



*Territory of Guam*

*Territorion Guam*

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

1/20/89

JAN 17 1989

The Honorable Joe T. San Agustin  
Speaker, Twentieth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill 784, which the Governor signed into law on January  
16, 1989 as Public Law 19-53.

Sincerely,


A handwritten signature in black ink, appearing to read "Frank F. Blas", with a long horizontal line extending to the right.

FRANK F. BLAS  
Governor of Guam  
Acting

NINETEENTH GUAM LEGISLATURE  
1988 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 784, "AN ACT TO AMEND SECTION 17102 OF THE GOVERNMENT CODE RELATIVE TO CONDITIONAL LAND USE, AND TO ADD SUBSECTION (h), TO SECTION 138.1 OF THE CIVIL CODE RESPECTING CUSTODY OF CHILDREN," was on the 31st day of December, 1988, duly and regularly passed.

  
FRANKLIN J. A. QUITUZA  
Speaker

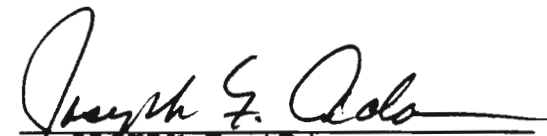
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 1st day of January, 1989,  
at 12:52 o'clock p.m.

  
Katherine A. Maramba  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

Date: JAN 16 1989

Public Law No. 19-53

NINETEENTH GUAM LEGISLATURE  
1988 (SECOND) Regular Session

Bill No. 784  
As amended by the Committee on  
Housing and Community Development  
as further substituted 12/31/88.

Introduced by:

P. C. Lujan  
T. S. Nelson  
E. P. Arriola

---

M. Z. Bordallo  
H. D. Dierking  
E. M. Espaldon  
J. G. Miles  
M. C. Ruth  
J. T. San Agustin

AN ACT TO AMEND SECTION 17102 OF THE  
GOVERNMENT CODE RELATIVE TO  
CONDITIONAL LAND USE, AND TO ADD  
SUBSECTION (h) TO SECTION 138.1 OF THE  
CIVIL CODE RESPECTING CUSTODY OF  
CHILDREN.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:  
2 Section 1. Section 17102 of the Government Code is amended to read:  
3 "Section 17102. Conditional Use. In addition to permitted uses  
4 in each of the zones, specified uses are permitted upon approval by  
5 the Commission of the site plan including, but not limited to, disposal  
6 of sewage, access, parking, structure location and accompanying  
7 covenants that may include performance standards. In any hearing or  
8 meeting on an application for conditional use in each of the zones, the  
9 Commission shall require the applicant to give personal written notice  
10 at least ten (10) days prior to the hearing to property owners within a  
11 radius of five hundred (500) feet or if personal notice is not possible,  
12 then written notice to the last known address of such owner at least  
13 twenty five (25) days by certified mail, return receipt requested. In  
14 addition, the Commission shall require the applicant to erect a sign on  
15 the subject location, no smaller than four (4) feet by eight (8) feet in  
16 height and width, displayed to make the following information available

1 to the general public in a reasonable manner: (a) a Statement of  
2 Public Notice that an application for conditional use has been filed with  
3 the Territorial Planning Commission; (b) the Title of the application as  
4 filed, containing the name of the owner, the name of the developer,  
5 the Lot Number, and the proposed conditional use; and (c) the Date,  
6 Time, and Place of each Public Hearing and Commission meeting where  
7 public comments can be presented to the Commission. The sign shall  
8 be required to be erected and displayed with current information no  
9 less than ten (10) consecutive days prior to each scheduled public  
10 hearing or meeting. The Commission shall not render a decision in  
11 favor of any applicant that fails to comply with this sign requirement  
12 and any other public notice requirement that is prescribed or  
13 imposed."

