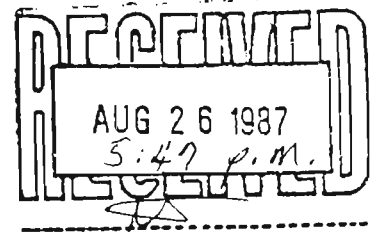




Territory of Guam

OFFICE OF THE GOVERNOR
AGANA, GUAM 96910
U.S.A.



AUG 26 1987

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

Dear Mr. Speaker:

I have signed into law this day, August 26, 1987, Substitute Bill 407 (LS).

I am highly supportive of the primary subject of Bill 407, which will allow us to proceed with the construction of our new Judiciary Complex. I find this measure to be very timely, as time is truly of the essence in our quest to complete this most worthwhile project.

This measure allows for the creation of a building fund which will allow fees generated directly by the Superior Court to be used to defray the costs associated with this project. Further, it allows for necessary borrowing and property acquisition.

It is our pleasure to cooperate with the two other branches of our Government in helping this project to become a reality.

I must point out, however, that the other matter addressed in this measure, specifically the sections having to do with work release, is not without problems.

My recent amendment to the Executive Order which establishes guidelines for the Work Release program already prohibits individuals convicted of a greater number of violent and potentially violent offenses from participating in Work Release in a prospective manner. Apparently, the author of this section hoped to see this section authorize the retroactive prohibition of such individuals. This will not be the case, according to Counsel, as this section is not specifically retroactive.

If the sponsor of this section were to succeed in his interpretation, the results would be disastrous. Any attempt on our parts to apply a law (or Executive Order) of this type retroactively will no doubt result in court challenges as this work constitutes a fairly clear violation of the due process rights of individuals involved. I am sure you agree that a successful civil rights suit on the part of an inmate would be damaging to our mutual efforts to tighten up security at the Department of Corrections, not to mention a waste of taxpayer's money that could be better spent in other areas and not wasted in futile court defenses.

Sincerely,

Handwritten signature of Joseph F. Ada

JOSEPH F. ADA
Governor of Guam

Enclosure

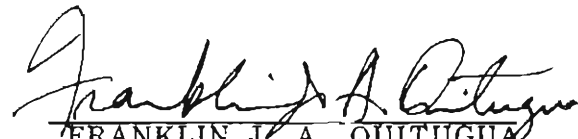
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Rec'd Legal
8-27-87 9:45 am
PTE


NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

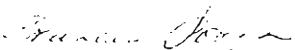
This is to certify that Substitute Bill No. 407 (LS), "AN ACT TO AMEND SECTIONS 189.1 AND 189.5 OF THE CODE OF CIVIL PROCEDURE AND SECTION 13525.1 OF THE GOVERNMENT CODE RELATIVE TO THE JUDICIAL BUILDING FUND AND FOR OTHER PURPOSES," was on the 12th day of August, 1987, duly and regularly passed.

  
FRANKLIN J. A. QUITUGUA  
Speaker

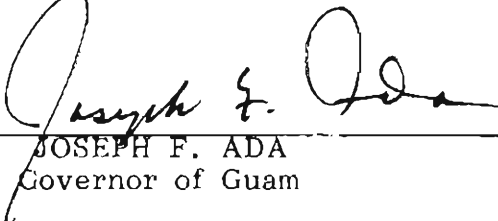
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 14<sup>th</sup> day of August, 1987,  
at 4:48 o'clock P.m.

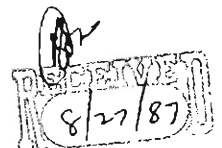
  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

Date: August 26, 1987

Public Law No. 19-6



NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

Bill No. 407 (LS)  
Substitute Committees on  
Justice, Judiciary and Criminal Justice  
and Housing and Community Development  
Further Substitute  
Committee on Rules

Introduced by:

P. C. Lujan  
F. R. Santos  
E. P. Arriola

---

H. D. Dierking  
F. J. Gutierrez  
T. S. Nelson  
J. T. San Agustin  
P. C. Sanchez  
F. J. A. Quitugua  
E. R. Duenas  
J. G. Miles  
J. M. Rivera  
E. M. Espaldon  
M. C. Ruth

AN ACT TO AMEND SECTIONS 189.1 AND  
189.5 OF THE CODE OF CIVIL PROCEDURE  
AND SECTION 13525.1 OF THE GOVERNMENT  
CODE RELATIVE TO THE JUDICIAL  
BUILDING FUND AND FOR OTHER  
PURPOSES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:  
2 Section 1. Section 189.1 of the Code of Civil Procedure, as enacted  
3 pursuant to Public Law 17-82, is amended to read:  
4 "§189.1 Fund Sources. (a) All income and interest earned on  
5 such income received by the Superior Court for the filing of documents  
6 or imposition of fines except as otherwise mandated by Chapter II,  
7 Title XXIX of the Government Code and Chapter III, Title II of Part I  
8 of Division Fourth of the Civil Code relative to the Territorial Law  
9 Library and the Criminal Injuries Compensation Commission,  
10 respectively and from rent paid by other tenants or government  
11 departments or agencies occupying the Judicial Building shall be  
12 deposited in the Judicial Building Fund. All interest income earned by

1 the Superior Court from interest-bearing bank accounts not part of the  
2 Judicial Building Fund shall likewise be deposited in the Judicial  
3 Building Fund as provided in §189.4 of this Chapter.

4 (b) Subject to approval by the Judicial Council, the Superior  
5 Court may charge reasonable fees for providing certain services or  
6 programs that the court determines are necessary for the proper  
7 administration of justice. Revenue received from such programs may  
8 be deposited within revolving accounts set up to support the programs  
9 or in the Judicial Building Fund, as the Council shall provide."

10 Section 2. Section 189.5 of the Code of Civil Procedure, as enacted  
11 pursuant to Public Law 17-82, is amended to read:

12 "§189.5. Authorization to borrow. The Judicial Council is  
13 authorized by this Section to enter into a loan agreement on behalf of  
14 the Government of Guam for the sole purpose of financing the  
15 planning, construction, furnishing, and equipment of a new Judicial  
16 Building and to secure such loan by proceeds from the Judicial  
17 Building Fund and, if necessary, to secure repayment of the loan by  
18 mortgage on the building. The Judicial Council shall enter into such  
19 an agreement subject to the concurrence of the Governor in writing  
20 and the Legislature by statute, and the members shall not incur any  
21 personal liability for any loan agreement lawfully entered into. The  
22 loan agreement shall become effective as of the date the Legislature  
23 concurs by statute. 12 GCA §2103 (k) shall not apply to the loan  
24 obtained pursuant to this Chapter."

25 Section 3. Section 13525.1 of the Government Code, as enacted  
26 pursuant to Public Law 17-82, is repealed and reenacted to read:

27 "Section 13525.1 Land Acquisition.

28 (a) The Governor of Guam shall take the property located within  
29 the boundaries of O'Brien Drive, Route No. 7, Esperanza Street and  
30 the Government property currently occupied by the Superior Court of  
31 Guam, Agana and Lots Numbers 1303-5-2, 1303-5-1, and 1308, which  
32 are required for the public purpose of erecting a judicial building and  
33 attendant facilities in accordance with Title V of Part III of the Code  
34 of Civil Procedure.

1           After the taking as described in Subsection (a) of this Section  
2 and notwithstanding any other provision of law, with the prior  
3 approval of the Governor and prior approval of the Guam Legislature,  
4 the Governor of Guam, or his designee, shall acquire by purchase,  
5 land exchange or other means of transfer or, if the parties cannot  
6 agree upon terms for acquisition by such means, by condemnation, the  
7 following lots contained within the area described in Subsection (a):  
8 1286 REM-1-1; 1286-1-1; 1288-1-1; 1288-1-1; 1289; 1290; 1291-1; 1292;  
9 1293; 1294; 1295-1; 1298-1; 1297-1; 1298 REM; 1299-1; 1300; 1301-2;  
10 1301-4 NEW; 1301-5; 1301-6; 1301-6-1; 1301-7; 1301-8; 1301-9;  
11 1301-REM; 1303-1-2; 1303-1-3; 1303-1-4; 1303-1-R4; 1303-2; 1303-4;  
12 1309; 1310; 1311; 1312; 1312-1; 1313; 1314; 1315; 1316; 1317; 1318;  
13 1319; and 1320.

14           Condemnation proceedings instituted for this purpose shall be  
15 conducted in accordance with the provisions of Title V, Part III of the  
16 Code of Civil Procedures, or any other applicable Government of Guam  
17 statute. Before any such condemnation proceedings are instituted, an  
18 effort shall be made to acquire the property involved by negotiation.  
19 In any such condemnation proceedings, and in the interest of  
20 expedition, the issue of just compensation may be determined by a  
21 committee of three (3) qualified disinterested persons to be appointed  
22 by the Governor of Guam. The three (3) disinterested appraisers  
23 shall determine how much the government should offer for each parcel  
24 of land, using the following criteria:

- 25           1. the fair market value of the land;
- 26           2. the actual cost (based at acquisition) and value of any  
27           improvements installed or constructed; and
- 28           3. relocation payments (mortgages and losses for work not  
29           compensated).

30           If any landowner refuses to accept the amount of the offer, then  
31 the government of Guam shall promptly institute condemnation  
32 proceedings in the Superior Court of Guam, and deposit into the Court  
33 an amount not less than the value set by the three (3) appraisers.  
34 Such sums shall be invested in time certificates of deposit at whichever

1 bank on Guam offers the highest rate of interest, with interest to be  
2 paid to the landowner as it accrues.

3 Any condemnation hearing hereunder shall be heard by a judge  
4 pro tem appointed by the Judicial Counsel.

5 (d) Obligations due the Government of Guam by owners of  
6 property within the boundaries described in Subsection (a) of this  
7 section may be wholly or partially offset in an amount equal to the  
8 value of such land acquired. Such obligations to the value of such  
9 land acquired by the government may include real estate tax liability,  
10 gross receipts tax liability, interest due the Government of Guam on  
11 any of the aforementioned obligations, plus rental or lease of  
12 Government of Guam land for agricultural or other purposes.

13 (e) Fractional lots within the boundaries of the property  
14 described in Subsection (a) which have not been taxed within the past  
15 five (5) years shall be assumed to have a tax obligation to the  
16 Government of Guam based on current fair market value of the land at  
17 the time of the acquisition."

18 Section 4. §16.30 of Title 9 of the Guam Code Annotated is amended  
19 to read:

20 "§16.30. 'Aggravated Murder' Defined.

21 (a) Criminal homicide constitutes aggravated murder when:

22 (1) it is committed intentionally with  
23 premeditation; or

24 (2) it is committed during the commission or  
25 attempt to commit any felony defined in Chapters 22,  
26 25, 31, 34, 37, 40 or 58 of this Title.

27 (b) Aggravated murder is a felony of the first degree but a  
28 person convicted of aggravated murder shall be sentenced to life  
29 imprisonment notwithstanding any other provision of law;  
30 provided, further, that any person convicted of aggravated  
31 murder shall not be eligible for parole, work release, educational  
32 programs outside the confines of prison nor shall his sentence be  
33 suspended."

1           Section 5. §16.40 of Title 9 of the Guam Code Annotated is amended  
2 to read:

3           "§16.40. 'Murder' Defined.

4           (a) Criminal homicide constitutes murder when:

5                     (1) it is committed intentionally or knowingly; or

6                     (2) it is committed recklessly under circumstances  
7 manifesting extreme indifference to the value of human  
8 life.

9           (b) Murder is a felony of the first degree but a person  
10 convicted of murder shall be sentence to life imprisonment  
11 notwithstanding any other provision of law; provided, however,  
12 that any person convicted of murder shall be eligible for parole  
13 after serving fifteen (15) years as provided in §80.72 of this  
14 Title and no part of said sentence shall be suspended; provided,  
15 further, that any person convicted of murder shall also not be  
16 eligible for work release or educational programs outside the  
17 confines of prison."

18           Section 6. Subsection (b) of §25.15 of Title 9 of the Guam Code  
19 Annotated is amended to read:

20           "(b) Criminal sexual conduct in the first degree is a felony in  
21 the first degree and notwithstanding any other provisions of law to the  
22 contrary, may be punishable by life imprisonment; provided, further,  
23 that any person convicted of criminal sexual conduct in the first  
24 degree shall not be eligible for work release or educational programs  
25 outside the confines of prison."

26           Section 7. Subsection (b) of §25.20 of Title 9 of the Guam Code  
27 Annotated is amended to read:

28           "(b) Criminal sexual conduct in the second degree is a felony of  
29 the first degree but a person convicted of criminal sexual conduct in  
30 the second degree who receives a sentence of imprisonment shall not  
31 be eligible for work release or educational programs outside the  
32 confines of prison."

1           Section 8. §19.20 of Title 9 of the Guam Code Annotated is amended  
2 to read:

3           "(a) A person is guilty of aggravated assault if he either  
4 recklessly causes or attempts to cause:

5                   (1) serious bodily injury to another in circumstances  
6 manifesting extreme indifference to the value of human life;

7                   (2) serious bodily injury to another;

8                   (3) bodily injury to another with a deadly weapon.

9           (b) Aggravated assault under Paragraph (1) of Subsection (a) is  
10 a felony of the second degree; aggravated assault under Paragraphs  
11 (2) or (3) or Subsection (a) is a felony of the third degree; provided  
12 that any person convicted of aggravated assault shall not be eligible  
13 for work release or educational programs outside the confines of  
14 prison."

15           Section 9. Subsection (b) of §40.10 of Title 9 of the Guam Code  
16 Annotated is amended to read:

17           "(b) Robbery in the first degree is a felony of the first degree.  
18 In the case of robbery in the first degree, the court shall impose a  
19 sentence of imprisonment of a minimum term of ten (10) years and may  
20 impose a maximum of up to twenty-five (25) years; the minimum term  
21 imposed shall not be suspended nor probation be imposed in lieu of  
22 said minimum term nor shall parole, work release or educational  
23 programs outside the confines of prison be granted before completion  
24 of the minimum term. The sentence shall include a special parole term  
25 of not less than three (3) years in addition to such time of  
26 imprisonment."

27           Section 10. Subsection (b) of §67.50 of Title 9 of the Guam Code  
28 Annotated is amended to read:

29           "(b) Any person who violates Subsection (a) with respect to:

30                   (1) a substance classified in Schedules I or II which is  
31 a narcotic drug shall be guilty of a felony of the first  
32 degree and shall not be eligible for work release or  
33 educational programs outside the confines of prison.



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(2) any other control substances classified in Schedules I, II, or III shall be guilty of a felony of the first degree; shall not be eligible for work release or educational programs outside the confines of prison.

(3) a substance classified in Schedule IV or V shall be guilty of a felony of the second degree provided, that any person convicted under this subsection receiving a term of imprisonment shall not be eligible for work release or educational programs outside the confines of prison."

Section 11. Severability. If any of the provisions of this Act, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

NINETEENTH GUAM LEGISLATURE

ROLL CALL SHEET

Bill No. 407

DATE: 8/10/87

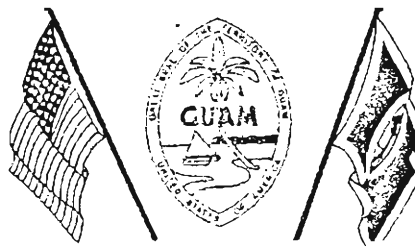
Res. No. \_\_\_\_\_

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>H. D. Dierking</u>	✓			
<u>E. R. Duenas</u>	✓			
<u>E. M. Espaldon</u>	✓			
<u>F. J. Gutierrez</u>	✓			
<u>M. K. Hartsock</u>	✓			
<u>A. C. Lamorena III</u>	✓			
<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>	✓			
<u>J. F. Quan</u>	✓			
<u>F. J. Quitugua</u>	✓			
<u>J. M. Rivera</u>	✓			
<u>M. C. Ruth</u>	✓			
<u>J. T. San Agustin</u>				✓
<u>P. C. Sanchez</u>				✓
<u>F. R. Santos</u>	✓			
<u>A. J. Shelton II</u>			✓	

18.                      1                      2

A.J. SONNY SHELTON  
SENATOR  
CHAIRMAN, COMMITTEE ON RULES



19TH GUAM LEGISLATURE

Vice-Chairman  
COMMITTEE ON ENERGY, UTILITIES  
AND CONSUMER PROTECTION  
Member  
COMMITTEE ON EDUCATION  
COMMITTEE ON TOURISM,  
TRANSPORTATION AND COMMUNICATION  
COMMITTEE ON ECONOMIC  
DEVELOPMENT AND BANKING  
COMMITTEE ON FEDERAL, FOREIGN  
AND LEGAL AFFAIRS

P.O. BOX CB-1 AGANA, GUAM 96910 TELEPHONE:(871)472-3408,472-3409

August 11, 1987

The Honorable Franklin J.A. Quitugua  
Speaker  
Nineteenth Guam Legislature  
P.O. Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Rules at its Rules Meeting on Tuesday, August 11, 1987, approved the placement of Bill No. 407 second item on the Second Reading File; and hereby transmits to the full Legislature Bill No. 407 as Substituted by the Committee on Justice, Judiciary & Criminal Justice and the Committee on Housing & Community Development and further Substituted by the Committee on Rules.

