramona T. Laguana	152.73	6,109.00
138	20-21	Tomas J. Flores Elizabeth D.L. Flores	161.74	6,470.00
141	18-19	Jesus Cruz Aguon	178.49	7,140.00
142	17-18	Juan Mendiola Leon	115.59	4,624.00
143-1	17	Rosa T.P. Salas	115.00	4,600.00
149-1	16-17	Vicente Charsagua Fejerang	96.00	3,920.00
150	15-16	Francisco Cabo Reyes Ignacio Cabo Reyes	165.16	6,606.00
151	14-15	Melchoir V. Martinez	112.32	4,493.00
152	13-14	Melchoir V. Martinez	145.90	5,836.00
153	12-13	Antonio Mendiola Aguon	95.42	3,817.00

CONDENMED PROPERTIES, C.C. #148-73 "Schedule A"  
 PROPERTIES OWNED BY MELCHOIR MARTINEZ

FILED  
District Court of Guam  
Agana, Guam

AUG 10 1973

*E. J. Regan*  
CLERK

IN THE DISTRICT COURT OF GUAM  
TERRITORY OF GUAM

THE GOVERNMENT OF GUAM,  
Plaintiff,

vs.

4,966.20 SQUARE METERS OF LAND,  
MORE OR LESS, SITUATED IN AGANA,  
GUAM, and TOMAS SANTOS TANAKA,  
ET AL., AND UNKNOWN OWNERS,  
Defendants.

CIVIL CASE NO. T48-73

COMPLAINT IN CONDEMNATION

1. This is an action of a civil nature brought by the Government of Guam for the taking of property under the power of eminent domain and for the ascertainment and award of just compensation to the owners and parties in interest.
2. The authority for the taking is the Act of Congress approved November 4, 1963 (Public Law 88-170), the Act of Congress approved June 28, 1965 (Public Law 89-52), Section 1001 of the Civil Code of Guam, and the Act of the Guam Legislature approved March 9, 1965 (Public Law 8-14).
3. The use for which the property is to be taken is to promote the economic development of Guam, particularly the economic, aesthetic, and community development of Agana, the capital city of Guam, by consolidating and making usable, lots in Agana presently in multiple and fractional ownerships.
4. The interest in the property to be taken is titled in fee simple absolute.
5. The property to be taken is described in Exhibit A, attached to and made a part of this complaint, and is delineated on Land Management Sketch No. 1106 attached to and made part of this complaint as Exhibit B.

6. The persons having or claiming interests in the property to be taken, whose names are now known, are set out in Schedule A, attached to and made a part of this complaint.

7. In addition to the persons named, there are or may be others who have or claim an interest in the property to be taken, whose names are unknown to the plaintiff, and such persons are made parties to this action under the designation "UNKNOWN OWNERS".

WHEREFORE, the plaintiff demands judgment that the property herein described be condemned; that just compensation for the taking be ascertained and awarded; and for such other relief as may be lawful and proper.

Dated at Agana, Guam this 9 day of May, 1973.

(S) KEITH L. ANDREWS  
KEITH L. ANDREWS  
Attorney General

*Richard T. Whitley*  
RICHARD T. WHITLEY  
Assistant Attorney General

<u>LOT NO.</u>	<u>OLD LOT</u>	<u>NEW LOT</u>	<u>SQ. METERS</u> <u>AREA</u>
1	100-1	3-4	74.00
2	101-	3-4	101.16
3	102	3-4	86.86
4	104-1	2	69.00
5	107	1-2	343.00
6	108-1	1	81.00
7	109-1	1	94.00
8	110-1	1	32.00
9	112-1	1	20.00
0	127-1	18-19	8.00
1	128-1	19	2.00
2	130-1	20	11.00
3	131-1	22-23	18.00
4	132-1	23	16.00
5	133-1	23-24	22.00
6	134-1	25	21.00
7	137	22-23	152.73
8	138	20-21	161.74
9	141	18-19	178.49
0	142	17-18	115.59
1	143-1	17	115.00
2	149-1	16-17	98.00
3	150	15-16	135.16
4	151	14-15	112.32
5	152	13-14	145.90
6	153	12-13	95.42
7	154	11-12-21	121.44
8	155	11-21-22	62.60
9	161	23-24	139.46
0	163	21-22	179.22
1	164	20-21	197.56
2	165	12-13-20-21	85.44



Block-24- Agaña

Blk Agaña





STREET SOUTH

STREET

CLIFF

DRIVE

ST

9th

ST

10th

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Jose Acosta Reyes  
 Josario Reyes Crisostomo  
 Maria Reyes Guerrero  
 Ignacio Acosta Reyes  
 Josefa Reyes Pablo  
 Joaquina Reyes Pratts  
 Jesus Acosta Reyes  
 Maria Borja Meno  
 Juana Reyes Quichocho  
 Nicolasa Reyes Acosta  
 Barcilisa Reyes Aguon  
 Francisco Q. Reyes  
 Ana Reyes Perez  
 Rosalia Reyes Boyle

155	11-21-22	Vicente M. Perez	62.60	2,504.00
161	23-24	Maria Cruz Borja	139.46	5,578.00
163	21-22	Vicente M. Perez	179.22	7,169.00
164	20-21	Pedro Duenas Camacho	187.54	7,502.00
165	12-13-20-21	Tomas Santos Tanaka	95.44	3,818.00
166	13-14-19-20	Melchoir V. Martinez	319.60	12,784.00
167	17-18	Pilar H. Ada	116.34	4,654.00
169	17	Juan Manibusan Mesa H.O.	60.52	2,421.00
169	17	Mrs. Y.L. Moylan	62.72	2,509.00
170-1	17	Juan Mesa Manibusan H.O.	22.00	880.00
178-1	17	Vicenta Manibusan Aquino Rufina Manibusan Aquino	13.00	520.00
179-1	17	Felicidad Toves Aguon	16.00	640.00
274-1	15-16	Adelina S. San Nicolas Jose S. San Nicolas	117.00	4,680.00
310-1	14	Pilar C. Vilarde 1/2 int. Felix V. Calvo 1/2 int. Finton Phelan Jr.	106.00	4,240.00
311-I-1	13-14	Pilar C. Vilarde Felix V. Calvo Finton Phelan Jr.	31.00	1,240.00
311-2	13-14	Melchoir Martinez	91.00	3,540.00
312-1	11-12-13	Isabel P. Salas Rosa Taisague Quichocho Joaquin Ogo Taisague Jose Ogo Taisague Maria Taisague Blas Jesus Ogo Taisague Juan Ogo Taisague Manuela Ogo Rasmussen Francisco Ogo Taisague	162.00	6,480.00
313-1	11	Dolores Iglesias Leon Guerrero	155.00	6,200.00
314	10	George W.P. Muna	153.33	6,535.00
315	9	Margarita M. Benavente	174.91	6,996.00
316	7-8	Gregorio Perez H.O.	235.66	9,426.00

11. 24 Government of Guam

CONTAINED REPERIES CC # MS 12 ...  
REPERIES OWNED BY MELCHOR MARTINEZ