14 Section 2. A new subsection (h) is added to Section 138.1 of the Civil  
15 Code of Guam, to read as follows:

16 "(h) It is legislative policy that children spend as much time  
17 with each of their parents as possible, when the parents are not living  
18 together. Therefore, in determining visitation of minor children on  
19 Guam with non-custodial parents living on Guam, the court shall, to  
20 the greatest degree possible, order visitation for minor children  
21 (pendente lite and permanently) with non-custodial parents such that  
22 the children spend more or less equal amounts of time with the  
23 custodial parent and the non-custodial parent during non-working,  
24 non-sleeping, non-school time, subject to the following:

25 (1) The proposed visitation is not found by the court, on  
26 evidence presented, to be injurious to the welfare of the child;

27 (2) The non-custodial parent is willing to accept such  
28 visitation;

29 (3) The non-custodial parent is not found by the Court to  
30 be an unfit person to have such visitation;

31 (4) The visitation is not found by the Court to interfere  
32 with the child's schooling;

33 (5) Unless the Court finds that it is not in the best  
34 interests of the child, non-custodial parents or the children's

1 grandparents shall be given consideration in providing child-care  
2 for their minor children or grandchildren, when visitation orders  
3 are prepared;

4 (6) In determining visitation rights under this subsection  
5 (h), the court shall take into account the employment of each  
6 parent and the time the child spends in school or in  
7 extracurricular activities;

8 (7) Based on proof presented, the court may take into  
9 account other factors respecting visitation which would affect the  
10 welfare of the minor child or children;

11 (8) The court may also take into account the time a child  
12 spends with each parent and the expense incident thereto in  
13 awarding child support;

14 (9) The court may make such orders as are appropriate in  
15 carrying out the provisions of this subsection (h);

16 (10) This subsection (h) shall be effective only as to  
17 actions or motions filed after its effective date, and shall not  
18 apply to any actions or motions filed prior to its effective date.  
19 In addition, enactment of this subsection (h) shall not, in and of  
20 itself, constitute a change in circumstances as to warrant the  
21 re-opening of custody proceedings for which orders had been  
22 entered prior to such enactment."

ROLL CALL SHEET

Bill No. 784  
 Res No. \_\_\_\_\_

DATE: 12-31-88

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

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

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# NINETEENTH GUAM LEGISLATURE

163 Chalan Santo Papa  
P.O. Box CB-1  
Agana, Guam 96910  
Tel: 472-3425/3426/3427

August 17, 1988

*Madeleine Z. Bordallo*  
CHAIRPERSON

COMMITTEE ON  
HOUSING & COMMUNITY  
DEVELOPMENT

MEMBER:

Committee on Justice,  
Probation & Criminal Justice

Committee on Youth,  
Human Resources, Senior  
Citizens & Cultural Affairs

Committee on Ways & Means

Committee on General  
Governmental Operations

Committee on Health,  
Welfare & Ecology

Committee on Energy,  
Utilities & Consumer  
Protection

Committee on Rules

Honorable Franklin J. Quitugua  
Speaker, Nineteenth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Housing and Community Development, to which was referred Bill No. 784, "AN ACT TO AMEND §17102 OF THE GOVERNMENT CODE RELATIVE TO CONDITIONAL LAND USE," does recommend that the Bill, as Amended, be passed by the Nineteenth Guam Legislature.

Votes of the Committee Members are as follow:

To Pass	<u>5</u>
To Not Pass	<u>0</u>
To Report Out Only	<u>3</u>
To Place In The Inactive File	<u>0</u>
Abstained	<u>0</u>
Off-Island	<u>1</u>
Not Available	<u>0</u>

Respectfully submitted,

*Madeleine Z. Bordallo*  
MADELEINE Z. BORDALLO

Enclosures

COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

VOTING SHEET

Bill No. 784, As Amended

"AN ACT TO AMEND §17102 OF THE GOVERNMENT  
CODE RELATIVE TO CONDITIONAL LAND USE"

<u>COMMITTEE MEMBER</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO REPORT OUT ONLY</u>	<u>TO PLACE IN INACTIVE FILE</u>
<i>Madeleine Z. Bordallo</i> MADELEINE Z. BORDALLO Chairperson	✓			
<i>Pilar C. Lujan</i> PILAR C. LUJAN Vice-Chairperson	✓			
<i>Elizabeth P. Arriola</i> ELIZABETH P. ARRIOLA Member	✓			
<i>OFF ISLANDS</i> HERMINIA D. DIERKING Member				
<i>Ted S. Nelson</i> TED S. NELSON Member	✓			
<i>Joe T. San Agustin</i> JOE T. SAN AGUSTIN Member			✓	
<i>Ernesto Espaldon</i> ERNESTO ESPALDON Member			✓	
<i>Jim Miles</i> JIM MILES Member	✓			
<i>Martha C. Ruth</i> MARTHA C. RUTH Member			✓	

8-1-88

*JMR*  
8/1/88



COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

COMMITTEE REPORT ON BILL NO. 784, AS AMENDED

"AN ACT TO AMEND §17102 OF THE GOVERNMENT  
CODE RELATIVE TO CONDITIONAL LAND USE"

A Public Hearing on Bill No. 784 was conducted by the Committee on Housing and Community Development on June 6, 1988 at 9:00 a.m. in the Legislative Session Hall.

