



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

31-12-1422

Office of the Speaker  
Judith T. Won Pat, Ed. D.

March 22, 2012

Date 3/22/12  
Time 2:42 PM  
Received by [Signature]

Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina'trentai Unu Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

2012 MAR 22 PM 4:16

Dear Madame Speaker:

Transmitted herewith is Bill No.416-31(COR) "AN ACT TO APPROVE AND RATIFY THE TRANSFER OF CERTAIN PROPERTY RELATIVE TO THE LADA ESTATES PROJECT BY THE GUAM HOUSING CORPORATION FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING FOR THE PEOPLE OF GUAM", which I signed into law on March 21, 2012 as **Public Law 31-195**.

*Senseramente,*

EDDIE BAZA CALVO

Attachment: copy of Bill

1422

**I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2012 (SECOND) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

This is to certify that **Bill No. 416-31 (COR)**, "AN ACT TO APPROVE AND RATIFY THE TRANSFER OF CERTAIN PROPERTY RELATIVE TO THE LADA ESTATES PROJECT BY THE GUAM HOUSING CORPORATION FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING FOR THE PEOPLE OF GUAM", was on the 16<sup>th</sup> day of March, 2012, duly and regularly passed.



**Judith T. Won Pat, Ed.D.  
Speaker**

Attested:



**Tina Rose Muña Barnes  
Legislative Secretary**

-----

This Act was received by *I Maga'lahaen Guåhan* this \_\_\_\_\_ day of \_\_\_\_\_, 2012, at  
\_\_\_\_\_ o'clock \_\_\_\_\_.M.

\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



\_\_\_\_\_  
**EDWARD J.B. CALVO**  
*I Maga'lahaen Guåhan*

Date: **MAR 21 2012**

Public Law No. **31-195**

FILE COPY

**I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2012 (SECOND) Regular Session**

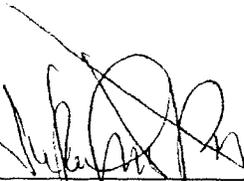
**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

This is to certify that **Bill No. 416-31 (COR)**, "AN ACT TO APPROVE AND RATIFY THE TRANSFER OF CERTAIN PROPERTY RELATIVE TO THE LADA ESTATES PROJECT BY THE GUAM HOUSING CORPORATION FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING FOR THE PEOPLE OF GUAM", was on the 16<sup>th</sup> day of March, 2012, duly and regularly passed.



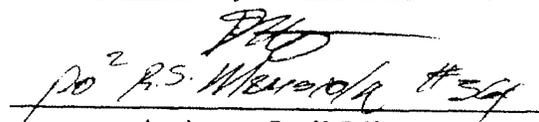
**Judith T. Won Pat, Ed.D.  
Speaker**

Attested:



**Tina Rose Muña Barnes  
Legislative Secretary**

This Act was received by I Muga'laken Guåhan this 16<sup>th</sup> day of MARCH, 2012, at 9:41 o'clock P..M.



**Assistant Staff Officer  
Maga'lahi's Office**

APPROVED:

**EDWARD J.B. CALVO  
I Muga'laken Guåhan**

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

***I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN***  
**2012 (SECOND) Regular Session**

**Bill No. 416-31 (COR)**

As amended by the Committee on Appropriations,  
Taxation, Banking, Public Debt, Banking, Insurance,  
Retirement and Land and further amended on the Floor.

Introduced by:

T. R. Muña Barnes  
Judith T. Won Pat, Ed.D.  
B. J.F. Cruz  
v. c. pangelinan  
T. C. Ada  
V. Anthony Ada  
F. F. Blas, Jr.  
Chris M. Dueñas  
Judith P. Guthertz, DPA  
Sam Mabini, Ph.D.  
Adolpho B. Palacios, Sr.  
R. J. Respicio  
Dennis G. Rodriguez, Jr.  
M. Silva Taijeron  
Aline A. Yamashita, Ph.D.

**AN ACT TO APPROVE AND RATIFY THE TRANSFER  
OF CERTAIN PROPERTY RELATIVE TO THE LADA  
ESTATES PROJECT BY THE GUAM HOUSING  
CORPORATION FOR THE PURPOSE OF  
DEVELOPING AFFORDABLE HOUSING FOR THE  
PEOPLE OF GUAM.**

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

2        **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that there  
3 is a continuing demand for affordable housing for Guam families and that this  
4 demand has resulted in a critical shortage of affordable housing on Guam. The

1 Lada Estates Project, an endeavor started twenty-three (23) years ago by the  
2 Twentieth Guam Legislature with Public Law No. 20-225 (attached as Exhibit D)  
3 and continued by this and past legislatures, is a project to develop affordable  
4 housing that will help address this very important issue.