The Committee voting record for passage of Substitute Bill No. 407 is as follows:

TO DO PASS	<u>13</u>
NOT TO PASS	<u>0</u>
TO REPORT OUT ONLY	<u>2</u>
TO PLACE IN INACTIVE FILE	<u>0</u>
ABSENT	<u>1</u>


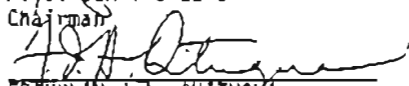
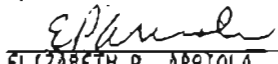

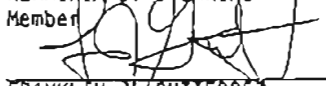
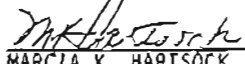
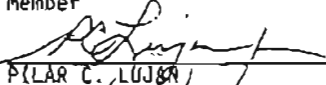
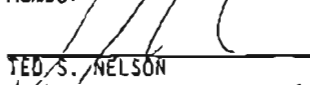
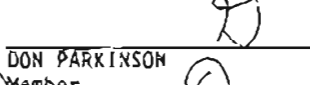
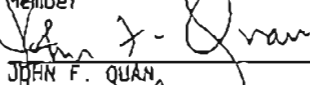

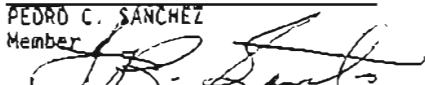
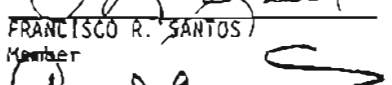
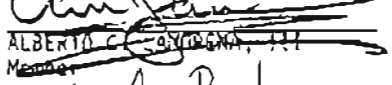
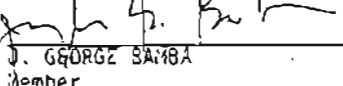
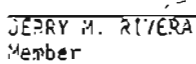
A copy of the report and all other pertinent documents are attached for your information.



A. J. SONNY SHELTON  
Chairman

Attachments

VOTING SHEET on Bill No. 407 as Substituted by the Committee on Justice, Judiciary & Criminal Justice and the Committee on Housing & Community Development and further Substituted by the Committee on Rules.

	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	TO PLACE IN INACTIVE FILE
 A. J. SONNY SHELTON Chairman	✓			
 FRANKLIN J. A. QUITUGBA Speaker	✓			
 ELIZABETH P. ARRTOLA Member	✓			
 HERMINA D. BERRING Member	✓			
 FRANKLIN J. GUTIERREZ Member	✓			
 MARCIA K. HARTSOCK Member	✓			
 PILAR C. LUJAN Member	✓			
 TED S. NELSON Member	✓			
 DON PARKINSON Member				
 JOHN F. QUAN Member			✓	
 JOE T. SAN AGUSTIN Member			✓	
 PEDRO C. SANCHEZ Member	✓			
 FRANCISCO R. SANTOS Member				
 <del>ALBERTO C. SARMIENTO</del> Member				
 J. GEORGE SAMBA Member				
 JERRY M. RIVERA Member				

COMMITTEE REPORT  
COMMITTEE ON RULES  
SUBSTITUTE BILL NO. 407

The Committee on Rules met at 1:00 p.m., on Tuesday, August 11, 1987, and a motion was made to place Bill No. 407, Substitute, Committees on Justice, Judiciary, and Criminal Justice and Housing and Community Development second on the Second Reading File for discussion at the session scheduled for 2:00 p.m., Tuesday, August 11, 1987.

During the discussion on Substitute Bill No. 407, some changes were adopted as follows:

1. In Section 2 of the bill, on page 2, in the Section 189.5 of the Code of Civil Procedure cited, all references to "resolution" were changed to statute" in regard to approval or concurrence by the Legislature.

2. In Section 3, on page 3, in the second paragraph of Section 13525.1 of the Government Code cited in that section, the sentence was changed by inserting the word "prior" before the phrase "approval of the Governor" and by deleting the words "of Guam and" and inserting therein the words "and prior approval of" before the phrase "the Guam Legislature", and deleting the word "donation" and inserting instead the phrase "land exchange" before the phrase "or other means of transfer".

3. In Section 3 of the bill, on page 3, line 22 of the original substitute bill, the sentence starting "the amount of money to be...", all the way up to the end of Item 3 ending with the words "not compensated" were deleted and in lieu thereof a new portion was inserted to read:

"The three (3) disinterested appraisers shall determine how much the government should offer for each parcel of land using the following criteria:

1. The fair market value of the land cost;
2. The actual cost (based at acquisition) and value of any improvements installed or constructed; and

3. Relocation payments, (mortgages, and losses for work not compensated).

If any landowners refuses to accept the amount of the offer, then the government of Guam shall promptly institute condemnation proceedings in the Superior Court of Guam, and deposit into the Court an amount not less than the value set by the three (3) appraisers. Such sums shall be invested in time certificates of deposit at whichever bank on Guam offers the highest rate of interest, with interest to be paid to the land owner as it accrues.

Any condemnation hearing hereunder shall be heard by a judge pro tem appointed by the judicial council."

After adoption of the above changes to Substitute Bill No. 407, Bill No. 407 was further substituted by the Committee on Rules with the changes incorporated herein and the motion to place the further substituted version second on the Second Reading File for session at 2:00 p.m., Tuesday, August 11, 1987, was adopted.

## COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

### SUMMARY ANALYSIS OF SECTIONS OF BILL 407

#### Section 1

Language contained herein will amend pertinent sections of Public Law 17-82 to provide additional sources of funding for deposit to the Judicial Building Fund. This particularly addresses rental income from prospective tenants of the Building inclusive of government and non-government tenants. Rental incomes from appropriated agencies of the Government of Guam, i.e., the Attorney General's Office, the Public Defender Corporation, etc., will be deposited directly to the Judicial Building Fund.

Additionally, this section authorizes the assessment of fees and charges for programs, i.e., seminars, workshops or other programs, offered by the Superior Court with such fees and assessments to be deposited in the Judicial Building Fund.

#### Section 2

With the addition of a single clause, this section authorizes the Judicial Council to mortgage the Judicial Building in order to secure the loan or repayment of the loan. It should be noted that there are instances when financial institutions will not accept mortgage on government properties unless such are specifically authorized by law. This clause will serve to satisfy financial institutions of the ability and authorization of the Judicial Council, by statute, to secure a mortgage on the Judicial Building. This will also tend to preclude the necessity for future legislation should the occasion arise when the Judicial Council will need such an authorization to protect its note and/or ability to repay the note. It further creates the ability, in the future, to possibly restructure the note should better terms be offered or available.

#### Section 3

The most substantial portion of the bill and that which deals with the actual acquisition of the required land area through the condemnation process. In the public hearings conducted on the matter the Committee members were given indications that:

1. The process of condemnation would be the most expeditious and efficient method of securing the necessary real estate to begin the necessary steps required for securing the FHA loan. The closing of such note is considered urgent in order to prevent further increases in the effective rate of interest which escalate at a rate of 1/8 of 1% per quarter. The delays already experienced in the matter has resulted in an increase of approximately \$400,000.

2. The process of condemnation must be instituted by the passage of the bill in order to place a hold on the fair market values of the real estate in question. Until such time as the proceedings are authorized and dictated by statute the probabilities and possibilities of speculation casts a spectre on the ultimate cost of building the complex.

3. The passage of the bill does not preclude the need for negotiations with the land owners. Members of the Committees noted their desire to protect the interests of all parties concerned and to insure that a fair and just price be paid to the land owners not only for the land in question but also for the costs of relocation and losses of installations and improvements. In an effort to avoid possible resort to the court systems, primarily resulting from disputes on just compensation, the

bill calls for the appointment of qualified and disinterested individuals to a Committee of Three which would take such matters into consideration. This provision does not, however, preclude or eliminate the availability of the court system for ultimate dispute settlement. These particular provisions were included with a view towards providing for the concerns of Committee members that the just and rightful interests of the land owners be protected.

In final summary, the bill was written as presented in order to accomplish the following:

1. Immediate initiation of the necessary steps required for the acquisition of the needed real estate.

2. Immediate initiation of steps required to establish a ceiling on the fair market value of the subject real estate in an effort to prevent unwarranted speculation which would drive the ultimate cost of the Judicial Building to unreasonable levels.

3. Immediate initiation of steps needed to enable the securing and closing of the Farmer's Home Administration loan at desirable effective rates on interest.

4. Inclusion of provisions designed to protect the negotiating rights and provisions of the property owners and the rights of such property owners to a just and rightful compensation for the property itself, as well as, hardships incurred for relocation and loss of installations and improvements.

5. Inclusion of provisions which would grant the Judicial Council the ability and authorization to mortgage the building in the event that such may be necessary for the securing of repayment capability.

6. Inclusion for the earmarking of rental income into the Judicial Building Fund thereby protecting that specific source of revenue for the repayment of the loan.



**REPORT ON BILL 407**  
**19TH GUAM LEGISLATURE**  
**Committees on**  
**Justice, Judiciary and Criminal Justice**  
**and**  
**Housing and Community Development**



# Nineteenth Guam Legislature

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

Committee on Justice, Judiciary and Criminal Justice  
Committee on Housing and Community Development

July 23, 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 Committees on Justice, Judiciary and Criminal Justice, and Housing and Community Development, to which was referred **Bill No. 407**, wish to report their findings and their recommendations **TO PASS Bill 407 as Substituted**.

The Committee Voting Record is as follows:

To Pass	<u>11</u>
To Not Pass	<u>0</u>
Abstain	<u>0</u>
To Report Out Only	<u>0</u>
Off-Island	<u>1</u>

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Pilar C. Lujan".

PILAR C. LUJAN  
Chairman  
Committee on Justice, Judiciary  
and Criminal Justice

A handwritten signature in cursive script, appearing to read "Francisco R. Santos".

FRANCISCO R. SANTOS  
Chairman  
Committee on Housing and  
Community Development

Attachment

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NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

Bill No. 407  
Substitute by Committees on  
Justice, Judiciary and Criminal Justice  
and Housing and Community Development

Introduced by: P. C. Lujan, F. R. Santos, E. P. Arriola,  
H. D. Dierking, F. J. Gutierrez, T. S. Nelson,  
J. T. San Agustin, P. C. Sanchez, F. J. Quitugua,  
E. R. Duenas, J. G. Miles, J. M. Rivera,  
E. M. Espaldon, M. C. Ruth

AN ACT TO AMEND SECTIONS 189.1 AND 189.5  
OF THE CODE OF CIVIL PROCEDURE AND  
SECTION 13525.1 OF THE GOVERNMENT CODE  
RELATIVE TO THE JUDICIAL BUILDING FUND  
AND FOR OTHER PURPOSES.

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

2 Section 1. Section 189.1 of the Code of Civil Procedure, as enacted  
3 pursuant to Public Law 17-82, is amended to read:

4 "§189.1 Fund Sources. (a) All income and interest earned on such  
5 income received by the Superior Court for the filing of documents or  
6 imposition of fines, [which is not specifically appropriated for other  
7 purposes] except as otherwise mandated by Chapter II, Title XXIX of  
8 the Government Code and Chapter III, Title II of Part I of Division Fourth  
9 of the Civil Code relative to the Territorial Law Library and the Criminal  
10 Injuries Compensation Commission, respectively and from rent paid by  
11 other tenants or government departments or agencies occupying the Judicial  
12 Building shall be deposited in the Judicial Building Fund. All interest  
13 income earned by the Superior Court from interest-bearing bank accounts  
14 not part of the Judicial Building Fund shall likewise be deposited in the  
15 Judicial Building Fund as provided in §189.4 of this Chapter.

1           (b) Subject to approval by the Judicial Council, the Superior Court may  
2 charge reasonable fees for providing certain services or programs that the court  
3 determines are necessary for the proper administration of justice. Revenue  
4 received from such programs may be deposited within revolving accounts set  
5 up to support the programs or in the Judicial Building Fund, as the Council shall  
6 provide."

7           Section 2. Section 189.5 of the Code of Civil Procedure, as enacted pursuant  
8 to Public Law 17-82, is amended to read:

9           "§189.5. Authorization to borrow. The Judicial Council is authorized  
10 by this Section to enter into a loan agreement on behalf of the Government  
11 of Guam for the sole purpose of financing the planning, construction,  
12 furnishing, and equipment of a new Judicial Building and to secure such  
13 loan by proceeds from the Judicial Building Fund and, if necessary, to secure  
14 repayment of the loan by mortgage on the building. The Judicial Council  
15 shall enter into such an agreement subject to the concurrence of the Governor  
16 in writing and the Legislature by resolution, and the members shall not incur  
17 any personal liability for any loan agreement lawfully entered into. The  
18 loan agreement shall become effective as of the date the Legislature concurs  
19 by resolution. 12GCA §2103(k) shall not apply to the loan obtained pursuant  
20 to this Chapter."

21           Section 3. Section 13525.1 of the Government Code, as enacted pursuant  
22 to Public Law 17-82, is repealed and reenacted to read:

23           "Section 13525.1 Land Acquisition.

24           (a) The Governor of Guam shall take the property located within the  
25 boundaries of O'Brien Drive, Route No. 7, Esperanza Street and the  
26 Government property currently occupied by the Superior Court of Guam,

1           Agana and Lots Numbers 1303-5-2, 1303-5-1, and 1308, which are required  
2 for the public purpose of erecting a judicial building and attendant facilities  
3 in accordance with Title V of Part III of the Code of Civil Procedure.

4           After the taking as described in Subsection (a) of this Section and  
5 notwithstanding any other provision of law, with the approval of the Governor  
6 of Guam and the Guam Legislature, the Governor of Guam, or his designee,  
7 shall acquire by purchase donation or other means of transfer or, if the parties  
8 cannot agree upon terms for acquisition by such means, by condemnation,  
9 the following lots contained within the area described in Subsection (a):  
10 1286 REM-1-1; 1286-1-1; 1288-1; 1288-1-1; 1289; 1290; 1291-1; 1292; 1293;  
11 1294; 1295-1; 1298-1; 1297-1; 1298 REM; 1299-1; 1300; 1301-2; 1301-4 NEW;  
12 1301-5; 1301-6; 1301-6-1; 1301-7; 1301-8; 1301-9; 1301-REM; 1303-1-2;  
13 1303-1-3; 1303-1-4; 1303-1-R4; 1303-2; 1303-4; 1309; 1310; 1311; 1312;  
14 1312-1; 1313; 1314; 1315; 1316; 1317; 1318; 1319; and 1320.

15           Condemnation proceedings instituted for this purpose shall be conducted  
16 in accordance with the provisions of Title V, Part III of the Code of Civil  
17 Procedures, or any other applicable Government of Guam statute. Before  
18 any such condemnation proceedings are instituted, an effort shall be made  
19 to acquire the property involved by negotiation. In any such condemnation  
20 proceedings, and in the interest of expedition, the issue of just compensation  
21 may be determined by a committee of three (3) qualified disinterested persons  
22 to be appointed by the Governor of Guam. The amount of money to be  
23 deposited in the District Court of Guam for the purposes of this section  
24 shall not be less than the sum of the following:

- 25                     1. the fair market value of the land;
- 26                     2. the actual cost (based at acquisition) and value of any

1 improvements installed or constructed; and

2 3. relocation payments (mortgages and losses for work not  
3 compensated.

4 (d) Obligations due the Government of Guam by owners of property  
5 within the boundaries described in Subsection (a) of this section may be  
6 wholly or partially offset in an amount equal to the value of such land  
7 acquired. Such obligations to the value of such land acquired by the  
8 Government may include real estate tax liability, gross receipts tax liability,  
9 interest due the Government of Guam on any of the aforementioned  
10 obligations, plus rental or lease of Government of Guam land for agricultural  
11 or other purposes.

12 (e) Fractional lots within the boundaries of the property described  
13 in Subsection (a) which have not been taxed within the past five (5) years  
14 shall be assumed to have a tax obligation to the Government of Guam based  
15 on current fair market value of the land at the time of the acquisition."

## OVERVIEW

With the increasing demands placed upon the Territorial Judiciary in recent times, the administration of the judicial branch has been strapped operationally from maximizing efficiency due to inadequate working space.

Overtime, the government has addressed the matter through annexation of surrounding buildings for accomodating the manpower and personnel of the courts because of the limited space in the central court facility. Needless to point out, this has resulted in cost to taxpayers while reaping no permanent benefit.

Moreover, government entities actively involved in judicial matters are also "removed" from the central arena of the judiciary, as the rent subsidized satelllie buildings are far from the court.

In response to these concerns, legislation has been introduced to establish a judicial building fund for financing construction of a judicial center which would house all the courts including active judicial players such as the Attorney General's and Public Defender's Offices.

The proposed site of the facility is situated in the immediate surrounding area of the existing central court building. Thus, there is the necessity to acquire privately owned parcels before proceeding.

Legislative Bills 41 & 407 have been introduced and address the aforementioned.

Under the proposed measures, the necessary property for construction would be purchased from money deposited in the Judicial Building Fund. Similarly, actual construction costs would also be financed through fines, fees, and rent collected and deposited in the Fund.



While the court has a substantial amount of money already in the Fund, the total falls far short of financing the entire project estimated at \$15 million. According to figures provided to the Committees, as of April 30, 1987, the Fund has a balance of \$2.238 million available.