Committee Members Present: Chairperson Senator Madeleine Z. Bordallo; Vice Chairperson Pilar C. Lujan; Senators Elizabeth P. Arriola, Ted S. Nelson, James Miles, and Martha C. Ruth.

Witnesses Heard: Frank Castro, Acting Director of Land Management; Peter P. Leon Guerrero, Director of Planning (testimony submitted); TPC Members Raymond G. Sablan, Dale G. Hodgson; Rita Franquez.

SUMMARY OF TESTIMONY

All witnesses are in support of Bill No. 784, with amendments.

Acting Director of Land Management Frank Castro requested to amend the bill to include a requirement which will obligate the developer to put up signs (4'x8') on the spot to be developed so that people can be aware of what is being applied for. The sign should include developer's name, the property owner, the lot number, the purpose, type of development, and the time and place of public hearing. With this provision in the bill, it will enhance the method of informing the people that there is an application for conditional use. Mailing and delivery of personal notices have proven not to be very effective. It is the responsibility of the developers to provide the Commission of names of abutting property owners and most times they provide wrong addresses. By putting up the sign, the immediate property owners cannot say that they were not aware.

TPC Member Raymond Sablan requested to amend the bill to extend the perimeter of the requirement of public notice to 500 feet instead of 200 feet.

Dale Hodgson emphasized that with the number of development activities going on at the present time, surrounding land owners should be notified of any development around their area because it will affect their living conditions.

Senator Lujan emphasized that in regards to R-1 zone TPC should examine closely conditional use and variance requests. Any applicant should be required to submit the purpose for which they are asking for conditional use and the use should be granted for just such purpose. As an example, should the conditional use be for a multi-family dwelling, they should not be allowed to rent out the building. It should be clear whether the building is for business or for multi-family dwelling. If the request is for business, and the zoning does not allow for it, the applicant should request for a rezoning and not just variance to build the building. A penalty should be imposed for any violations. A request to correct a mistake after the fact should not be allowed.

Senator Ruth suggested that in the absence of law, the TPC or Department of Land Management might require the developer to put up the sign as proposed by DLM Acting Director. However, Ms. Hodgson stated that a developer can always say that there is no law requiring such a sign.

Rita Franquez stated how she had been adversely affected by a conditional use granted to a lot adjacent to hers. Conditional use do adversely impact on adjacent properties; therefore, no conditional use should be approved unless the adjacent property owners are notified. People work hard to improve their properties, and a conditional use on an adjacent lot can lower the market value of a property, and a conditional use is permanent.

Senator Miles stated that this is a much needed legislation at this time, and should be pushed to be placed on the Session Agenda. The Legislature has to mandate this requirement.

When questioned by Chairperson Bordallo and Senator Miles, DLM Acting Director Frank Castro responded that building permits are sometimes issued by Dept. of Public Works without prior approval of TPC. However, Dept. of Public Works does notify the Dept. of Land Management that a permit has been granted for the foundation phase. Applicants are made aware by Dept. of Land Management whenever there is any deviation from the law.

Chairperson Bordallo stated her intention to continue hearings on zoning law and to request for the presence of Dept. of Public Works Building Permits personnel.

#### COMMITTEE FINDINGS/RECOMMENDATIONS

Suggested amendments to related bills will be incorporated when the bills are discussed on the floor.

The Committee recommends that Bill 784, as Amended, be passed by the Nineteenth Guam Legislature.

#### ATTACHMENTS

1. Committee Voting Sheet on Bill 784, as amended.
2. Bill No. 784, as amended.
3. Bill No. 784, as referred to the Committee.
4. Testimony of Acting Director of Land Management.
5. Testimony of Director of Bureau of Planning.
6. Waiver of Fiscal Note from Bureau of Budget & Management Research.
7. Committee Members Attendance Sheet.
8. Witnesses Attendance Sheet.