5 During these past two decades, the property constituting the Lada Estates  
6 which had been transferred to the Guam Housing Corporation for the purpose of  
7 developing affordable housing has been the subject of much controversy and  
8 eventually a lawsuit involving Guam Housing Corporation, the government of  
9 Guam and Maeda Pacific Corporation (Superior Court of Guam Civil Case No.  
10 CV0135-04). This lawsuit spanning eight years has now finally been resolved and  
11 the settlement of the lawsuit which was approved by the Superior Court of Guam  
12 on January 6, 2012 paves the way for the realization of this long endeavor to  
13 provide affordable housing to the people of Guam.

14 *I Liheslaturan Guåhan* also finds that since the enactment of Public Law  
15 20-225 (attached as Exhibit D) in 1991, Public Laws 24-81 (attached as Exhibit  
16 E), 25-116 (attached as Exhibit F), and 30-172 (attached as Exhibit G) have been  
17 enacted which amended or otherwise affected the Lada Estates Project, that the  
18 terms and conditions of the Settlement Agreement and the Grant Deed transferring  
19 the subject properties to Maeda Pacific Corporation are consistent with Guam law  
20 and the letter and spirit of these public laws in particular.

21 *I Liheslaturan Guåhan* further finds that the above referenced statutes  
22 attached hereto as exhibits were authored to build affordable homes or bring a  
23 responsible end to the legal action which has hindered a favorable outcome for the  
24 people of Guam.

25 *I Liheslaturan Guåhan* further seeks to ensure that the eventual owners of  
26 the affordable homes will be able to obtain clear, marketable and insurable title, by

1 approving and ratifying the transfer of the subject property and accepting subject  
2 to the conditions set forth below, the Lada Estates Settlement Agreement (attached  
3 as Exhibit A), Grant Deed with Continuing Conditions and Restrictions (herein  
4 referred to as “Grant Deed” and attached hereto as Exhibit B), and Decision and  
5 Order (attached as Exhibit C) by and between Guam Housing Corporation and  
6 Maeda Pacific Corporation.

7 It is and has been the intent of *I Liheslaturan Guåhan* that the subject  
8 property be used for the development of affordable housing for either rental and/or  
9 first time home ownership in accordance with Public Law 20-225 (attached as  
10 Exhibit D), 24-81 (attached as Exhibit E), 25-116 (attached as Exhibit F), and 30-  
11 172 (attached as Exhibit G). Since covenant number 1 under the Grant Deed  
12 states in part that “said houses shall be constructed and sold in accordance with  
13 *Guahan* Law, within six (6) years from the date of execution of the Deed. . .” and  
14 does not mention that the houses may also be used for affordable rentals as  
15 provided by Public Law 30-172 (attached as Exhibit G), it is hereby clarified that  
16 homes constructed on the subject property shall be sold or rented in accordance  
17 with *Guåhan* Law.

18 *I Liheslaturan Guåhan* finds that the Decision and Order (Exhibit C) of the  
19 Superior Court of Guam on January 6, 2012 states:

20 “*It is noteworthy that these proceedings have called attention to the*  
21 *possible problems that GHC may encounter in the performance of the settlement*  
22 *agreement. The Government alleges that GHC cannot convey the Lada Estates*  
23 *property to Maeda without legislative or procurement approval.*”

24 *I Liheslaturan Guåhan* further finds that since there has been a substantial  
25 delay between the date the Grant Deed was executed and the date the settlement  
26 was approved by the Superior Court and the recording of the Grant Deed and since

1 it was necessary for this Grant Deed to be approved and ratified by this legislature,  
2 the date from which to commence the running of the six years to construct the  
3 affordable homes shall be the date of the enactment of this public law.