Therefore, a loan package from the Farmer's Home Administration has been prepared to finance \$11 million worth of the project. Deadlines have been extended a few times already because no legislation addressing the concerns of FHA had ever been approved.

As a side note, Deputy Court Administrator Perry Taitano pointed out that Farmer's Home Administration has asked the Court not to discount or dismiss the possibility of FHA financing the entire project.

Total project is estimated at \$15,743,000.

The terms of the loan agreement, if effectuated, call for a forty-year loan at an interest rate of 6.625%.

Should FHA opt not to finance the entire project, the remaining costs would be financed by local institutions.

As mentioned before, the repayment source of the loan/loans would be proceeds from the Judicial Building Fund.

Based on calculations of the past 12 months, figures exhibit that the monthly average collected for the Fund is over \$89,000.

Should the loan be effectuated with the present terms, monthly payment would be \$65,382.30 for both principal and interest. Each quarter, interest rates have historically risen by one-eighth of one percent and further delays could increase monthly figures.

Court officials have asked the Legislature to pass Bill 407 because it adequately addresses the concerns of the Farmer's Home Administration which are necessary to secure the low-interest rate financing.

"Satisfaction of the outstanding conditions include in part the proposed amendment to Public Law 17-82 as incorporated in Bill 407 relative to assignment of rent by other tenants and the Judicial Council's authorization to secure repayment of loan by a mortgage on the building," Deputy Court Administrator Taitano testified.

"We cannot afford to pass this up," he added.

The crucially important question of land acquisition via condemnation or land exchange has surfaced ever since plans for the project were unveiled. Given the sensitive nature of one's own property, it has not been surprising that a route for acquiring the property has not been chosen yet. Undoubtedly, the decision has been difficult to make.

The court has recommended condemnation of parcels located in the proposed site.

The purpose of the condemnation is to obtain legal possession of the property so that work can begin.

Historically, government policy has almost always centered on land exchange.

Mr. Frank Castro-Land Management Department Director:

"The intent of the bill's provisions are commendable and are needed for expeditious purposes should the property owners disagree on the land exchange. The method of compensation in the deed of a form of exchange would indeed provide avenues in fulfilling codified government procedures."

Mr. Perry Taitano-Deputy Court Administrator:

"The exchange process is going to take so long to undertake simply because some of the land owners have since passed away, have not left a will and, in one particular parcel, there are sixty heirs, most of whom are not here. The most expeditious manner is to condemn the parcels." "...the owners can litigate(the amount received) if they contest, if they don't agree with the value." "The act of condemnation does not preclude negotiations."

It should be noted that the court contracted an appraiser who originally valued the necessary property at \$1,009,000. From a lot of \$50 per square meter (for submerged land) to a high of \$90 persquare meter, the valuation report has been submitted to the Office of the Attornet General and the amount has been reserved and set aside for compensation to property owners.

Most recent figures provided to the Committee by the Court illustrate that valuation has risen to \$1,204,000.

Additionally, court officials have informed the Committees that permission from landowners has been acquired to undertake a boundary survey, topographical survey, appraisal, and soil testing.

In view of the escalating costs as time passes, the court's recommendation for expeditious action on the legislative measure to "cap" increases has been heeded by the Committees as "critical".

Bill 407 addresses concerns of the Farmers Home Administration and methods of land acquisition.

NINETEENTH GUAM LEGISLATURE  
COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE  
SENATOR PILAR C. LUJAN, CHAIRPERSON  
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT  
SENATOR FRANCISCO R. SANTOS, CHAIRMAN

The Committees on Judiciary and Criminal Justice and Housing and Community Development, Senators Pilar C. Lujan and Francisco R. Santos, Chairpersons respectively, to which Bills 41 and 407 were jointly referred, scheduled and convened a public hearing to discuss and receive testimony on said bills on April 20, 1987, at 9:00AM, in the Legislative Session Hall. Present at such hearing were:

1. Senator Joe T. San Agustin
2. Senator Ted S. Nelson
3. Senator Martha C. Ruth

Also present at such hearing and providing testimony were:

1. Mr. Perry Taitano, Superior Court of Guam
2. Mr. Paul Souder, Superior Court of Guam
3. Mr. Frank Castro, Department of Land Management
4. Mr. Joseph Cruz, Department of Land Management

**SENATOR SANTOS:**

The next bills that we will be considering in joint hearing are identical bills 41, together with No. 407. At this time we would like to invite the Director of Land Management, together with the representative from the Superior Court. Before we start, Mr. Taitano, where is the presiding judge?

Mr. Taitano

He is holding trial, or at least, he's benching one of his cases.

**SENATOR SANTOS:**

This is a milestone bill that requires the condemnation of property. I strongly feel that he should be here also. How about the Administrator?

Mr. Taitano:

He wasn't in this morning.

**SENATOR SANTOS:**

I beg your pardon.

Mr. Taitano:

He wasn't in this morning, I checked with him.

**SENATOR SANTOS:**

Let the records show that the Presiding Judge, neither the Director of the Superior Court didn't appear on an important bill such as condemnation of property to build the Judicial Building and the Superior Court is being represented by Mr. Perry Taitano. Would you go ahead since you are the lead department.

**Mr. Taitano:**

Thank you, Mr. Chairman, Members of the Committee, Co-Chairperson. The Superior Court of Guam wishes to express its appreciation for the opportunity to submit this written testimony on Bill no. 407 and asks to amend Sections 189.1 and 189.5 of the Code of Civil of Procedure and Section 13525.1 of the Government Code relative to the Judicial Building Fund and related purposes. On behalf of the Judiciary, I'd like to extend our appreciation for the introduction of this bill as it addresses those additional concerns which are necessary to secure financing of the Guam Judicial Center. Last Thursday, we were reminded by Farmers Home Administration of the June deadline for the closing of the \$11 Million loan. All outstanding conditions for the closing of the loan must be met as this deadline will not be extended. For your information, the interest rate has now dropped to 6.625% with an amortization schedule of 40 years. This means that our monthly payment on the loan for the \$11 Million will be \$65,382.30 for principal and interest. No other lending institution offers such a loan package. We cannot afford to pass this up. Satisfaction of the outstanding conditions include in part the proposed amendment to Public Law 17-82 as incorporated in Bill 407 relative to assignment of rent by other tenants and the Judicial Council's authorization to secure repayment of loan by a mortgage on the building. In consideration of the fast approaching Farmers Home Administration loan June closing deadline we urge your approval and expeditious passage of the bill. And I'm here, Mr. Chairman, to answer any question that you may have regarding those portions that affect the Judicial Building Fund.

**SENATOR SANTOS:**

Mr. Castro, Land Management

**Mr. Castro:**

With regards to this bill, the intent of this provision is commendable. It is needed for expeditious purposes should the property owners disagree on the (land) exchange. The method of compensation in the form of a deed of exchange to be deposited in court in lieu of cash would indeed provide avenues in fulfilling Section 1241 of the Government Code of Civil Procedures due to the Government's financial dilemma. However, there are questions which we would like to address to this

Committee relative to an interest which will be accruing when the method of compensation is in the form of a deed of exchange deposited in court instead of cash. In this respect, we'd like to ask the present officers - Who is obligated to pay the interest? Are we to assume that the court will pay the interest accrued? What will be the interest and so forth? Section 1 of Bill 41 failed to address these issues. In the interest of all parties concerned, we ask that those issues be taken in the provisions of this act. In addition, the phrase "shall be effective only upon approval of the Legislature" shall be deleted as intended under the provisions of Bill 407. Since the matter is to be handled by the Court, all legal requirements will be fulfilled. That, Senator, Mr. Chairman, is our position on that section of Bill 41.

**SENATOR SANTOS:**

All right. Paul (Souder), are you representing the ...?

**Mr. Souder:**

I am here representing the Court. I do not have written testimony as such.

**SENATOR SANTOS:**

Are you a ---judge---now?

**Mr. Souder:**

I am not a judge. I am an employee of the Superior Court of Guam.

**SENATOR SANTOS:**

An employee of the Superior Court of Guam? In what capacity?

**Mr. Souder:**

I'm working as a planner, basically with the gentleman next to me (Taitano).

**SENATOR SANTOS:**

A planner for the Superior Court or for the Judicial Building?

**Mr. Souder:**

The Superior Court and the Judicial Building.

**SENATOR SANTOS:**

When did you get on board?

**Mr. Souder:**

I came on board at the beginning of February 1987.

**SENATOR SANTOS:**

Is there an announcement to that effect? I was under the impression that the Superior Court is within the FTE and there's no vacancies in the Court. Now you are there?

**Mr. Taitano:**

Would you permit me to answer that?

**SENATOR SANTOS:**

That's why I would like the Director to be here, to answer things like that.

**Mr. Taitano:**

There is a position vacancy and the position vacancy is for Program Coordinator. It was formerly labelled the Planner position but we have since changed that with the reclassification program and Mr. Souder has filled the bill and we hired him at the time.

**SENATOR SANTOS:**

I welcome you to be a member of the "Judicial Family" but I was made to understand that before the year ends that the Superior Court reached the maximum on the allotted FTE and there's no further vacancies. I welcome you. Let the records show that Mr. Joe Cruz is appearing together with the Director of Land Management. Paul, as planner, do you have any suggestions of how we are going to raise the money to pay for the property.

**Mr. Souder:**

The property will ultimately be paid for through fines, penalties and so forth, accruing to the court. Money will be borrowed to pay off these things when the land is acquired for the court house.

**SENATOR SANTOS:**

Senator Pilar Lujan.

**SENATOR LUJAN:**

Mr. Chairman, I'll pass for now.

SENATOR SANTOS:

All right. Senator Joe T. San Agustin. Figures, now.

SENATOR SAN AGUSTIN:

Thank you, Mr. Chairman. I got some problems trying to reconcile with the two bills, Mr. Chairman, and maybe you can bear with me. One bill provides an option to exchange government land in order for the Judicial Department to build up its own property and I suppose the other bill is to amend to provide for the payment of the loan of \$11 Million. Now, my ... and then on Bill 407, it also says that the repayment of this loan will be paid by or secured by a mortgage on the building. What happened to the land? Is that an equity contribution?

Mr. Taitano:

Well, the concern for providing for an authorization for mortgage on the building that was at the expressed concern of Farmers Home Administration.

SENATOR SAN AGUSTIN:

I realize that, but what happened to the land itself? Is that going to be secured from any... Is that going to be in fee simple?

Mr. Taitano:

It does not say it, it just ...

SENATOR SAN AGUSTIN:

Will that be an equity contribution on the part of Farmers Home Administration? I mean for Judicial ... in securing the loan?

Mr. Taitano:

It seems that that's implied.

SENATOR SAN AGUSTIN

But, what would be the value of the appraised value of the land itself plus the building. \$11 Million - the building - plus the land - what would be your appraisal for the land?

Mr. Taitano:

That appraisal has not been undertaken. Relative to the



building . . .

**SENATOR SAN AGUSTIN:**

But, it would be . . . there is an appraisal because if you put the building you would a potential value of the property once you have the building on it.

**Mr. Taitano:**

Yes, Senator, there is an appraisal on the proposed site on which the new expanded building will be built, there is not an appraisal on the existing site nor an appraisal if you were to have that building.

**SENATOR SAN AGUSTIN:**

I'm talking, not current, I'm talking about - you're asking the government to give up other property in exchange so that Judicial people could have their building. There are two factors here - one - you're asking the Government of Guam, more or less, to give up title and give it to the Judicial building, at no cost, apparently, as I see it, at no cost and the Judicial building, the Judicial Department is going to borrow \$11 Million for which they are going to have a mortgage on the property. Now, whose title is the property, the land itself. Is it still the Government of Guam?

**Mr. Taitano:**

Yes, it is.

**SENATOR SAN AGUSTIN:**

Now, is that going to be in fee simple in the Government of Guam or in the Judicial Department, secured by a mortgage on the building?

**Mr. Taitano:**

It'll be fee simple - Government of Guam - and that's the reason why it requires the Governor's signature and approval.

**SENATOR SAN AGUSTIN:**

But shouldn't you include the value of the property towards your financing package? As I was wondering is that your equity contribution?

**Mr. Taitano:**

Right, it would seem to me that would . . . since they had come up with this additional requirement that, yes, if you were to look at the project, look at it in whole.

**SENATOR SAN AGUSTIN:**

Yes, that's what I'm getting at. What is the value now of the land itself if you were to have to buy it yourself. If you to buy the land that you're going to build the building on and then put the building on top of it - what's the total loan package we see. . .

**Mr. Taitano:**

Well, the appraised value of, just a portion now, because I don't know . . .

**SENATOR SAN AGUSTIN:**

Now, I'm just talking about where you're going to put the building.

**Mr. Taitano:**

O.K. - The appraised value is \$1.009 Million.

**SENATOR SAN AGUSTIN:**

One Million Nine - that's for the land itself.

**Mr. Taitano:**

For the land as it sits today.

**SENATOR SAN AGUSTIN:**

Now, if you're gonna buy. . .

**Mr. Taitano:**

Then, the building. . . - The building is projected to cost \$11 Million - no - I'm sorry - FIFTEEN MILLION SEVEN HUNDRED FORTY THREE THOUSAND. Eleven Million is just for the loan. But the overall project cost . . .

**SENATOR SAN AGUSTIN:**

What are you talking about? Are you gonna build a bridge half way and then come back and ask for two million dollars more?

**Mr. Taitano:**

No, No. . . Actually what it is is that Farmers Home Administration has capped the loan at \$11 Million.

**SENATOR SAN AGUSTIN:**

But knowing full well that the building is going to cost you \$15 Million and you feel - you're still going to proceed?

Mr. Taitano:

Yes sir.

SENATOR SAN AGUSTIN:

And where do you anticipate to get the extra two or three million dollars?

Mr. Taitano:

That's gonna come out of the continuing receipts on the Judicial Building Fund . . .

SENATOR SAN AGUSTIN:

Plus . . . repayment on the loan?

Mr. Taitano:

Yes, that's correct.

SENATOR SAN AGUSTIN:

You mean there's enough cash floating to not only come up with \$4 Million on top of the building and at the same time come out with a \$66,000 payment?

Mr. Taitano:

Uh huh. . .to make the monthly payment, but that's just a portion because actually you're going to have more than that. We're going to have to finance the other three million with a local banking institution and we've had meetings with them and, but that would be on a 10 to 15 interest rate.

SENATOR SAN AGUSTIN:

This is what I'm getting at. I think what we're getting into is . . . you're going to have a first mortgage on a building then you're going to have a second mortgage on the three to four million dollars on top of it and you're going to base yourself on fines and . . . so you're going to have two loan packages - two loans in front of you to build a building.

Mr. Taitano:

That's right.

SENATOR SAN AGUSTIN:

Now, if you're going that, why don't you just buy the building from the Government of Guam too and include that in the

package since you're going to get 6 - 5/8 interest rate and be able to do that . . . ?

Mr. Taitano:

I don't understand.

SENATOR SAN AGUSTIN:

No. - What I'm getting at is that you're asking that the people of Guam basically to give up their land in exchange so that the Judicial Department can come up with two loan packages and you're not putting a cent to contribute to pay for the land that the Government of Guam is giving up.

Mr. Taitano:

Yes, the money has already been set aside for payment . . .

SENATOR SAN AGUSTIN:

For the land?

Mr. Taitano:

Of the land!!!

SENATOR SAN AGUSTIN:

One million nine hundred thousand?

Mr. Taitano:

According to the Attorney General's office. They are the ones that are required to undertake that.

SENATOR SAN AGUSTIN:

So you can go ahead and condemn these lands and forget about the exchange?

Mr. Taitano:

Well, no, no, - the purpose of the condemnation, I guess. . .

SENATOR SAN AGUSTIN:

Well, you have two options, one is to straight condemn - you got 1.9, or exchange from properties for which you're going to be reimbursing. . .

Mr. Taitano:

The exchange process is going to take so long to undertake simply because some of the land owners have since passed away, have not left a will and, in one particular parcel, there are sixty heirs, most of whom are not here.

SENATOR SAN AGUSTIN:

So, you're not recommending exchange, then?

Mr. Taitano:

Well, no, exchange ought to be if that's intended by the government. The court - that's outside the court's jurisdiction.

SENATOR SAN AGUSTIN:

No, I'm asking what's you guys, your plan - the most expeditious manner in getting the building.

Mr. Taitano:

Yes, sir. The most expeditious manner is to condemn . . . the parcels.

SENATOR SAN AGUSTIN:

. . . and spread 1. . . ., let's say 1 million dollars.

Mr. Taitano:

That's right. And then, the owners can litigate that if they contest, if they don't agree with the value.

SENATOR SAN AGUSTIN:

This is your department - you're going to - litigation.

Mr. Taitano:

That's right. We're out of that because it's eventually going to come to the court.

SENATOR SAN AGUSTIN:

Yea, you're going to litigate your own vested interest so that's going to be real nice. What I'm getting at, Perry, is - you got one million dollars - go and just condemn. Why go through the exchange process unless you're willing to transfer one million dollars to the Government of Guam coffer.

Mr. Taitano:

Well, we have set aside the money for that already. That has already been done. The exchange process is out of our

hands. That is within the hands of the Executive Branch - the Governor. And so . . .