NINETEENTH GUAM LEGISLATURE  
1988 (SECOND) REGULAR SESSION

Bill No. 784  
AS AMENDED BY THE COMMITTEE ON  
HOUSING AND COMMUNITY DEVELOPMENT

INTRODUCED BY:

P. C. Lujan *PC*

*F.S. N. [Signature]*

AN ACT TO AMEND SECTION 17102 OF THE GOVERNMENT CODE  
RELATIVE TO CONDITIONAL LAND USE

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

2 Section 1. Section 17102 of the Government Code relative  
3 to conditional land use is amended to read as follows:

4 "Section 17102. Conditional Use. In addition to permitted  
5 uses in each of the zones, specified uses [will be] are  
6 permitted upon approval by the Commission of the site plan  
7 including, but not limited to, disposal of sewage, access,  
8 parking, structure location and accompanying covenants that may  
9 include performance standard. In any hearing or meeting on an  
10 application for conditional use in each of the zones, the  
11 Commission shall require the applicant to give personal written  
12 notice at least ten (10) days prior to the hearing to property  
13 owners within a radius of five hundred (500) feet. In addition,  
14 the Commission shall require the applicant to erect a sign on  
15 the subject location, no smaller than four (4) by eight (8) feet  
16 in height and width, displayed to make the following information  
17 available to the general public in a reasonable manner: (a) a  
18 Statement of Public Notice that an application for conditional  
19 use has been filed with the Territorial Planning Commission;  
20 (b) the Title of the application as filed, containing the name

1 of the owner, the name of the developer, the Lot Number, and the  
2 proposed conditional use; and (c) the Date, Time, and Place of  
3 each Public Hearing and Commission meeting where public comments  
4 can be presented to the Commission. The sign shall be required  
5 to be erected and displayed with current information no less  
6 than ten (10) consecutive days prior to each scheduled public  
7 hearing or meeting. The Commission shall not render a decision  
8 in favor of any applicant that fails to comply with this sign  
9 requirement and any other public notice requirement that is  
10 prescribed or imposed."

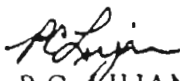
INTRODUCED

MAR 22 '88

NINETEENTH GUAM LEGISLATURE  
1988 (SECOND) Regular Session

Bill No. 704(LS)

Introduced by:

  
P.C. LUJAN

AN ACT TO AMEND §17102 RELATIVE TO  
CONDITIONAL LAND USE.

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

2 Section 1. §17102 relative to conditional land use is amended to read:

3 "Section 17102. Conditional Use. In addition to permitted uses in each  
4 of the zones, specified uses will be permitted upon approval by the Commission  
5 of the site plan including, but not limited to, disposal of sewage, access,  
6 parking, structure location and accompanying covenants that may include  
7 performance standard. In any hearing on an application for conditional use  
8 in each of the zones, the Commission shall require the applicant to give  
9 personal notice at least ten (10) days prior to the hearing to adjoining property  
10 owners within a radius of two hundred (200) feet."



DEPARTMENT OF LAND MANAGEMENT  
GOVERNMENT OF GUAM  
AGANA, GUAM 96910

JUN 06 1988

Senator Madeleine Z. Bordallo  
Chairperson  
Committee on Housing and  
Community Development  
Nineteenth Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

Dear Madame Chairperson:

I appear before this committee to testify on Bill No. 784 which is:

**"AN ACT TO AMEND §17102 RELATIVE TO  
CONDITIONAL LAND USE."**

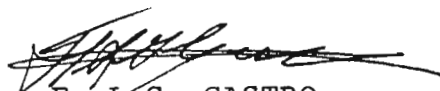
The intent of this Bill is good and we yield to its intent. Additionally, we would like to further amend the bill that all applications requiring the approval of TSPC/TPC, the applicant, owner or developer be required to erect a sign board (4' x 8') on the lot affected addressing the following:

1. Developer's names
2. Property owner
3. Lot No.
4. Purpose/Type of Development
5. Date, Time and place of hearing

Mailing or Delivery of Personal Notice is not too effective of ensuring the public ample time to voice their views. It is to the opinion of this office that a sign board is the most effective means of public dissemination or awareness. With this in mind, we ask this Committee to review the merits of this amendment.

Thank you for this opportunity in voicing our views in this matter.