4 **Section 2. Approval of Settlement.** Notwithstanding any provision of  
5 law, the settlement by and between Guam Housing Corporation and Maeda Pacific  
6 Corporation or its assignee under the terms and conditions found in the Settlement  
7 Agreement approved by the Superior Court of Guam on January 6, 2012, a copy of  
8 which is attached hereto as Exhibit A, are hereby approved and ratified and shall  
9 be valid and binding obligations of Maeda or its assignee enforceable in  
10 accordance with their respective terms, and there shall be no power to  
11 terminate or declare null and void, PROVIDED THAT, the construction contract  
12 between Maeda Pacific Corporation or its assignee, the developer and the  
13 contractor for the construction and provision of safe and affordable homes is in  
14 accordance with the Guam Building Code, 21 GCA, Chapter 67 and all other laws  
15 of Guam. The agreement by and between the developer and contractor shall also  
16 include the following:

- 17 1. Warranties, (consistent with 5 G.C.A. Ch. 32, Section 32105);
- 18 2. Liquidated damages;
- 19 3. Performance and payment bonds;
- 20 4. Indemnity;
- 21 5. Builders Risk Insurance;
- 22 6. Technical specifications;
- 23 7. Progress schedule;
- 24 8. Compliance with Guam Labor Regulations;
- 25 9. Compliance with Guam Prevailing Wage Rates for  
26 Employment of Temporary Alien Workers (H2) on Guam.

1       **Section 3.     Transfer of Property.** Notwithstanding any provision of law,  
2 the transfer of the following described parcels of real property by Guam Housing  
3 Corporation to Maeda Pacific Corporation by Grant Deed recorded at the  
4 Department of Land Management on January 10, 2012 under Document No.  
5 831095 is hereby approved and ratified;

6             (a)    Lot No. 10120-14, containing an area of 32,455+ square meters  
7             (8.020 acres), Dededo, Guam, as shown on Land Management Drawing No.  
8             14-91T395, Map Drawing No. PRB90-138, recorded under Document No.  
9             450102; and

10            (b)    Lot No. 10120-16, containing an area of 154,395+ square  
11            meters (38.152 acres), Dededo, Guam, as shown on Land Management  
12            Drawing No. 14-91T395, Map Drawing No. PRB90-138, recorded under  
13            Document No. 450102.

14       **Section 4.   Covenant to Build Affordable Homes.** Notwithstanding any  
15 provision of law, homes constructed on the properties referenced in Section 3 of  
16 this Act shall be sold or rented in accordance with Public Law 30-172 (attached as  
17 Exhibit G), within six (6) years from the date of enactment.

18       **Section 5.   Correction of Typographical Error in Settlement**  
19 **Agreement.** All references in the Settlement Agreement (Exhibit A) to Public Law  
20 30-390 shall be understood to refer to Public Law 30-172.

21       **Section 6.   Monitoring and Enforcement of Compliance with Laws.**  
22 Guam Housing Corporation shall monitor and enforce Maeda Pacific  
23 Corporation's or its Assignee's compliance with Public Laws 20-225, 24-81, 25-  
24 116, and 30-172. Within ten (10) calendar days of the execution of the contract as  
25 required by Section 2 of this Act, the Developer *shall* transmit or cause to be  
26 transmitted said contract to the Speaker of *I Liheslaturan Guåhan*, Attorney

1 General of Guam, and the Executive Director of the Guam Housing Corporation.  
2 Within ten (10) days of receipt, the Attorney General shall attest that the  
3 construction contract, as required in Section 2, conforms with all of the  
4 requirements enumerated within the Section or it shall inform the Legislature and  
5 Guam Housing Corporation of its concerns.

6 **Section 7. Effective Date.** This Act *shall* be effective upon enactment  
7 into law.

**EXHIBIT "A"**

**Settlement Agreement**

## LADA ESTATES SETTLEMENT AGREEMENT

This Agreement is entered into by and between MAEDA PACIFIC CORPORATION, a Guam corporation, whose mailing address is Post Office Box 8110, Tamuning, Guam 96913 ("Maeda") and GUAM HOUSING CORPORATION, an autonomous instrumentality of the government of Guam ("GHC"), and is made with reference to the following:

### RECITALS:

- A. On or about January 11, 1991, the government of Guam passed Public Law No. 20-225, which was later amended by Public Law No. 24-81 and Public Law No. 25-116.
- B. On or about June 24, 1991, GovGuam conveyed the following described parcels of property to GHC pursuant to Public Law No. 20-225 (collectively the "property"):
  - Lot No. 10120-14, containing an area of 32,455± square meters (8.020 acres), Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map Drawing No. FRB90-138, recorded under Document No. 450102; and
  - Lot No. 10120-16, containing an area of 154,395± square meters (38.152 acres), Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map Drawing No. FRB90-138, recorded under Document No. 450102.
- C. The intent of the legislation was to have a contractor build low-cost houses on the Project site for sale to lower income people in Guam.
- D. On or about August 6, 1997, Maeda entered into a written contract with GHC and GovGuam, which provided that Maeda would furnish the necessary materials and labor for the construction of the *Lada Estates Affordable Subdivision Improvement Project* on the property (the "Project"), which consisted of the on-site and off-site civil works, all for the agreed upon price of Ten Million Four Hundred Sixty Thousand Dollars (\$10,460,000.00), plus Change Order No. 1, of Ninety-Five Thousand Dollars (\$95,000.00), for a total of Ten Million Five Hundred Fifty-Five

ORIGINAL

Thousand Dollars (\$10,555,000.00). The contract is described as Government Contract No. 630-5-1001-L-DED (the "Contract").