SENATOR SAN AGUSTIN:

What is the court recommending?

Mr. Taitano:

The court recommends condemnation, sir.

SENATOR SAN AGUSTIN:

That's what I'm getting at. So, we can forget about the other side - the exchange. Because I have some problems right there, frankly. Because you're asking the Government to give up its property in Merizo so you can have a building for which you're not reimbursing them.

Mr. Paul Souder:

May I inject something. The government has, through the Legislature, always pushed for the exchange idea rather than the outright condemnation.

SENATOR SAN AGUSTIN:

Well, maybe its about time that we stop that exchange because we're not. . .

Mr. Souder:

Well, I'm not even going to argue that. I'm just talking about the Executive approach is that we should exchange if somebody wants to exchange.

SENATOR SAN AGUSTIN:

I know, well, sometimes we exchange for a property that we will never use. You know, the policy of government should be that when we exchange property because we have use of that property we're obtaining, not so that something that's because sometime it's the other way - its the person being exchanged - recipient - gets the benefit of the whole deal and the Government gets (taken) . . .

Mr. Souder:

We concur with that basic philosophy.

SENATOR SAN AGUSTIN:

And you that's been happening, Paul.

Mr. Souder:

Yes, I know its happened, yes.

SENATOR SAN AGUSTIN:

And that's why, maybe its about time we stop this exchange business. . .because we're acquiring property that nobody wants and the government is going to be saddled with it and yet giving up very priceless and very expensive property and we should have hanged on to it. Now if the government . . . if the Judicial Building . . . if we should pursue I would think that you would go ahead and condemn, use the land itself as part of your equity contribution and get a mortgage for both land and building. And that's why I'm concerned why you're just staying just on the building . . . because it wouldn't make sense - you just mortgage the building and not the land. You're giving up a very powerful price leverage on the lending position if you've got one million dollars. That's it. Now, the other one, of course, Frank (Castro), which we can work out . . . I think . . . I don't understand Frank, ah...Mr. Castro...what you're saying that the Legislature should be excused from passing or approving this loan agreement. I don't understand. Would you explain that Mr. Castro? Are you suggesting that the approval of the Legislature be deleted? Is that on Bill 41 because its already in Bill 407. I want to get that clear, or is your intention to completely take the Legislature out of the picture?

Mr. Castro:

I believe I was speaking on the part where it says . . . the phrase shall be effective only upon the approval of the Legislature should be deleted.

SENATOR SAN AGUSTIN:

You want to delete that in 41 but keep it in 407? Is that what you're saying?

Mr. Castro:

Yes.

SENATOR SAN AGUSTIN:

Now, is there a list of owners of these properties. . .there's a list of the people that really own these properties that we are going to condemn?

SENATOR SANTOS:

Yes, there's a list.

SENATOR SAN AGUSTIN:

Well, could they make available the names on it because

apparently there are some people in this body that seems to have a vested interest in this bill. . .

**SENATOR SANTOS:**

Oh, definitely.

**SENATOR SAN AGUSTIN:**

. . . and I just want to make that for the record for a full disclosure that there are people. . .

**SENATOR SANTOS:**

Oh, sure . . .

**SENATOR SAN AGUSTIN:**

. . . in this body that has . . . seems to be bogging down this Judicial Building. Mr. Chairman, you know, we've been working on this for the last two Legislatures and it's beginning to see why the building has not moved.

**SENATOR SANTOS:**

NO. The bill was never refer . . .

**SENATOR SAN AGUSTIN:**

No, but we have been working it for the last two legislatures, you know, this Judicial Building.

**SENATOR SANTOS:**

The bill was never referred directly, that's the whole issue.

**SENATOR SAN AGUSTIN:**

No. What I'm saying, Mr. Chairman, is that this project of the Judicial Building has been going on for the last two legislatures. We approved the formation of the Judicial Building, the imposition of the fines, the establishing of the fund the last legislature session. But it has not moved because of land problems, among other things. But, I mean, it has not moved and I can sympathize with the Farmers Home Administration, you can't hang on at 6 - 5/8 interest for long, you know, that's a deal, really, if you can get it. And I'm surprised at the Farmers Home does not hang on the land itself also secure. You can get more money out of it if you put the land. Actually you can up that \$11 Million if you can put the land in there. Maybe another couple a million dollars then you can come up with \$15 Million. Farmers Home has two kinds of loan package. ONE is this loan but you also have a secondary which I'm sure you can get an additional loan package from the land in question. That



way you'll be able to get financing. But . . . 6 and 5/8 . . . I wish I could get that. Prime rate now . . . I mean the mortgage rate is about 11 percent now. Farmers Home . . . I mean Fanny Mae. Well, do you have . . . this is the listing, huh? I see. Now, has there been any court proceedings, any judgements, any documents filed for condemnation . . . on this particular one. . .

Mr. Taitano:

On these particular parcels . . .? No, Sir.

SENATOR SAN AGUSTIN:

Well, this is the key . . . to getting your building. I'm sure Farmers Home will not give you a loan package unless you secure the land.

Mr. Taitano:

That takes action from the Attorney General's Office and the Governor's authorization for . . .

SENATOR SAN AGUSTIN:

And their response is to exchange rather than condemn . . . is that the government's policy, I mean . . .

Mr. Souder:

The Attorney General's Office would rather see it just condemned. The Governor's Office, . . . I think . . . and this has never been clarified completely . . . would like to see people have an opportunity of getting land.

SENATOR SAN AGUSTIN:

Well, sure. But, I would think that determination is made as to what the Executive Branch is going to do. I would think the Judicial Council should seek whether the Governor's Office or should seek condemnation. . . while the preference of the Judicial Council is for condemnation, why is the Executive Branch objecting to that?

Mr. Taitano:

It's not objecting, Senator. It hasn't objected to it.

SENATOR SAN AGUSTIN:

Is there any statutory prohibiting them from initiating condemnation procedures?

Mr. Taitano:

No, Sir.

SENATOR SAN AGUSTIN:

At this point, they have not moved, though!?!

Mr. Taitano:

Well, they have undertaken, I think, pretty much, all the steps except the Governor's signature so that . . .

SENATOR SAN AGUSTIN:

. . . Except what? . . .

Mr. Taitano:

. . . the Governor's approval. So its waiting that. But it has undertaken all the necessary steps for it.

SENATOR SAN AGUSTIN:

When is that going to happen?

Mr. Taitano:

We anticipate, we hope, this week . . . sometime.

SENATOR SAN AGUSTIN:

Oh, so you have assurance that they will be approved so that you can proceed with the condemnation?

Mr. Taitano:

We've been following up.

SENATOR SAN AGUSTIN:

The Farmers Home would accept once you file a condemnation proceeding as a commitment to that loan, wouldn't it?

Mr. Taitano:

Yes, but, you see, the point is, at the time the loan discussion had begun the need for additional land was not taken into consideration so that is out of the picture . . . that we had planned to build on site . . . and then found after soils investigation, the requirements from the regulatory agencies, we found that it was not feasible to build on site, on the present.

SENATOR SAN AGUSTIN:

So, you really don't have a Farmers Home commitment?

Mr. Taitano:

No, No, Sir, not relative to the parcels that you have before you. That is not a part of Farmers Home requirements because that never got into the picture.

SENATOR SAN AGUSTIN:

So, in other words, you could have proceeded with the original plan, get your \$11 Million, but somebody put damper, says, Hey, we need more additional room, right?

Mr. Taitano:

Well, Well, no, what they have found is that based on the space management report that was submitted and presented before this body, that the, if we were to incorporate all those features into the building and make it a court house as it ought to be, we had underestimated the land needs and found now that we need to expand and the parking area was a very crucial problem and the . . . when we discussed and met with other people on the alternatives for parking . . . adequate parking facility, we found that it would be more advantageous to have your own as opposed to rent one because that was an alternative being considered. So, at any rate, Farmers Home Administration's concern, right now, has nothing to do with the condemnation of these properties, but indirectly does because the building is going to sit on it.

SENATOR SAN AGUSTIN:

So all you got from Farmers Home is saying its available, up to \$11 Million assistance, but it doesn't mean anything, at this point. Really, there's no commitment.

Mr. Taitano:

No, sir, its not, its an encumbrance, specifically for the Superior Court of Guam. It is more than an availability. The money has been identified and specifically set aside for this project.

SENATOR SAN AGUSTIN:

But, not on the project that you're now embarking on. They have identified on the original but you said that you have additional parcels which change the entire picture.

Mr. Taitano:

And, they're aware of that. And they're saying we're not going to increase the \$11 Million, we're going to cap on that. And so what we need to do is come up with alternate financing and I have discussed that with Farmers Home Administration. They say - Fine - to date.

**SENATOR SAN AGUSTIN:**

Mr. Chairman, I don't want to monopolize. Thank you very much. I'd like to wait to see the loan document but I would think that you have a lot of work more . . . land is not your problem at this point . . . you got more problems then getting land. From what I gather, you don't even have a commitment from Farmers Home, you got talking stage but you don't have it. They talked to you on the original site, you have changed direction, you want more additional space, you want more parcel land which puts another financial . . .

**Mr. Taitano:**

Well, relative to the loan, Senator, the . . . I think commitment is not an inaccurate word to use because the acknowledgement of that amount of money has been brought back to us at the local level, the regional level, and the national level and we have been working with the counsel general relative to specific provisions which are now incorporated in the bill before you.

**SENATOR SAN AGUSTIN:**

And its not costing you anything for having that commitment.

**Mr. Taitano:**

No.

**SENATOR SAN AGUSTIN:**

Well, thank you, I . . . I'm little bit dubious. I don't think you have a commitment but that . . . let it be.

**SENATOR SANTOS:**

Perry, this Committee would like to have the copy of . . . because I understand from the very inception that Farmers Home did commit themselves to \$11 Million. Would you provide a copy of that to this Committee? And a copy of your financial statement regarding the possible repayment or the coverage of the debt service for the loan because we're talking about one million, the up front money, plus another two million to carry over the intent of the condemnation. And we would like to see a copy of your financial statement about the repayment or . . . we don't want the Superior Court to start charging excessive fines and fees in order to meet their debt service. Because you are embarking on a ambitious piece of endeavor, particularly when we start to go and condemning property and I see people here that are also aggressive once it comes to the price of their property on the list of property owners.

Mr. Cruz, I have questions, Joe. On the Site C land

owners, on the copy that you provided our Committee, it indicated Lot No. 1298 as an individual owned then, on the other hand, on the listing of the map and survey, 1298, as an original lot, did not indicate on the listing of the mapping. Could you explain why that the original listing it indicates Lot No. 1298; on the mapping that you have, on the map that you presented there is no indication on the original parcels of 1298. Am I making sense in what I'm trying to put across.

**Mr. Souder:**

Senator, I think I may be able to clarify it. That land was separated into parcels - there's 1298 - 1 - 1; there's a 1298 - 1 - R, if my memory is correct.

**SENATOR SANTOS:**

No, the mapping, Paul, since you're willing to answer in behalf of Land Management, there is a 1298 - 1, there is 1298 remainder; but the original lot of 1298 is not on the listing of the mapping.

**Mr. Joseph Cruz:**

Senator, I don't know where that listing came from.

**SENATOR SANTOS:**

It came from the map.

**Mr. Cruz:**

From our Department?

**SENATOR SANTOS:**

Yes, sir.

**Mr. Cruz:**

The most accurate figure is the one reflected on the map, so whoever typed that listing should include 1298 as one of the . . .

**SENATOR SANTOS:**

Just let me show you on the Site C land owners, do you have a copy of that?

**Mr. Cruz:**

No, I don't have it.

**SENATOR SANTOS:**

Could you give us a copy of the land owners listing?

1298 indicated 165.75 sq meters.

Mr. Cruz:

That's the basic.

SENATOR SANTOS:

That's the basic lot?

Mr. Cruz:

Yes, and its been split up to two parcels, according to the map, 1298-1 and 1298-Remainder, so it reflects as two separate parcels. The listing, I'm not sure as to why only the basic lot reflects.

SENATOR SANTOS:

O.K., let me . . . while we're doing this thing here . . .  
. Senator Nelson . . .

SENATOR NELSON:

Yes, Good Morning, Gentlemen. I hope that we're not trying to convey a message that we will build this courthouse . . . . (end of tape)

I think this is the situation we're in right now. We're suppose to have a deal, promised money, which we have the repayment sources and what not, but actually we don't have the land to situate the . . . and whatever happens later on may jeopardize the whole proceedings. But let me just start out, Perry, by the revenues that we have on hand now. And perhaps you can just cover the whole ball of wax by . . . How much are we making monthly from fines and what not? How much has been reserved and so forth?

Mr. Taitano:

I'm going to try to recall my figures . . . I don't have that with me . . . but, our average monthly take has increased to \$86,000 per month and that's not a high average. That is based on actual revenues collected for Jan 86 to Jan 87. The reason why I've limited it to that is just simply because the increase of collections have been very significant. We have projected a 5% increase each time the actual take reflects twice that, even more. So what I've done is I've been sort of selective in the trend analysis and confined myself to one that is more reflective month to month. But overall, since 1974 December, your actual take averaged \$83K per month and when you do have the building erected, then you would have tenants in the building other than the court. The tenants, for the initial

part, would be charged what they're receiving for payment of their rented facilities now.

SENATOR NELSON:

O.K. let me just, and then, of course, when we build the building, we hope that crime will go up so that we can get the repayment otherwise we will be in trouble.

Mr. Taitano:

No, sir. It appears to us that our figures are in fact even less than what's going to come in simply because of the growth in population, the increase number of cars that come in, the additional fleet assignment from the military stand point; that all contributes. Your bread and butter, is traffic. Senator Santos knows that quite well. It's traffic court, that's where its coming . . .

SENATOR NELSON:

O.K., so right now, we're looking at it, you have a repayment source that you can begin to . . . All right, how much do we have on hand, Perry, for the condemnation proceedings, if we went that route.

Mr. Taitano:

We've already set that aside. We've taken it out of the Judicial Building Fund, and wrote a check, gave it to the Attorney General's Office for them to put together the proper elements for undertaking land condemnation filings. That money, one million nine . . . around that.

SENATOR NELSON:

O.K., Perry, let's go on to the factors used in arriving at \$1.9 Million and perhaps you can just discuss the appraisers, who are the appraisers and are you satisfied with the appraisals?

Mr. Taitano:

Well, the appraisers . . . as we do with all contracts . . . we notified all the companies on Guam, if they have an interest in undertaking this appraisal process. The Ad Hoc Committee that selected this appraiser was formed by the AGs Office, Highways from DPW and the courts. And Mr. Charles Griffin, who was the appraiser that was awarded the contract, he based his appraisal on the standard method - comparables.

SENATOR NELSON:

All right. What's the commercial price per square meter now, just roughly?

Mr. Taitano:

The very least involved those parcels that are submerged year round in water, they run - \$50 - to those with improvements - \$90 per square meter.

SENATOR NELSON:

And this is the final figures of the . . . and this has been approved by Land Management . . . the whole works . . .or?

Mr. Taitano:

Well, no sir. That's just - he was contracted to undertake an appraisal valuation. He's completed his appraisal valuation and we have submitted that to the AGs office, the AGs office then undertakes that task . . . it's also out of the court's jurisdiction . . .

SENATOR NELSON:

Well, we understand the legal procedures as to how we go about it but my biggest concern is the justice to the land owners. Now, just like I'm pretty sure in Manila, as well as, Honolulu, someplace, we have the reclamation, and at one time the property wasn't worth anything . . . but, although its submerged land, let me tell you, that's . . . that property is worth a lot per square meter, I don't care whether itoh is staying there or not but its . . . anybody who wants to build anything is going to pay for it.

Mr. Taitano:

Sure, those are the general conditions. Now, what would happen . . . the next step would be that the property owners, if they don't agree, have their own appraisal, if they don't agree with the valuation, then they go to the court for it . . . there you have . . .

SENATOR NELSON:

O.K. Perry, let me . . . all right . . .now, like I said, my biggest concern here is the property owners. We all agree we need a court . . . I think we did everything . . .we gave you everything that you wanted in order to close or be able to commit the Farmers Home Loan in giving us the money. Now, what have we done in relation to communicating with the owners?

Mr. Taitano:

I have personally met with the owners, a year or more ago, to request their permission to enter their properties. I met them at their convenience, in the evenings, most of the families, those that are here on Guam, and some during working



hours and received their permission to undertake three studies. One was the boundary survey, the topographical survey, and the appraisal, and, oh, fourth . . . I'm sorry . . . is the soil testing. And then I informed them that when this information is completed, that they will be available for them.

SENATOR NELSON:

Have we given them the latest appraisals?

Mr. Taitano:

The appraisal? We've given the topo and the boundary. The appraisal we have just completed last week so . . . no . . . that hasn't been done. It's going to cost to reproduce that . . . they pay at cost the reproduction of the appraisal.

SENATOR NELSON:

Who has to pay

Mr. Taitano:

The owner. Let's say to reproduce, for example, the boundary survey it would cost 85 cents per sheet.

SENATOR NELSON:

I'm talking now exactly about the land figures, the figures . . . the appraisal itself.

Mr. Taitano:

We can give them the figure relative to their parcel . . . they don't have to have the whole appraisal book, not unless they want that.