Sincerely

  
F. L.G. CASTRO  
Acting Director



SETBISION MAMPLANEHA  
GOVERNMENT OF GUAM  
AGANA, GUAM 96910

JUN 06 1988

Honorable Madeleine Z. Bordallo  
Chairperson, Committee on Housing  
and Community Development  
Nineteenth Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

Hafa Adai Senator Bordallo:

Enclosed are the Bureau of Planning's testimonies on Bills 784(LS)  
and 768(LS) which are to be heard on June 6, 1988.

Thank you for the opportunity to provide testimony.

Si Yu'os Ma'ase',

  
PETER P. LEON GUERRERO  
Director

Enclosures

JUN 06 1988

Testimony of Peter P. Leon Guerrero  
Director, Bureau of Planning  
on Bill 784(LS)

Bill 784 Proposes to Amend Existing Laws on Conditional Land Uses. The Bureau of Planning has reviewed Bill 784 and supports the intent of the Bill. We would suggest that line 9 be changed to read "Personal written notice at least ten (10) days ....".

This Bill should not in any way be viewed as precluding testimony to the Commission by any other interest party beyond the 200 foot radius.

Please note that for zone changes, the zoning law already provides for written notice to be given to property owners within a 500 foot radius. With passage of Bill 784, notice will be given to property owners within 200 feet of the conditional land use site. Zone variances (Sections 17501-17504 of the GCG) would be the only major use not requiring personal notification.

Thank you for the opportunity to testify.

  
PETER P. LEON GUERRERO





MICHAEL J. REIDY  
Director

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**  
OFFICE OF THE GOVERNOR, Post Office Box 2950, Agaña, Guam 96910



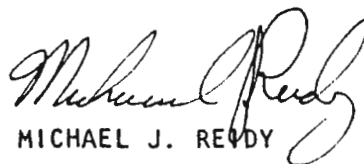
JUN 03 1988

The Bureau requests that Bill Nos. 784(LS), 834(LS) and 846 be granted a waiver pursuant to Public Law 12-229 for the following reason(s).

Bill No. 784(LS) is an act to amend §17102 relative to conditional land use by adding the requirement that conditional use applicants give a 10 day notice prior to a hearing of adjoining property owners within a radius of 200 feet.

Bill No. 834(LS) and 846 are similar in intent as they are Acts to amend Section 10 of P.L. 18-48 relative to the exchange of government property in Talofofo. Both Bill Nos. serve to correct the Lot No. 21-6-R1 to that of 22-6-R1 and to further describe the area as that in the municipality of Talofofo, recorded under Document No. 109690 and owned by William Taijeron.

The above mentioned Bills are administrative in nature, therefore, no fiscal impact on the General Fund will result if enacted into law.

  
MICHAEL J. REIDY

ATTENDANCE SHEET

NINETEENTH GUAM LEGISLATURE  
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

PUBLIC HEARING DATE: JUNE 6, 1988

ON BILL NO. 784

	<u>INITIAL</u>
<i>Chairman, M. J. Baudolla</i>	<i>MJB</i>
1. SPEAKER Franklin QUITUGUA	
2. Senator Elizabeth P. ARRIOLA (M)	<i>EPA</i>
3. Senator Herminia D. DIERKING (M)	
4. Senator Franklin J. GUTIERREZ	
5. Senator Marcia HARTSOCK	
6. Senator Pilar C. LUJAN (M)	<i>PCZ</i>
7. Senator Ted NELSON (M)	<i>TN</i>
8. Senator Don PARKINSON	
9. Senator John QUAN	
10. Senator Joe T. SAN AGUSTIN (M)	
11. Senator Frank SANTOS	
12. Senator Austin J. SHELTON	
13. Senator George J. BAMBA	
14. Senator Eddie R. DUENAS	
15. Senator Ernesto ESPALDON (M)	
16. Senator Alberto J. LAMORENA III	
17. Senator Marilyn MANIBUSAN	
18. Senator James MILES (M)	<i>J Miles</i>
19. Senator Jerry RIVERA	
20. Senator Martha RUTH (M)	<i>M Ruth</i>



ATTENDANCE SHEET

COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

DATE: JUNE 6, 1988

784 - Conditional Pind Use

NAME

TESTIMONY

AGENCY / INTEREST GROUP

COMMENT

PRINT:

SIGN:

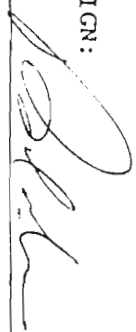
WRITTEN:

ORAL:

FAVOR:

AGAINST:

RAYMOND G. SHAW



DALE G. HODGSON