B. The project was divided into two phases:

Phase I consisted of construction of the off-site infrastructure at the agreed upon price of Two Million Nine Hundred Fifteen Thousand Dollars (\$2,915,000.00).

Phase II consisted of construction of the on-site infrastructure at the agreed upon price of Seven Million Six Hundred Forty Thousand Dollars (7,640,000.00).

F. Maeda completed all work under Phase I and Phase II of the Contract, the work has been accepted and Maeda therefore became immediately entitled to the full construction cost of Ten Million Five Hundred Fifty-Five Thousand Dollars (\$10,555,000.00), however, payment was not made to Maeda arising out of the completion of Phase I and Phase II work.

G. Accordingly, Maeda filed a lawsuit against GovGuam and GHC in the Superior Court of Guam, styled as Civil Case No. CV0135-04 (the "Lawsuit"), to recover those funds. That case remains pending.

H. As a result of the non-payment to Maeda and other problems with the development of the Project, the work has been stalled on the construction of the homes on the Project site. The Project site is deteriorating in value and has become an eyesore for GovGuam. Practically all the streetlight posts, electrical wirings and tubings and the like have been removed or destroyed by thieves or vandals, and the sewer line is being used as a dump site and the sidewalks and streets have been partially destroyed and are overgrown with weeds and it therefore behooves Maeda, and GHC to find a solution to this problem.

I. In order to resolve the differences between GHC and Maeda, the parties have been meeting in an effort to craft a solution to this predicament so that all parties can benefit, including the

People of Guam, by GHC conveying the property to Maeda and requiring Maeda to build the proposed houses on the Project site.

NOW, THEREFORE, in consideration of the foregoing, and of all the agreements of all the parties set forth herein, the parties agree as follows:

§1. *Conveyance of property.* GHC agrees to convey the subject property to Maeda via a Grant Deed and, in consideration thereof, Maeda agrees to give up its rights and claims to collect the monies due under the Construction Contract, including all penalties and interest assessed and at law, subject to the following conditions.

§2. *Conditions.* The Deed will contain the following conditions and restrictions:

2.1. An agreement by the Grantee (hereinafter "Maeda") that it will build and sell affordable houses on the property within six (6) years from the date of execution of the Deed by the respective parties, all in accordance and compliance with Public Law Nos. 20-225, 24-81 and 25-116, and 30-390, and all other applicable laws consistent herein. Upon determination that the constructed home is to be sold to a prospective homeowner as provided under the Affordable Homes Act herein, Maeda shall convey clear and marketable title to the subsequent owner therein.

2.2. The property shall be subject to covenants in the Deed that will require the homeowners to maintain and keep up their homes.

2.3. An agreement by the Grantee that if it does not fully comply with the conditions of the said Deed, that the property shall automatically revert to GHC six (6) years from the date of execution of the Deed.

2.4. The parties agree that the Grantee will be responsible for marketing the sale of the *Lada Estates* houses, either by doing it in-house, or by designating a real estate broker.

2.5. That there shall be no other extensions as a result of any modifications or change orders to the development and construction of the affordable homes beyond the six (6) year period.

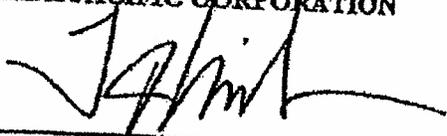
§3. *Approval by Court.* Upon the execution of this Agreement, the Agreement will be submitted to the Superior Court of Guam for approval and upon approval by the Court, the above-mentioned civil action shall be dismissed with prejudice against GHC and the parties shall sign the Mutual Release of claims, a copy of which is attached hereto. Maeda reserves the right to continue on with the lawsuit against only the government of Guam to collect the Two Million Nine Hundred Fifteen Thousand Dollars (\$2,915,000.00) for the off-site improvement.

§4. *Costs and attorneys' fees.* Upon execution and approval of this Agreement by the Court, each party shall bear their own costs, expenses and reasonable attorney fees in this action.

IN WITNESS WHEREOF, the parties have executed this Agreement in Hagåtña, Guam, on the dates set opposite their signatures.