SENATOR NELSON:

But, have we done that? Or when do we plan to do it?

Mr. Taitano:

Well, the AG has taken over with the steps and they have come into the picture just two weeks ago. So we haven't written to the owners that the appraisal has been completed because of the . . .

SENATOR NELSON:

Paul has indicated that the Administration would rather go the negotiations route. Am I correct?

Mr. Taitano:

The Attorney General's Office has recommended that that's the only way to do it.

SENATOR NELSON:

No, no, I'm not . . . I don't give a hoot about the Attorney General's Office . . . I'm talking about the Governor and the court.

Mr. Taitano:

I can't speak for the Governor, Senator, I really don't know what his position is on the matter.

SENATOR NELSON:

Well, what is the recommendation of the Court then?

Mr. Taitano:

Condemnation!

SENATOR SANTOS:

For the record, the Court's advocating to condemn all the property needed for the complex.

Mr. Souder:

Basically that is correct. One of the primary reasons and this should be taken into consideration. All the properties in this area are very marginal in size, some of the properties are sitting on three or four pieces of land, some of which they own, some of which they don't. Condemnation would appear to be the only intelligent way . . .

SENATOR SANTOS:

In the contrary, Paul, there are some parcels which are small but if you combine all the small parcels into one, it will come out a little bit bigger. Like the Triumph Finances. The Triumph Finances owns quite a number of parcels within the site to be condemned but if you combined it into one it will be pretty substantial. Coupled with the fact that the incorporators of the Triumph Incorporated are business people that are knowledgeable in the condemnation proceedings. Like an attorney for example. The attorney is a good friend of this Legislature that is one of the incorporators of the Triumph Financial International.

Mr. Taitano:

One of the lot owners, I think, has a value of nearly

\$200,000. That may be Triumph, that may be Archie Development. But there are a number of parcel owners whose valuation have exceeded \$100,000, that's true.

SENATOR SANTOS:

Well, the two biggest here is the Triumph Financing Incorporated and the Guam Archers Development Corporation. These are the two biggest land owners.

Senator Nelson is correct.

SENATOR NELSON:

Yea, but the . . . I hope that we don't try to conclude that the bigger the lot you have the more expensive its going to be because that ain't the story here on this Island and especially Agana lots are all fractional lots, and you know, this is the average . . . 200 some . . . 100 some . . . in the pre-war subdivisions. And some lots, like in the middle of the highway, Marine Drive, maybe 100 some . . . I think Paul may know this . . . about 200 square meter but that property is worth a fortune. But, I'm deeply concerned, Paul, I know, you working for the Court, and Perry, you're the Administrator and know your boss . . . I know that you want to do this thing as expeditiously as possible and perhaps, the condemnation may be the best route out but just looking at some of the land owners . . . I know the Chase family will, if I'm wrong, then I'll serve you a cup of coffee, but I know they will never accept \$8,000 for 161. square meters for that Agana lot . . . now, what you may have to do is hire the Marshalls to remove them from their property . . . again, if I may be wrong in this, I'll serve you and Paul coffee . . . but I have a hunch that nobody's going to move them for this kind of price that we have before them . . . and this is the reason, Perry, and I think its the responsibility of the court to negotiate with these individuals either on a weekly, daily, monthly basis and perhaps try to settle this thing before condemnation.

Mr. Taitano:

Well, sir, I don't think it is . . . that falls within the jurisdiction of the court . . . that is within the jurisdiction of the Executive Branch. We're there to assist, provide information and resource where its proper and the law provides for us to do so. But that presents a conflict of interest we can . . .

SENATOR NELSON:

But, you are involved . . . this is going to be your court building . . .

Mr. Taitano:

Yes, but those cases will eventually be litigated in court and you cannot be . . .

SENATOR NELSON:

But, why . . . why go to court? What has the Executive done in relation to this matter? Has there been close coordination or . . . who are the real estate negotiators from Public Works?

Mr. Taitano:

We have worked with all the regulatory agencies to date. All the ones that need to be involved and have a need to know information right have been informed. We have been coordinating with them closely and very frequently . . .

SENATOR NELSON:

What is the result, Perry, with all these coordinators? Do you have the results? What have they come up with? What have they recommended to Chase? Antonio B. Chase . . . the Chase family?

Mr. Taitano:

O.K. That's going to take place, as provided in the bill, when you have the public hearing. The Attorney General's Office is suppose to undertake that. Land Management . . . Joe, if I'm correct . . .

Mr. Cruz:

Senator, Mr. Perry, . . . I don't know . . . during Bordallo's administration the Task Force that was established with respect to this area and up to this point we haven't even come up with the final draft of rules and regulations . . . twice its been revised . . . never been any final determination with respect to the rules . . . We've been waiting for the rules and up to now its never been finalized. We were prepared to send the letter out to all the owners but Oppen refused or recommended that we shouldn't send the letter until we're ready with the rules.

SENATOR SANTOS:

I know Oppen had a role in this thing here. And Oppen also could be a conflict of interest because he's acting . . . it's a sad story . . . Mr. Oppen sits at the Judicial Council that has cognizance over the approval and disapproval of the entire plan . . . Mr. Oppen also . . . Mr. Oppen is also a part of the negotiator for the property, unfortunately, Mr. Oppen is interested in the property going towards the American Red Cross site, going up towards Route 4, but for some reasons or another there's a change of plans that instead of going up towards the

Route 4, American Red Cross route, the court decided . . . the Judicial Council decided to go towards the O'Brien Drive from the GPA transformer section over to the corner where Antonia Chase is. But I find it to be amusing right now that the Land Management and the Court are not together on this.

Mr. Taitano:

No, sir, that's not so. We have spoken with the Director. Now, whether or not that information . . .

SENATOR SANTOS:

Perry, just a minute now. Here is Mr. Cruz, who is the Land Administrator of the Department of Land Management. He's saying that the last administration did this and there's no follow up subsequent to that particular concept . . . that its been four months . . .

SENATOR NELSON:

There's no legal guidelines according to the Task Force. Do we have a new Task Force, Mr. Cruz?

Mr. Cruz:

Not to my knowledge, Senator.

SENATOR NELSON:

Perry, don't tell me now its not your responsibility, I know its the Governor's responsibility . . .

Mr. Taitano:

That was an ad hoc task force . . . it has served its purpose. Its no longer needed and its therefore no longer functioning.

SENATOR NELSON:

Did it function at all though?

Mr. Taitano:

Yes, it did. I have spoken and have met with the Director of Land Management . . . I have met with the crew that put together the boundary survey and have worked very closely with Land Management. I'm not certain how the internal information or exchange of information between the divisions of Land Management . . . but, have I been working with Land Management . . .? The answer is Yes, I have been.

SENATOR NELSON:

O.K. Perry, can we hear from Land Management. I know you're an outstanding administrator. You were my former student, an A student, too, I'm proud of that. But, let's go to Land Management . . . really what . . .

Mr. Cruz:

I'm not dumb of the fact that Mr. Perry met with Land Management with respect to survey aspects - with respect to the promulgation of rules and regulations at that point of time, nothing has been completed or finalized for that matter and under that existing statute it requires the Attorney General to promulgate rules and regulations, and under that law, to the best of my ability, that the Department, the Director of Land Management will handle the negotiations. And I stressed that to the Attorney General's Office during the task force meeting. The fortunate part, I was part of that task force, asked by previous Directors cause I, as Administrator of that department, I was responsible for all land transactions for that matter although the Director had the prerogative to handle everything on his own. But never a time that a rules and regulations be completely promulgated for this purpose.

SENATOR SANTOS:

Mr. Cruz, no matter task force or no task force, the ultimate responsibility in condemnation or any disposition of government property rests with the Department of Land Management. Task force or not, that's the bottom line. That you are responsible for the disposition of government land, be it towards condemnation, be it towards land exchange. I don't care whether the court has jurisdiction. And I'm coming up with a second concept here . . . that the court could very well be a conflict of interest here, too, on the basis of condemnation. Where would the individual go when the Superior Court here is sitting in judgement? So, there's a likelihood here that we might bring in somebody here that for the poor land owners to get a true and correct judgement. Once the condemnation reach that time and point in Superior Court.

Mr. Taitano:

That's right, Mr. Chairman.

SENATOR SANTOS:

Did you people consider that . . . what's the alternative?

Mr. Taitano:

We absolutely did . . . that we're not to take part in any of these proceedings simply because we are a client agency and that . . .

SENATOR SANTOS:

You are a real party in interest.

Mr. Taitano:

That's true . . . but the point is . . . in the undertaking of condemnation proceedings, the Court cannot, must not, get involved in that . . .

SENATOR SANTOS:

So the fact of the matter is . . . that whether its task force or not, the responsibility rests with the Department of Land Management. So, let's get that clear . . . so that there will not be any misunderstanding here . . . that the responsibility of the land exchange . . . going that direction . . . or condemnation . . . rests with Land Management . . . be it . . . Mr. Cruz . . . as a member of the ad hoc committee or task force. The bottom line . . .

Mr. Cruz:

I'm not a member, Senator, but I was asked to sit in.

SENATOR NELSON:

O.K. let me try to finish up my questions, Mr. Chairman, I know there are others . . . are there any more who'd like to ask questions . . . or do you want me to continue . . . (Senator Santos notes that Senator Ruth wants to ask questions) O.K., let me try to wrap up my line of questioning then. Gentlemen, Perry, Paul, Frank, Mr. Cruz . . . my greatest concern really, are the property owners . . . And I want the word Justice shall prevail . . . Now, that everybody knows the Court . . . some building is going to go up . . . naturally, economically, and otherwise, the prices of those lots are going to go up in the minds of the land owners . . . The minute you say that this is what's going to go up . . . then you expect very darn well that the property owners would increase their property by hundred or two hundred percent in order to be able to be satisfied because they're saying, if you need this land . . . you pay it. And I know, just talking to Mrs. Chase . . . they are expecting more than \$200,000 . . . now, now how we're going to get around that may be a big problem. They may not want to move or we may have to shoot them out or it'll be a shootout by the time you move them out and the reason why I mention Justice and the reason why I'm advocating, Mr. Chairman, that perhaps if we can devise . . . formulate a task force so that we can be able to talk to these land owners and try to compromise and pay them off rather than go to condemnation . . . condemnation, I certainly would not support, with these present conditions . . . the Court wants the building, the Courts wants the property, its for the court, its

not for anybody else, its not for the Governor, its not for DOE or for other branches . . . The Court has a very, very strong conflict of interest . . . and the court perhaps may not even be aware or may not consider the interest of the land owners . . . if the should fight it, they go to court, it belongs to the court, the Attorney General is a member of the Judicial Council, its a conflict of interest all over the place. For God's sake, Paul, you are an expert planner, you have been on this Island longer than most of us . . . I know I'm correct on that statement . . . Please, Mr. Chairman, for the sake of these land owners that we have in Agana, I think we have the money. Let's jack whatever appraisal that we have . . . we show them that this is what so and so appraised your lot as a commercial lot . . . \$100 and this is for residential lot - for \$50 a square meter. . . Let's come out with a compromise and say . . . Look, let's jack it up at least \$10 - \$25 . . . If we can do this and settle this, I think it would better . . . be better for everybody. Otherwise, if you try to condemn it . . . I think the Court is going to be in trouble . . . because the Court wants it and they don't care who gets in their way.

Mr. Taitano:

Sir, the act of condemnation does not preclude negotiations . . .

SENATOR NELSON:

Hey, Perry, I understand that but why, nai, why should the people hire lawyers and so forth in order to negotiate. Land Management, according to Mr. Cruz . . . Land Management, so far, there are no plans, Perry, what you may want to say and what you may want to do are two different things . . . but the other agencies who may be involved in the final proceedings, in the litigation and what not would not be the court system and I know your interest and I know perhaps, your boss, he's retiring and would certainly want to get this thing squared away once and for all but for God's sake, GACHONG, let's look after the . . . also interest of the land owners . . . that's all my main concern. Thank you, Mr. Chairman.

SENATOR SANTOS:

Thank you very much, Senator Nelson. Senator Ruth?

SENATOR RUTH:

Thank you, Mr. Chairman. Just to prevent a conflict of interest here, I think I'll direct my questions to Land Management. Just a couple of questions on the landowners, to just lengthen that discussion just a little bit.

Mr. Cruz, do you have any idea how many landowners are involved? How many landowners are affected?



Mr. Cruz:

I can't recollect but probably more than 10 or 11 property owners. I can't at this point give you the figures. But at that point of time when the law was enacted, we were ready to send those letters off to comply with the intent of the law - to advise property owners. Unfortunately, like I said, we were asked by the Attorney General Opper not to release that letter until we were ready with the rules and regulations, I can't . . .

SENATOR RUTH:

Which you don't have, right?

Mr. Cruz:

Pardon me?

SENATOR RUTH:

Which you don't have . . . the rules and regulations.

Mr. Cruz:

Not at this point in time. Twice the original . . . first . . . the first draft was presented to us for review. We make our review on it. Then the second rules was revised . . . totally removed the department responsibility, which I stressed that to Opper, as well as, Mr. Connell, who was responsible in revising the rules and they indicated to me its an oversight. To that point I haven't seen . . .

SENATOR RUTH:

Well, Mr. Opper is long gone, though . . .

Mr. Cruz:

That's true. The fact remains . . .

SENATOR RUTH:

What has been done since Mr. Opper's . . .?

Mr. Cruz

Nothing, with respect to publication of rules and regulations.

SENATOR RUTH:

How can you possibly or what are you doing to possibly held the Judicial Branch in obtaining whatever it needs?

Mr. Taitano:

Some; at least two, specifically were, at the very beginning, amenable to land exchange programs. There were three that were concerned to what building was going to sit on their lots simply because it has very personal, sentimental reasons. They grew up there. They want to make sure that the building that sits on it . . . they're not against the land, the eventual land-taking . . . whatever method is used . . . indicated that they would like to see something that would be nice and it wouldn't do an injustice to their property and the feelings that they have for it. And there were others who didn't who were, there were others who were very much against unless you give them the price they're asking for.

SENATOR RUTH:

How many out of the ten do you think were very much against it altogether?

Mr. Taitano:

There was only three.

SENATOR RUTH:

So three out of the ten?

Mr. Taitano:

Out of the 27.

SENATOR RUTH:

I thought he said 10 landowners (referring to Mr. Cruz).

Mr. Cruz:

Well, Senator, I said I can't recollect the number of people.

SENATOR RUTH:

So the more accurate number is 27. So that's what?

Mr. Souder:

That's not quite correct. A lot of these properties are in estates. There's one that has 32 people in the estate. That is a piece of about 10 feet by 10 feet. So you have . . .

SENATOR RUTH:

So, would you say that the general feeling on the part of the owners is that they open or not? . . . open to the

development?

Mr. Souder:

I would say generally open>

SENATOR RUTH:

They're open?!?!

Mr. Taitano:

Yes, and Paul is right but I was referring to the spokesperson, but there, in fact, individual parcels but relative to the actual owners, simply because the registered owners dies and left without a will. Then you have one particular . . .32 heirs . . .yes!!!

SENATOR RUTH:

Does it require such a large piece of property for the Judicial Building?

Mr. Taitano:

To meet the regulatory requirements, it requires at least that size.

SENATOR RUTH:

I see.

Mr. Taitano:

That's about 102,115 square feet of operating space and that does not include the parking that you need to back that up and according to our rules and regulations, you're going to need to have one for every 400 square feet of office space. So you need a parking space that's capable of handling about 250 thereabouts.

SENATOR RUTH:

So everything that's outlined in this map . . . I'm to understand that you need . . .?

Mr. Taitano:

Yes, Senator.

SENATOR RUTH:

In your testimony, your written testimony, you said that Farmer's Home will not extend the deadline. I'm wondering why they won't extend the deadline for financing?

Mr. Taitano:

The acquisition of the 27 parcels is now part of the . .

SENATOR RUTH:

That's right, however, if we approve the bill that gives you the authority, and then we start with the negotiations and they have a change of heart, which I think may happen in this case . . . like anything else, any thing goes here . . . you can probably plan on somebody changing their mind eventually, especially looking at the estimated value of the property, which to me is quite low . . . what if it falls through? What if they don't agree?

Mr. Taitano:

Well, the filing of condemnation of land taking authorizes the Government of Guam to enter the property and begin preparation, but you have to first undertake relocation of displaced households, which tenant occupied and home owner occupied and compensate them according to Guam laws, which follows the Federal laws, relative to the Guam Housing and Urban Renewal Authority.

SENATOR RUTH:

So Farmer's Home Loan is only interested in you obtaining the property before June???

Mr. Taitano:

No, Farmer's Home conditions are those which are incorporated in 408, i.e., the assignment of rent, the authority to mortgage the building and the . . . I think that's it . . . those are the two concerns.

SENATOR RUTH:

Mr. Taitano, if you fail to meet the June deadline, has the court looked at an alternative financing?

Mr. Taitano:

We have met on several occasions with local banks and yes, they're willing to provide a loan but that's not within our means to pay so we can't have the building.

SENATOR RUTH:

So if you don't meet the deadline, if the legislaure sees that this is just unworkable. . .

Mr. Taitano:

We don't get a building.

SENATOR RUTH:

You don't have a building. How critical is the building? Is your building just too small? I mean your courtrooms are too small?

Mr. Taitano:

It's more than just too small. You have a building that was designed in the late fifties and it was designed for limited court jurisdiction. Now we hold trials, now we have jurisdiction that go all the way up to homicides . . . from non-moving parking violations to homicide and you have a court building that is not capable of providing the facility, the security provisions for entertaining a jurisdiction of a general trial court. You have a public corridor for example that's 8 feet wide, then we have to put chairs on both sides to accommodate the public and that brings that down to about three feet, then what we do is we bring the prisoner who are either shackled or we walk them through that corridor and they're looking at the jurors, at the witnesses and at the victims. That's the situation that we have over there. We have court operations that are fragmented to other buildings. We have blocked off one corridor and we have used that as an office space. We have a policy entertainment counter that is not, that is probably one fourth the size of your desk and we have overused the building in many other ways. Every time you put in a new electronic stamping machine, we have a power outage in the building because we overloaded the circuit. We have to put in new circuit lines everytime this happens. The facilities are not capable of accommodating the public demand. It's just atrocious. We don't have the facilities for the jurors. We have to play musical chairs with the courtrooms if we want to have the jury simply because we don't have a jury deliberation room except for the one upstairs. So, yes, that building has long since needed to be replaced, long ago . . . that was, in fact, that was back when the Superior Court was implemented back in 1974.

SENATOR RUTH:

Mr. Cruz, I'm going to head back to the property. Mr. Chairman, if I may ask you a question? Was this prepared by the committee? Mr. Chairman . . .

SENATOR SANTOS:

Beg your pardon?

SENATOR RUTH:

Was this list prepared by the committee or . . . ?

SENATOR SANTOS:

Yes. One list in here is provided by the staff of our committee. The other listing was presented from the court document. That thing was presented from the court document.

SENATOR RUTH:

I was wondering if for purposes of discussion on the pieces of property in question here. . . I'd like to know why there is such a disparity between values of the property . . . the approximate cost of the property . . . where, in fact, to point out Senator Nelson's discussion on Antonia Chase and right above it is San Gil and Guevara and Mendiola . . . their properties are all over \$10,000 worth, yet the Chase property is merely \$6,000 and \$8,000 and they have a semi-concrete house with tin roof on it so why is there such a disparity between the figures?

SENATOR SANTOS:

First of all, the property on top of the Chase has a bigger land area.

SENATOR RUTH:

I wonder if . . . for purposes of discussion . . . on the pieces of property in question, I'd like to know why there is such a disparity between the values . . . the approximate cost of the property . . . where, in fact, to point out Sen. Nelson's discussion on Antonia Chase and right above it is San Gil and Guevara and Mendiola there . . . and their properties are all over \$10,000 worth . . . the Chase property is merely \$6,000 and \$8,000 and they have a semi-concrete house with tin roof on it so why is there such a disparity to the figures?

SENATOR SANTOS:

First of all, the San Gil property on top of the Chase has a bigger land area than that of Chase that you're indicating. The other one, this thing only includes the square meters; it does not include the building because we have no way of determining the cost of that particular building. But at this time, Perry, it would be very fruitful if you can provide . . .

Mr. Taitano:

. . . the appraisal report?

SENATOR SANTOS:

Yes . . . and include also the appraisal report conducted by Griffin. And also, I think, it behooves us here to bring in Land Management here and now. Let's get together . . .

SENATOR RUTH:

Mr. Chairman, you know, Mr. San Gil's property is total over 500 square meters, yet if you add Mrs. Chase's properties, my God, she got one, two three four . . . all at over, averaging 150 square meters, so I can see right away that . . .

Mr. Taitano:

The appraisal report will provide that information.

SENATOR SANTOS:

Yes.

SENATOR RUTH:

But I just wanted to tell Mr. Cruz that because members of this Legislature obviously are in agreement with the Judicial Branch that time is critical because Farmers Home is holding this gun to our head. We have till June or else . . .

Mr. Cruz:

Senator, the original hold is the agency's two years to complete the project. Unfortunately, that expires now. In my understanding of this bill is that they wanted to use a form of the deed of exchange to be filed in court instead of cash. That's the intent of this bill, amendment of this bill, rather of case. We're not objecting the intent of this bill now in the form of condemnation in lieu of cash. We're not objecting to that . . . but, you know, if that's the consensus of the Judiciary to handle it . . . I think the most expeditious action is condemnation and the using of the deed of exchange in a form of condemnation, instead of cash to fulfill that intent. I feel that section of the law that requires money to be deposited in court because any court proceeding is to be initiated. I'm not objecting to that. It's just that people, in my opinion, under that law, the rules and regulations should be promulgated and the department should handle the negotiations. Hearings should, public hearings should be called upon, that requires a lengthy processing really, and if the court wants to handle it, I have no objections. They can handle it the way they want it; condemn it. Well, I'm just merely stating the fact of what the intent of the law here with respect to rules and regulations never being established.

SENATOR RUTH:

Well, that will be. Mr. Castro, will you go back and put together a task force. Or seeing that Land Management, like the Chairman said, Land Management is the bottom line, overseeing agency in this transaction. What are your plans to move on this?

Mr. Castro:

The timing involved, given the remaining time involved and the complexity of the work that's to be acted upon, we should get together immediately and work on this.

SENATOR RUTH:

Just one last question I want to direct to Mr. Souder. The land use involving this property, is it used according to plan?

Mr. Souder:

No, it's a . . . this will be basically a commercial use. At the present time, there is a 200 foot setback from O'Brien Drive and Route 4 which is commercial. There is a triangle in there, involving part of that land where Mrs. Chase is living, which is marked residential. That in the plans call for part of the parking lot. so we have to get the residential changed to commercial to keep Land Management and Territorial Planning Commission happy. Although the basic building is one, with the exception of a very small piece, is on commercial land zoned land. Does that answer your question?

SENATOR RUTH:

Yes! Is that good planning?

Mr. Souder:

No, I think the planning is terrible, but this was done . . . I think . . . in 1960 or something when they zoned this particular area, most of Agana, this area, is zoned commercial. And I don't think there was any consideration at all, irrespective of who should've caught it, as to where these lines should be. They do not follow property lines. There's another problem in regards to zoning, which you should be aware of, and this is one of the problems that Land Management will have: Some of these houses are not located on the land which they own, even if they have three or four parcels, pieces. Some of these houses have no access to any road or street, and all of these things do relate to the appraisal or the value of the property irrespective of how many pieces you own or where they happen to be located. Now there are streets all over the place but none of them are used. There's not even an alley access to a couple of them. Well, there's no street there, there's swamp in one



area where there's a big street. There's little relationship with the way the land is designated now as to what the original intent was before the war when this was a heavily populated little area.

SENATOR RUTH:

Do you think this will come to fruition? I mean, based on the way things are going now?

Mr. Souder:

No, I think the courthouse is certainly needed. We're now renting a lot of space, as has been pointed out, its terribly crowded. If the new structure goes up, I think it can be something the people are proud of. I think it can do a better job of doing what its there for if it has the space that's necessary. I also think that basically this was originally planned as a governmental area. The unfortunate part is the government didn't acquire the governmental area when it was so designated when the street plan was designed.

SENATOR RUTH:

We do have two bills her . . . Bill 407 and Bill 41. One is to exchange, the exchange of land for the Judicial Building and for other purposes. And the other one is relative to the Judicial Building Fund and for related purposes. I take it, you both or all of you have looked at these two bills. Do you suggest any incorporation of both bills?

Mr. Taitano:

41 is, in fact, incorporated into 407 already. Recommendation is to delete that since you have it in 407, the provisions.

SENATOR RUTH:

So 41 is in 407?

Mr. Taitano:

Yes, Senator.

Mr. Souder:

We recommend passage of 407.

SENATOR RUTH:

Instead of 41?

Mr. Souder:

That's right.

SENATOR RUTH:

I see. Thank you, Mr. Chairman.

SENATOR SANTOS:

Thank you very much, Senator. Now, the vice chairman of the Committee, Senator Lujan.

SENATOR LUJAN:

Thank you, Mr. Chairman. Just for Senator Ruth's information . . . Bill 41 was submitted earlier but then when there were other amendments to be made, we incorporated into Bill 407, so I do recommend that Bill 41 be withdrawn, put in the inactive or what procedurally is correct. Anyway, Mr. Chairman, the revelation of all the kinds of things that came up this morning is very interesting. It looks like too many fingers in the pot. You know, I really am very concerned because here we are trying to meet a certain deadline, and as more revelations come p regarding the interest of various people, it seems like, even among the members of the Legislature, its a little bit dubious at this time whether this is going to proceed and meet the deadline and I am very concerned about that because if we are considering that the Judiciary is not part of the government, that's a very sad situation because we're looking at it, of course, the three branches of government and the government is Guam as the Legislature still has to finance, still has to appropriate for the Judiciary. I'm very sorry that these things are coming up to see that there's so many people having certain interest, may I please ask Mr. Taitano whether Mr. Opper was a member of the Judicial Council when his property was involved in the initial stage?

Mr. Taitano:

I didn't know that he had property.

SENATOR LUJAN:

Well, you revealed this morning that the course was changed, that at first his property was involved but then it was rerouted so that his property was excluded and other property owners were . . .

Mr. Taitano:

That was not made known to me. Site C, as I understood it, was selected because it was larger and it was able to accomodate the facility and parking.

SENATOR LUJAN:

So Opper's property was never in consideration?

Mr. Taitano:

That was not . . . (end of tape)

SENATOR LUJAN:

He had revealed to this Committee that the rules and regulations were prevented from going through because of Opper's recommendations. Why is that so?

Mr. Cruz:

Well, I don't know, Senator. I know for a fact that the rules and regulations were drafted up. I reviewed the rules and regulations . . . I presented my comments.

SENATOR LUJAN:

Where is it? Where is the rules and regulations and what does it entail?

Mr. Cruz:

Senator, I think its a dead issue.

SENATOR LUJAN:

It is? What does it entail?

Mr. Cruz:

Well, the first intent of the rules, the rules were prepared to follow the intent of the existing statute. Then it was revised again and totally removed the Director of Land Management to be a part of the negotiations. I stressed that tot he task force and they indicated that it was an oversight.

SENATOR LUJAN:

Okay . . . the drafted rules and regulations, wouldn't that be useful to these people? Or to Land Management?

Mr. Cruz:

Definitely, Senator. If we are to follow the intent of the law and the Department of Land Management is to handle the negotiations for, with respect to the acquisition, be as it may either exchange or outright purchase . . .

SENATOR LUJAN:

So why do you say its a dead issue? Couldn't it be revived to be useful?

Mr. Cruz:

Well, because at this point, to my recollection of that statute, we're given two years to complete the acquisition and I believe that law expires with respect to the acquisition. And that's . . . this kind of amendment, I'm pretty well aware of the intent. Since money is not going to be involved here to be deposited in the court, they wanted a form of a deed of exchange, which area had been identified for that purpose, and we're not objecting to this form of condemnation by depositing. The only thing we're concerned here now is because the law says interest will be accrued, how that can be done in the form of a deed of exchange document instead of cash, and what we're saying here, who's going to pay the interest? Is it the Court? Or how is it going to be done?

SENATOR LUJAN:

But Land Management is willing to proceed with the condemnation? I mean its within your purview? It really is in the Court. I don't think we should pass the buck.

Mr. Cruz:

Before condemnation, I'm certain the court is pretty well aware of the procedure, that you have to negotiate with the owner, offer them whatever the offer.

SENATOR LUJAN:

Of course, but given all that, the Land Management really should not relinquish the responsibility over to the Court.

Mr. Cruz:

We're not, Senator. It's just that the task force. . .

SENATOR LUJAN:

No, because it just seems to me like you were saying . . . "let the court do it . . ."

Mr. Cruz:

Well, for expeditious purposes, Senator, I've no objection, if that's been decided by the task force, then let it be done. What I'm concerned about is that they follow the intent of the law; and if they wanted to go around then that's theirs . . .

SENATOR LUJAN:

But surely, Mr. Cruz, you still have the draft.

Mr. Cruz:

I'm certain I could recover that draft.

SENATOR LUJAN:

Yes, because I don't think that you will send any copy up to the Attorney General's Office without keeping anything in your file. I mean usually that's the case.

Mr. Cruz:

I'm certain we have that draft but again, this has to be reactivated by the directors at this point in time. . . coordination with one another . . .

SENATOR LUJAN:

Okay . . . going back to Mr. Opper, Mr. Taitano. I also have heard . . . maybe its rumors . . . but I also heard that the Court would even agree to providing Mr. Opper's facility; he's coming up with a professional building and that the court will even allow for Mr. Opper's clients, whatever you would call them to use the parking lot of the court. If that is the case, I think that that's a very unusual arrangement.

Mr. Taitano:

I don't think it ought to be done.

SENATOR LUJAN:

Yes, what are some of the arrangements that has been made. Because if that's the case, I don't think the Legislature will want to be dealing with that kind of situation.

Mr. Taitano:

Not at all. I agree with you one hundred percent. We spoke of this because of the parking demand, down in Agana, the need maybe to put up a . . .

SENATOR LUJAN:

So what kind of arrangement do you have to preclude that possibility in the future? For that matter, anybody around it . . .

Mr. Taitano:

We put up a parking control scheme, whether its on a

turnstile . . . you know, how the cars come in and it has to be validated. If you're to be given free parking. Much like you have with GAA or any other organization. In fact, courts in the mainland do that, unless your business with the court has been validated, then if you park it, then you pay a fee for it. That is strictly for court business.

SENATOR LUJAN:

What about the Red Cross?

Mr. Taitano:

The Red Cross? That's an arrangement that we're going to have to work with because we've always permitted them to park in our parking facility because they did not have one, so we made one for them. We'll carry that forward.

SENATOR LUJAN:

Okay. In the . . . you mentioned the \$15 Million that's required to really come up with the Judicial Center. Does that include the plans for future expansion in case the Supreme Court is established?

Mr. Taitano:

Yes, the structure for the Supreme Court, the appellate court, has been designed into the building. However, the Supreme Court offices will not be finished simply because . . .

SENATOR LUJAN:

But, the \$15 million is just for your present plans without the Supreme Court?

Mr. Taitano:

The present plans, plus the Supreme Court. One the third floor but it won't be finished. It'll just be a shell.

SENATOR LUJAN:

Yes, but the 15 thousand . . . 15 Million that you're talking about will only provide for the plans without the Supreme Court?

Mr. Taitano:

Finished. It'll be finished. In fact, not all of the courtrooms will be finished. There'll be two that will be shelled, and the Supreme Court. You're going to have to conceive or envision, I mean plan, design into the building the appellate court and that's what we've done. But we have not done anything in addition to that.

SENATOR LUJAN:

You know that you have been indicating that you have had some discussions with the owners and that you have been negotiating. What about in the case of Amanda Shelton?

Mr. Taitano:

I spoke with the son, Sonny, Senator Shelton. He's the spokesperson for that particular . . . and he has no feelings either way. He says fine if its there.

SENATOR LUJAN:

But he has been fully apprised?

Mr. Taitano:

He has been apprised relative to the request to enter the properties and then all the studies that need to be undertaken. He has given me, himself, the permission to enter in and signed it.

SENATOR LUJAN:

He did sign?

Mr. Taitano:

He did sign it.

SENATOR LUJAN:

Okay, that's nice to hear. How about on the appraisal? Who actually appraised the land?

Mr. Taitano:

The appraisal is done by Mr. Charles Griffin of Griffin and Associates.

SENATOR LUJAN:

Griffin and Associates. Any participation by Land Management surveyors?

Mr. Taitano:

The surveyors were the ones who had put together the boundary survey, the document that is needed by the appraisal. And I was the one who had met with the families and provided the necessary meetings and giving of the names and addresses and phone numbers and that sort of thing.

**SENATOR LUJAN:**

Perry, members of this Legislature are very concerned about the negotiation aspect and how the families react. Have you had any strong serious objection by anyone?

**Mr. Taitano:**

There were, in fact, two, that right now that in my mind I know specifically.

**SENATOR LUJAN:**

Can you mention specific names?

**Mr. Taitano:**

Mrs. Blas.

**SENATOR LUJAN:**

Mrs. Chase, okay?

**Mr. Taitano:**

Mrs. Chase, and on behalf of his wife, Mr . . . ., who's a real estate salesman, broker, Mr. Lujan.

**SENATOR LUJAN:**

Buddy Lujan? What is their main objection?

**Mr. Taitano:**

Well, Mr. Lujan had firmly stated that unless we give him \$400 a square meter . . .

**SENATORS SANTOS AND LUJAN:**

\$400 a square meter!?!?!?

**Mr. Taitano:**

\$400 a square meter.

**SENATOR LUJAN:**

And what about Mrs. Chase?

**Mr. Taitano:**

I think about three million . . . three million for everything. I think at that time, we were in the kitchen and the husband made that statement, as opposed to Mrs. Chase.



SENATOR LUJAN:

Okay, in Mrs. Chase's case, are all her properties landlocked? Or are they in a place where they are actually . . .

Mr. Souder:

They are landlocked as far as what she uses as an entry. She cuts across other people's property.

SENATOR LUJAN:

So she doesn't have an access to her property?

Mr. Souder:

She does have access. It's on the map. You can see it on the map.

SENATOR LUJAN:

No access, through people's property.

Mr. Souder:

That's right.

SENATOR LUJAN:

And government's property? Is there any government property involved there?

Mr. Souder:

Well, there are lots of streets indicated on the map. They belong to the Government of Guam but they are not streets in actuality.

SENATOR LUJAN:

I think its important to know these things because I know there are some of us who are reluctant or hesitant to proceed with this bill because of the people involved. However, if they are landlocked can they really be, you know, is it really justifiable, you know, to have them continue residing there. Let's say that the other landowners will automatically cut them off. will they be able to go, will they be able to have ingress or egress?

Mr. Souder:

She has access to a small street. May I show you the map? May I borrow the map? This is their house, right here. It is squatting on land they do not own (Lot 1301). This is her

driveway. It goes across property that she does not own. There is a road that goes through here.

SENATOR LUJAN:

Okay, so thank you very much, Mr. Souder. Okay, in the case of Josefa Torres . . . who is representing Josefa Torres?

Mr. Taitano:

Boy, you're asking me to recall . . . I've spoken to . . . those who say they represent the family. They spoke to the brothers and sisters. Is she the one in Agat, by any chance?

SENATOR LUJAN:

No, you have a listing here which says Josefa Torres, 1299-1, 942 square meters and its residential and commercial property, so who is Josefa Torres, who represents Josefa Torres?

Mr. Taitano:

My recollection is . . . I spoke to the niece and daughter and herself, an elderly lady, and my understanding is she's who that person is . . . but I'm recollecting, you know.

SENATOR LUJAN:

You must have records, don't you?

Mr. Taitano:

Yes, I do have the right to enter and the signature of the person.

SENATOR LUJAN:

Well, you know this is delicate situation. Okay, in the case of Josefa Torres, do you have strong objection . . . did you have strong objection?

Mr. Taitano:

No, my recollection is that there's no strong objection at all. There was, I think, as I recall, a request for an exchange in a particular area. They have a particular area in mind. As I pointed out to everyone of them, that is within the hands of the Executive Branch, primarily the Land Management, but it may be other agencies, including the Governor's Office.

SENATOR LUJAN:

Perry, I'm asking you almost individually because I want to find out because, you know, everybody seems to think that its not in the interest of these people to condemn the land and that if there

are really strong objections, maybe we should take a look at it once more but if you have really been negotiating and you have been recording that they didn't have any objection, you indicated earlier about Mrs. Shelton's representation that he had signed it and had no real objection . . . so all these other cases are in the same situation?

Mr. Taitano:

Yes.

SENATOR LUJAN:

They signed any kind of paper?

Mr. Taitano:

Yes, they signed paper to give us the right to enter the property and undertake these preliminary surveys. I'd like to make one thing very clear for the records and that is that I've not negotiated nor have I represented myself in that manner. I simply requested the right to enter.

SENATOR LUJAN:

Just to have access for survey. . .

Mr. Taitano:

Yes, and that the negotiation, if anything relative to that takes place, it's outside the court's jurisdiction. It's not my job, that is within the office of the Attorney General or Land Management.

SENATOR LUJAN:

There is some misperception on that, that you have actually contacted these people and but when they heard, they probably have a feeling that there may be condemnation process, did they indicate anything? What . . . ?

Mr. Taitano:

No, I told them that this may eventually take place . . . uh, inevitably take place. If the government chooses to use that for the Judicial Center that the land would be condemned, if not negotiated earlier and then the owners may use the court would be an open as a forum for that to get a fair compensation or whatever it is that the court decides upon hearing from both parties.

SENATOR LUJAN:

Okay, one last question. If this doesn't materialize by May because we don't have session in June, what would happen, Perry?

Mr. Taitano:

The only conditions that are outstanding relative to the loan are ones that we can answer and it requires that we complete the construction documentation. Until that time occurs, Farmers Home Loan will not entertain the closing of the loan simply because that is, the steps they go through. But the acquisition is not a part of that condition to the loan.

SENATOR LUJAN:

So it really doesn't . . .

Mr. Taitano:

Well, what's going to happen is the court is going to need to relocate, that's one option that has to be considered>

SENATOR LUJAN:

If its relocated, can we still get the loan?

Mr. Taitano:

If its relocated, maybe not because the site has already been identified.

SENATOR LUJAN:

And you are also using the building and the land as a mortgage?

Mr. Taitano:

Yes, and we're still using the same site. We're just expanding on it. And we're still using the same building. We renovating it so it's still being used for that purpose. If we change that, then we have changed significantly the information that . . .

SENATOR LUJAN:

Well, in essence, Perry, if we don't act on this piece of measure, then it will really jeopardize your future plans for the Judicial Center.

Mr. Taitano:

Yes, Senator, simply because the provisions in there, the requirements of Farmers Home Administration, the assignment of rent and the authority to mortgage.

SENATOR LUJAN:

Okay, thank you very much, Mr. Chairman, that will be all. Thank you, Mr. Taitano.

SENATOR SANTOS:

The Committee is fully aware of the impact, should this legislature not act in time for the loan, but by the same token, this Committee has that responsibility for justice, particularly for the property owners and in view of that, this Committee will recess the public hearing on this particular bill until the three of us . . . Land Management, the Court and this Committee . . . will meet and discuss further the impact of this condemnation proceedings that is on going. In the meantime, if the Department of Land Management would make available the proposed rules and regulations regarding the anticipated land taking because that is an issue and then you can communicate that to the Farmers Home Loan, Mr. Taitano, that this Committee is in the process of entertaining Bill 407, however, because of the complexity of the land taking and the condemnation proceeding, we are going to meet one more time, not in a public hearing but in one of the offices here so that we can go back one more time.

Mr. Taitano:

Mr. Chairman, may I request invitation of the Attorney General's Office in the meeting?

SENATOR SANTOS:

The Attorney General's Office was also invited to appear before this Committee hearing but I just don't know what happened here but again, we'll make the same representations . . . in the meantime, there appears to be different schools of thought, both of the documents that you presented together with the condemnation differs with the listings on the map in some way or another like the Amanda . . .

Mr. Souder:

Your map is a little older version of the present map.

SENATOR SANTOS:

All right, would you be kind enough to provide us with a newer version together with the property owner here and this is where you'll be coming in, Frank, I mean Ankie, to provide us with the newer versions of the map and disregard all those maps that are not considered. . . because it is confusing. Our staff did indicate all property owners, as indicated in the map and there seems to be property owners that's lost within the shuffle here, so in view of that, we'll recess this public hearing and we'll meet one more time to discuss the impact of this particular legislation. In the meantime, would you communicate, Perry, just in the event that we do

not meet the deadline, that this legislature is in the process of considering the legislation.

Mr. Taitano:

I've already transmitted to him the status on the bill . . . that it's pending.

SENATOR SANTOS:

Is this the same guy . . . Mr. Chu?

Mr. Taitano:

Sir?

SENATOR SANTOS:

Is this the same guy that you've been communicating with?

Mr. Taitano:

Mr. Leonard Aguigui, who's the director for Farmers Home here on Guam.

SENATOR SANTOS:

All of a sudden Farmers Home indicated they're willingly for a while they were so stubborn, if I can use that word for lack of a better word, they were so stubborn in giving the green light to the court then all of a sudden they say we have a deadline to meet. I find that to be very unusual. They were providing all kinds of stumbling blocks then all of a sudden they say that you have to meet condemnation proceedings by June. Paul, you're more familiar with land condemnation than any of us because you did develop the Agana Fractional Lot and you know how difficult that is, let alone, how many owners, lot owners do we have in this parcel?

Mr. Taitano:

Again, Senator, condemnation is not part of the condition to the closing of the loan. It is not. Condemnation is not . . .

SENATOR SANTOS:

And why are we saying that if we do not act by June that the loan will be . . .

Mr. Taitano:

I'm referring to the . . . and as I identified in the testimony, written, it's relative to the other provisions.

SENATOR SANTOS:

All right, in view of that, Frank . . .

Mr. Castro:

Just one last short comment, Mr. Chairman. I brought the more, the most latest map on the site in question for your copy and lastly, that I like to pledge our departments support and I have just spoken to Perry that we shall get together on this shortly so that we can work things out at the earliest possible time.

SENATOR SANTOS:

All right, that's refreshing. All right, then we'll adjourn, we'll recess this public hearing and then conduct it inviting the Attorney General's Office. In the meantime, we would like to excuse Paul and Perry, and then we'll communicate with you.

## COMMITTEE FINDINGS

1. The urgency of passage of Bill 407 is not based on the previous thought that the closing of the loan for the Judicial Center from the Farmer's Home Administration is dependent on the passage of the proposed legislation and the subsequent condemnation of the land.

2. Rather the urgency of passage is based on the following:

a. To expedite matters so as to prevent further escalation of costs due to speculative transactions affecting the properties in question.

b. To expedite matters so as to prevent further increases in the effective rate of interest at which the FHA loan will be closed at. It is noted that the rate of interest increases quarterly at the rate of one eighth of one percent until such time as the loan is closed.

c. To expedite matters so as to prevent further increases in the costs of construction due to unforeseen and uncontrollable forces.

3. Judicial Branch representatives have communicated with the owners of property in the area in question and have communicated indicators to the Committee that there are problems relating to the individual parcels:

a. There are parcels where the original owner has died and where the estate consists of more than one heir.

b. There are parcels where the owners are seeking payment in excess of the valuation determined by the contracted appraiser.

c. At least one owner has expressed a desire to exchange property in the area with Government land in a particular area.

4. Subsequent to the hearing, the Committee has learned that the cost estimate for the complex has increased in excess of \$400,000, such estimate provided by the firm retained by the Judicial Branch to perform such cost estimates.

5. Subsequent to the hearing, the Committee has learned that the Farmers Home Administration is amenable to receiving proposals for the funding of the entire project by FHA. (Note: attached documents received by the Offices of Senator Pilar C. Lujan, Chairperson, Committee on Judiciary and Criminal Justice and Senator Francisco R. Santos, Chairman, Committee on Housing and Community Development contain such information)



6. The Committee finds that rules and regulations as required by statute for the initiation of condemnation proceedings have not been promulgated by the Attorney General's Office nor the Department of Land Management.

7. The Committee finds and notes that the initiation and completion of condemnation proceedings is not a condition for the closing of the Farmers Home Administration loan but that the expeditious completion of such proceedings is needed for the most efficient accomplishment of other necessary steps required for the closing of the loan.

8. The Committee finds that the sole use of the land exchange method may not be beneficial to the Government of Guam and may not be the most efficient method of accomplishing the steps required to finalize the project to the satisfaction of Farmers Home Administration.

9. The Committee finds that the use of condemnation proceedings will be the most efficient method of accomplishing the necessary steps but that the rights and interests of the land owners in the area in question must be taken into consideration and protected as much as is reasonably possible.

10. The Committee finds that it may be possible, in some instances, to utilize a combination of land exchange and condemnation to accomplish the acquisition of the property in question.

## COMMITTEE RECOMMENDATIONS

A. The Committee recommends that Bill 407 , as introduced be amended with necessary language to accomplish the following:

1. permit the acquisition of the property required for the construction of the Judicial center through the use of land condemnation proceedings, provided, however, that provisions be included for negotiations to be conducted by and between the Government of Guam and the property owner in order that the rightful and just interests of the land owners and the Government of Guam be protected. It is the intent of the Committee to insure that land owners be compensated at the fair market value and for the expenses, losses and hardships encountered and endured because of the Governments desire and need to build the Judicial Center.

2. require that the compensation for the land to be taken shall be at the fair market value, using the computations prepared by the firm of Griffin and Associates in their submittal of an official appraisal commissioned by the Superior Court of Guam, adjusted to take into consideration any changes in such fair market valuation which may occur since the date of submission of such appraisal and the enactment of the proposed legislation hereunder considered. Additionally, require that just compensation be made for the payment of the costs of relocation of households and replacement costs of residences, if such are not encompassed in the Griffin and Associates submittal and installations at the fair market value. Consideration should also be given for losses incurred for uncompleted installation and improvements only up to the actual amount of the losses incurred.

3. require that in cases where negotiations between the duly appointed representatives and designees of the Governor of Guam do not result in a mutually acceptable agreement for the aforementioned considerations, the matter shall be referred to a three person committee, appointed by the Governor of Guam and comprised of qualified and disinterested individuals, which committee shall review and discuss all proceedings conducted during prior negotiations between the Government and the property owners. The Committee shall make recommendations for a settlement based upon their review and deliberation of prior negotiations and where required, additional testimony. If such recommendations are not acceptable, there is nothing to preclude litigation of the matter in the court systems.

B. All proceedings subsequent to this legislation shall be conducted in accordance with the Administrative Adjudication Act and the provisions of Title V Part III of the Code of Civil Procedures.

PRESIDING JUDGE  
Paul J. Abbate

ADMINISTRATIVE DIRECTOR  
OF THE COURTS  
Robert E. Leon Guerrero

DEPUTY ADMINISTRATIVE DIRECTOR  
OF THE COURTS  
Perry C. Taitano

PLANS AND RESEARCH

PERSONNEL SECTION

PROCUREMENT, PROPERTY  
AND SUPPLY MANAGEMENT

MAINTENANCE SECTION

MICROFILM UNIT



## SUPERIOR COURT OF GUAM

*General Administration Division*

Judiciary Building 110 West O'Brien Drive, Agana, Guam 96910

Tel: 472-8961 thru 8  
472-8956 thru 9

July 16, 1987

Mr. Dan Tydingco  
Special Assistant  
Senator Lujan's Office  
Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Dan:

Enclosed is my recent report to the Presiding Judge regarding the Judicial Building Fund budgetary estimate and fund projection through 1990.

Also, I have included the telefax just received from our architect summarizing the adjusted figures for the project based on the incorporation of the improvements discussed in our May 28/29 meeting. They include the installation of an elevator in the existing courthouse to meet current accessibility standards; the expansion of the basement to accommodate our maintenance, supplies, materials and property storage, and computer operations; and the installation of concrete roof tiles.

The telefax reflects the architect's estimates as of July 13, 1987. I have attached the previous estimate, dated April 24, 1987, for your comparison and appreciation that they as estimates, are subject to adjustments.

All improvements to current (approved) designs require the approval of the Judicial Council. Needless to say, approval is conditioned on among others, the ability of the Judicial Building Fund to support such improvement(s) over anticipated financial obligations to the loan agreement(s).

Please call me for questions on the enclosed report.

Sincerely,

  
PERRY C. TAITANO  
Deputy Administrative Director  
of the Courts

Enclosures

JUDICIAL BUILDING FUND  
Budgetary Estimate/Fund Projection  
April 1987

DETERMINATION OF CONSTRUCTION BUDGET AND BUILDING PROGRAM

Estimated Court Revenue to January 1990: (Estimated Completion of Construction and  
Renovation Phases of Judicial Center)

Funds Available as of April 1987 (since December 1984)

\$ 2,238,786

Projected Revenue for Calendar Year 1987

8 Months (May - December)

713,912

Based on \$89,239 monthly average collection as calculated from past  
12 months actual collections.

Based on a Conservative 5 Percent Annual Increase in Revenue for the next 2 years:

Projected Revenue for Calendar Year 1988

1,143,727

Projected Revenue for Calendar Year 1989

1,200,913

Projected Revenue for January 1990

105,000

\$ 5,402,338

Funds Estimated to be Available:

Farmer's Home Administration Loan

\$11,000,000

Local Financing

3,000,000

Court's Generated Revenue to January 1990

5,402,338

Total Funds Available

\$19,402,338

Estimated Expenditure During Project Implementation:

Land Condemnation (Per Appraisal Valuation)		\$ 1,203,273
Relocation of Owner/Tenant Occupied Dwellings		60,000
Movable Furniture/Fixture		700,000
Architectural/Engineering (The NBBJ Group)		681,000
Space Management Consultant		285,000
Value Engineering		38,000
Soil Testing		14,000
Existing Building/Site Evaluation		22,300
Energy Analysis (Alternative Technologies)		15,000
Acoustics		5,000
Auxiliary Power System		10,000
Civil Engineering		44,204
Site Approvals		5,630
Regulatory Agency Review Fees		7,000
Building Permit Fee		32,540
Reimbursement Expense		80,000
Contingency		382,000
Court's Contribution to Loan		700,000
		<u>\$ 4,284,947</u>

Interest Payment on Building Loan During Construction Phase (Approximately 27 Months):

A. Farmer's Home Administration Loan		
\$11,000,000 @ 7% for forty (40) years		
75% draw 1st year	\$615,217	
100% draw 2nd year	820,289	
100% draw 3rd year	<u>205,072</u>	
		\$ 1,640,578
B. Local Bank Loan		
\$3,000,000 @ 11% for ten (10) years		
100% draw 2nd year	\$495,900	
100% draw 3rd year	<u>123,975</u>	
		<u>619,875</u>
Total Interest Payment on Loans During Construction Phase		<u>2,260,453</u>
Total Estimated Expenditure		<u>\$ 6,545,400</u>

Summary:

Funds Estimated to be Available for Project	\$19,402,338	
Estimated Expenditure in Addition to		
Construction Budget	<u>(6,545,400)</u>	\$12,856,938
Renovation of Existing Courthouse		<u>( 461,333)</u>
Estimated Construction Budget for New Building		<u>\$12,395,605</u>

COURT SYSTEM'S REVENUE SUBSEQUENT TO COMPLETION OF JUDICIAL CENTER (COMMENCING FEBRUARY 1990)

Revenue from Court Fees and Fines for 1990 (11/12 or 91.67% of 1990) 1,155,879

Annual Appropriation for Rental (Based on Net Program Area Allotted)

Attorney General		
11,452 @ \$1.68/sf (19,239 x 11)	211,629	
Public Defender		
5,403 @ \$1.68/sf (9.077 x 11)	99,847	
Territorial Law Library		
6,711 @ \$1.68/sf (11,275 x 11)	<u>124,025</u>	\$ 1,591,380

Repayment of Loan (April - December 1990)

Farmer's Home Administration	615,217	
Local Bank	<u>371,925</u>	( 987,142)
Projected Fund Balance		<u>\$ 604,238</u>

This balance will be needed to cover additional fixture and equipment to supplement current on-going facility housekeeping and maintenance resources as the new facility reflects a nearly four-fold spatial increase.

APPROXIMATE PROJECT SCHEDULE AS OF APRIL 1987

Design and Contract Document Phase - 8 Months:	September 1987
Bid Process - Selection of Contractor and Construction Manager:	October - November 1987
Construction of New Building:	December 1987 - June 1989
Renovation of Existing Courthouse:	August 1989 - January 1990
Completion of Project and Occupancy of Complex:	January 1990

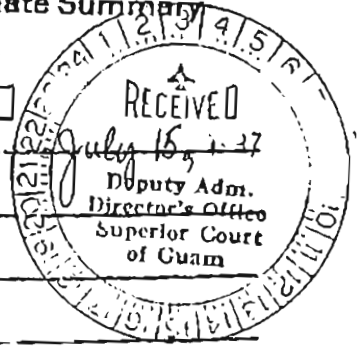
# Project and Cost Management

111 Smith Jackson Street  
 Castle, Washington 00104  
 (206) 223-5200  
 Telex: 329473 Burgess-Sea

Project Management  
 Cost Estimating  
 Cost Engineering  
 and Control  
 Construction Economics  
 Value Engineering  
 Quantity Surveying

## Project Cost Estimate Summary

Page of



Name  
**Guam Judicial Facility**

Job Number  
**23945.00**

Estimate Category  
 Project Budget  
 Design Development  
 Schematic Design  
 Construction Documents

Prepared by  
**Jay Halleran**

Date  
**July 13, 1987**

Date of Previous Estimate  
**April 24, 1987**

Anticipated Borch Building Cost Index at Bid Date

A Construction	GSF New Including Additions		11,664,425
	GSF Remodel		521,718
	Subtotal		12,186,143
	Design Contingency	( %)	630,000
	Escalation and Bid Contingency	( %)	366,000
Total Probable Construction Cost (at Bid)			\$ 13,182,143

Gross Receipts Tax	Construction Contingency	( %)	400,034
	Use and Other Business Taxes	( %)	-0-
Total Probable Final Construction Cost (A)			\$ 13,582,177

Furniture & Equipment	1 Major Movable Equipment (Group 2)		700,000
	2 Furniture, Furnishings (Group 3)		
C Design & Management	01 A/E Fees		880,132
	02 Special Consultants		281,000
	03 Project Management		
	04 Testing, Inspection & Balancing		
	05 Market Studies		
	06 Owner's Administration		
	07 Survey		
	08 Soils		1,161,132
			\$ 1,161,132

D Contingencies	01 General (Owner's) Contingency		\$ 100,000
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E Miscellaneous Project Costs	Insurance and Permits		\$
F Other	Specify:		\$

Total Probable Final Project Cost (A-E)			\$ 15,543,309
---	--	--	---------------

G Site Acquisition	01 Land Costs		
	02 Legal Fees		
	03 Surveys for Purchase		
	04 Appraisal Fees		
	05 Off-Site Work		

H Leasing/Occupancy	01 Moving Expenses		
	02 Leasing Commissions		
	03 Tenant Inducements		
	04 Property Taxes During Construction		

I Financing	01 Interim Financing (Net)		
	02 Permanent Financing Placement (Net)		

Total Probable Capital Cost (A-I)			\$
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Note: This estimate assumed the site would be preloaded. This will not happen so the estimate will change when the new structural scheme is finished.



# Project and Cost Management

111 South Jackson Street  
Seattle, Washington 98104  
(206) 223-5200  
Telex: 329473 Burgess-Sea

Project Management  
Cost Estimating  
Cost Engineering  
and Control  
Construction Economics  
Value Engineering  
Quantity Surveying

# Project Cost Estimate Summary

Page of

1 1

Job Name

**GUAM JUDICIAL FACILITY**

Job Number

**23945.00**

Estimate Category

Project Budget

Schematic Design

Design Development

Construction Documents

Prepared by

**Jay Halleran**

Date

**April 24, 1987**

Date of Previous Estimate

**January 1987**

Anticipated Boeckh Building Cost Index at Bid Date

Bid Date

<b>A Construction</b>	GSF New Including Additions		11,273,970	
	GSF Remodel		461,333	
	Subtotal			\$
	Design Contingency ( %)		630,000	
	Escalation and Bidding Contingency ( %)		366,000	
<b>Total Probable Construction Cost (at Bid)</b>				\$ 12,731,303
<b>Gross Receipts Tax</b>	Construction Contingency ( %)		382,000	
	Sales, Use and Other Business Taxes ( NIC %)		-0-	
<b>Total Probable Final Construction Cost (A)</b>				\$ 13,113,303
<b>B Furniture &amp; Equipment</b>	01 Major Moveable Equipment (Group 2)			\$
	02 Furniture, Furnishings (Group 3)		700,000	700,000
<b>C Design &amp; Management</b>	01 A/E Fees		852,000	
	02 Special Consultants		281,000	
	03 Project Management			
	04 Testing, Inspection & Balancing			
	05 Market Studies			
	06 Owner's Administration			
	07 Survey			
	08 Soils			\$ 1,133,000
<b>D Contingencies</b>	01 General (Owner's) Contingency			\$ 100,000
<b>E Miscellaneous Project Costs</b>	Insurance and Permits			\$
<b>F Other</b>	Specify:			\$
<b>Total Probable Final Project Cost (A-E)</b>				\$ 15,046,303
<b>G Site Acquisition</b>	01 Land Costs			
	02 Legal Fees			
	03 Surveys for Purchase			
	04 Appraisal Fees			
	05 Off-Site Work			\$
<b>H Leasing/Occupancy</b>	01 Moving Expenses			
	02 Leasing Commissions			
	03 Tenant Inducements			
	04 Property Taxes During Construction			\$
<b>I Financing</b>	01 Interim Financing (Net)			\$
	02 Permanent Financing Placement (Net)			\$
<b>Total Probable Capital Cost (A-I)</b>				\$

4-6-87

NINETEENTH GUAM LEGISLATURE

1987 (FIRST) Regular Session

Bill No. 407 (LS)

Introduced by:

*P. C. Lujan*  
P. C. Lujan

AN ACT TO AMEND SECTIONS 189.1 AND 189.5 OF THE CODE OF CIVIL PROCEDURE AND SECTION 13525.1 OF THE GOVERNMENT CODE RELATIVE TO THE JUDICIAL BUILDING FUND AND RELATED PURPOSES.

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

2 Section 1. Section 189.1 of the Code of Civil Procedure, as enacted pursuant  
3 to Public Law 17-82, is amended to read:

4 "§189.1. Fund Sources. (a) All income and interest earned on such  
5 income received by the Superior Court of Guam for the filing of documents,  
6 [or imposition] from fines, except as otherwise mandated by Chapter II, Title  
7 XXIX of the Government Code and Chapter III, Title II of Part I of Division  
8 Fourth of the Civil Code relative to the Territorial Law Library and the  
9 Criminal Injuries Compensation Commission, respectively, and from rent  
10 paid by other tenants or government departments or agencies occupying the  
11 Judicial Building shall be deposited in the Judicial Building Fund. All interest  
12 income earned by the Superior Court from interest-bearing bank accounts  
13 not part of the Judicial Building Fund shall likewise be deposited in the Judicial  
14 Building Fund as provided in §189.4 of this Chapter.

15 (b) Subject to approval by the Judicial Council, the Superior Court may  
16 charge reasonable fees for providing certain services or programs that the  
17 court determines are necessary for the proper administration of justice.  
18 Revenue received from such programs may be deposited either in revolving

1 accounts set up to support the programs or in the Judicial Building Fund,  
2 as the Judicial Council shall provide."

3 Section 2. Section 189.5 of the Code of Civil Procedure, as enacted pursuant  
4 to Public Law 17-82, is amended to read:

5 "§189.5. Authorization to borrow. The Judicial Council is authorized  
6 by this Section to enter into a loan agreement on behalf of the Government  
7 of Guam for the sole purpose of financing the planning, construction, furnishing  
8 and equipment of a new Judicial Building and to secure such loan by proceeds  
9 from the Judicial Building Fund and, if necessary, to secure repayment of  
10 the loan by a mortgage on the building. The Judicial Council shall enter into  
11 such an agreement subject to the concurrence of the Governor in writing  
12 and the Legislature by resolution, and the members shall not incur any personal  
13 liability for any loan agreement lawfully entered into. The loan agreement  
14 shall become effective as of the date the Legislature concurs by resolution.  
15 12GCA §2103(k) shall not apply to the loan obtained pursuant to this Chapter."

16 Section 3. Section 13525.1 of the Government Code, as enacted pursuant  
17 to Public Law 17-82, is repealed and reenacted to read:

18 "§13525.1. Exchange of Land in Lieu of Cash Payment.

19 (a) With the approval of the Governor and the owner thereof, the Director  
20 of Land Management may exchange government-owned land which has been  
21 designated for development or agricultural usage as identified in the Guam  
22 Public Land Use Plan and is not otherwise needed for a public purpose, for  
23 privately owned land of equal value located within the boundaries of O'Brien  
24 Drive, Route No. 7, Esperanza Street and the government property currently  
25 occupied by the Superior Court of Guam which are required for the public  
26 purpose of erecting a judicial building and attendant facilities.

1 (b) If owners of privately owned lands within the area described in  
2 Subsection (a) of this section do not agree to exchange of their land for  
3 government land of equal value, the Governor shall take their property in  
4 accordance with Title V of Part III of the Code of Civil Procedure. For the  
5 purposes of this Section 13525.1 only, the estimated compensation required  
6 to be deposited with the court pursuant to Section 1241 of the Code of Civil  
7 Procedure, or any part thereof, may be in the form of a Deed of Exchange.  
8 The Deed of Exchange shall exchange the property taken for government  
9 property of stated appraised value. Upon application of the parties in interest,  
10 the Deed of Exchange may be delivered by the court. The delivery by the  
11 court shall constitute a complete transfer and acceptance of all interests  
12 contained in the deed. The parties in interest shall execute their property  
13 transfer in the Deed of Exchange before delivery is complete. Interest on  
14 the value of the property shall accrue in the same manner as if the deposit  
15 in the court of the estimated compensation were in money.

16 (c) The Attorney General shall formulate such rules, regulations and  
17 procedures as are necessary to effectuate the aims and intent of this section,  
18 and no exchange of land shall be consummated until the regulations and  
19 procedures hereby authorized shall have been adopted and promulgated pursuant  
20 to the provisions of the Administrative Adjudication Law. Such regulations  
21 and procedures shall include, among others a provision that a public hearing  
22 on the proposed exchange of land be conducted by the Director, notice of  
23 which shall be published in a newspaper of general circulation in Guam at  
24 least ten (10) days before the hearing, which notice shall contain a brief  
25 description of the proposed exchange, including the purpose or purposes for  
26 which the land is to be acquired.

1 (d) Obligations due the Government of Guam by owners of property  
2 within the boundaries described in Subsection (a) of this section may be wholly  
3 or partially offset in an amount equal to the value of such land exchanged.  
4 Such obligations may include real estate tax liability, gross receipts tax  
5 liability, interest due the Government of Guam on any of the aforementioned  
6 obligations, plus rental or lease of Government of Guam land for agricultural  
7 or other purposes.

8 (e) Fractional lots within the boundaries of the property described  
9 in Subsection (a) which have not been taxed within the past five (5) years  
10 shall be assumed to have a tax obligation to the Government of Guam based  
11 on current fair market value of the land at the time of the exchange.

12 (f) Any exchange of government-owned land in violation of the  
13 publication provisions of Subsection (c) of this Section shall be invalid and  
14 any deed of exchange executed or recorded under any such violation shall  
15 be void."



# NINETEENTH GUAM LEGISLATURE

P. O. BOX CB-1  
AGANA, GUAM 96910

Committee on Justice, Judiciary and Criminal Justice

Committee on Housing and Community Development

## VOTING SHEET

Bill 407 As Substituted

AN ACT TO AMEND SECTIONS 189.1 AND 189.5 OF THE CODE OF CIVIL PROCEDURE AND SECTION 13525.1 OF THE GOVERNMENT CODE RELATIVE TO THE JUDICIAL BUILDING FUND AND FOR OTHER PURPOSES.

<u>SENATOR AND COMMITTEE MEMBER</u>	<u>TO PASS</u>	<u>TO NOT PASS</u>	<u>ABSTAIN</u>	<u>COMMENT</u>
<i>P. Lujan</i> *** Pilar C. Lujan Chairman, Committee on Justice, Judiciary and Criminal Justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>F. R. Santos</i> *** Francisco R. Santos Chairman, Committee on Housing and Community Development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>E. Arriola</i> ** Elizabeth P. Arriola	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>H. Dierking</i> ** Herminia D. Dierking	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>F. J. Gutierrez</i> * Franklin J. Gutierrez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>T. Nelson</i> *** Ted S. Nelson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>F. J. A. Quitugua</i> Franklin J.A. Quitugua Speaker and Ex-Officio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
*** Joe T. San Agustin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>off-hand Lujan 7/22/87 3:37 pm</i> *** Pedro C. Sanchez	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
* Edward R. Duenas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>J. Miles</i> *** James G. Miles	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>J. M. Rivera</i> * Jerry M. Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

*Ernesto Espaldon*

\*\*Ernesto Espaldon

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*Martha C. Ruth*

\*\*Martha C. Ruth

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\* Member, Committee, on Justice, Judiciary and Criminal Justice

\*\* Member, Committee on Housing and Community Development

\*\*\*Member, Committee on Justice, Judiciary and Criminal Justice and Committee on Housing and Community Development

Introduced

APR 06 '87

NINETEENTH GUAM LEGISLATURE  
1987 (FIRST) Regular Session

Bill No. 407 (LS)

Introduced by:

*P. C. Lujan*  
P. C. Lujan

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AN ACT TO AMEND SECTIONS 189.1 AND 189.5  
OF THE CODE OF CIVIL PROCEDURE AND  
SECTION 13525.1 OF THE GOVERNMENT CODE  
RELATIVE TO THE JUDICIAL BUILDING FUND  
AND RELATED PURPOSES.

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

2 Section 1. Section 189.1 of the Code of Civil Procedure, as enacted pursuant  
3 to Public Law 17-82, is amended to read:

4 "§189.1. Fund Sources. (a) All income and interest earned on such  
5 income received by the Superior Court of Guam for the filing of documents,  
6 [or imposition] from fines, except as otherwise mandated by Chapter II, Title  
7 XXIX of the Government Code and Chapter III, Title II of Part I of Division  
8 Fourth of the Civil Code relative to the Territorial Law Library and the  
9 Criminal Injuries Compensation Commission, respectively, and from rent  
10 paid by other tenants or government departments or agencies occupying the  
11 Judicial Building shall be deposited in the Judicial Building Fund. All interest  
12 income earned by the Superior Court from interest-bearing bank accounts  
13 not part of the Judicial Building Fund shall likewise be deposited in the Judicial  
14 Building Fund as provided in §189.4 of this Chapter.

15 (b) Subject to approval by the Judicial Council, the Superior Court may  
16 charge reasonable fees for providing certain services or programs that the  
17 court determines are necessary for the proper administration of justice.  
18 Revenue received from such programs may be deposited either in revolving



1       accounts set up to support the programs or in the Judicial Building Fund,  
2       as the Judicial Council shall provide."

3       Section 2. Section 189.5 of the Code of Civil Procedure, as enacted pursuant  
4 to Public Law 17-82, is amended to read:

5               "§189.5. Authorization to borrow. The Judicial Council is authorized  
6 by this Section to enter into a loan agreement on behalf of the Government  
7 of Guam for the sole purpose of financing the planning, construction, furnishing  
8 and equipment of a new Judicial Building and to secure such loan by proceeds  
9 from the Judicial Building Fund and, if necessary, to secure repayment of  
10 the loan by a mortgage on the building. The Judicial Council shall enter into  
11 such an agreement subject to the concurrence of the Governor in writing  
12 and the Legislature by resolution, and the members shall not incur any personal  
13 liability for any loan agreement lawfully entered into. The loan agreement  
14 shall become effective as of the date the Legislature concurs by resolution.  
15 12GCA §2103(k) shall not apply to the loan obtained pursuant to this Chapter."

16       Section 3. Section 13525.1 of the Government Code, as enacted pursuant  
17 to Public Law 17-82, is repealed and reenacted to read:

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13          publication provisions of Subsection (c) of this Section shall be invalid and  
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