MAEDA PACIFIC CORPORATION

Date: 10/11/10

By   
THOMAS J. NIELSEN, President

GUAM HOUSING CORPORATION

Date: 10/6/10

By   
JEREMY ROJAS, President

LJT:s  
FLDGS:MAEDA PACIFIC-LADA ESTATES:017D

**EXHIBIT "B"**

**Grant Deed with Continuing Conditions and  
Restrictions**

Filing with the Registrar )  
of Land Titles pursuant to )  
the Land Title Registration )  
Act requested by Grantor. )  
After filing, deliver copies )  
to the Grantee. The real )  
property affected by this )  
instrument is registered )  
land, and the name of the )  
last registered owner being )  
the Grantor, and the )  
number of the certificate )  
of last registration being )  
No. \_\_\_\_\_ )

Island of Guam, Government of Guam  
Department of Land Management

File for record is Instrument No. 831095

For the Year 12, Month 01, Day 10, Time 1:53

Recording Fee 35 Receipt No. 31857

Deputy Recorder Juan Hernandez

(Space above this line for Recorder's use only.)

**GRANT DEED  
WITH CONTINUING CONDITIONS AND RESTRICTIONS**

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETING:

*Parties, consideration and grant*

KNOW YE, that GUAM HOUSING CORPORATION, an instrumentality of the government of Guam, whose mailing address is Post Office Box 3457, Hagåtña, Guam 96932 (the "Grantor"), does hereby GRANT unto MAEDA PACIFIC CORPORATION, a Guam corporation, whose mailing address is Post Office Box 8110, Tamuning, Guam 96911 (the "Grantee"), and to Grantee's successors and assigns, forever, in fee simple, the following described parcels of property situated in the Municipality of Dededo, Guam (collectively the "Property"):

*Description of Property*

Lot No. 10120-14, containing an area of 32,455+ square meters (8.020 acres), Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map Drawing No. PRB90-138, recorded under Document No. 450102; and

Lot No. 10120-16, containing an area of 154,395+ square meters (38.152 acres),  
Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map  
Drawing No. PRB90-138, recorded under Document No. 450102.

*Grant includes improvements, etc.*

TOGETHER with the improvements, buildings, rights of way ("R/W"), easements, tenements, privileges and appurtenances belonging or in anyway pertaining to the Property, and the reversion or reversions, remainder or remainders, rents, issues and profits of the Property; and, also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law and in equity, of the Grantor, of, in and to the Property and every part and parcel thereof.

*Covenants running with the land*

It is understood and agreed that this conveyance is made and accepted, and the realty is granted, on and subject to the following covenants, conditions, restrictions, and reservations (in addition to any such covenants, conditions, restrictions, and reservations stated elsewhere in this document), which covenants, conditions, restrictions, and reservations shall apply to and run with the conveyed land; all successive future owners and occupants shall have the same right to invoke and enforce the covenants, conditions, restrictions, and reservations applicable to this conveyance as the original parties to this document.

1. **Build houses.** In consideration of conveying the within Property to Grantee, the Grantee agrees that it will build and offer for sale houses on the subject Property all in accordance with Public Law Nos. 20-225, 24-81, 25-116, and 30-390, and all other applicable laws consistent herein, and that all of said houses shall be constructed and sold in accordance with Guahan Law, within six (6) years from the date of execution of the Deed, hereof. Upon determination that the

constructed home is to be sold as provided under the Affordable Homes Laws, Maeda shall convey clear and marketable title to the subsequent owner or grantee therein.

2. *Acceptance of Deed as acceptance of restrictions.* The acceptance of this Deed by the Grantee shall constitute an acceptance of all the terms, conditions, limitations, restrictions, and uses to which the above-described Property conveyed by this Deed is made. Additionally, any subsequent lien or mortgage on the subject property shall be subject to those conditions, covenants, and restrictions as contained in this Deed, herein.

3. *Reversion on breach – with notice by Grantor.* It is further agreed by Grantee that each and all of the restrictions contained in this instrument shall, as between the parties to this instrument, their heirs, successors and assigns, be deemed to be and construed as express conditions subsequent, on each of which the conveyance is made. If Grantee shall neglect or fail to perform and to comply strictly with the several conditions and restrictions on Grantee's part, or any of them, Grantor and Grantor's successors and assigns, may at any time thereafter serve on Grantee a notice in writing specifying the particular or particulars in which default or breach thereof has been made and directing Grantee to remedy such default or breach. Should Grantee thereafter for a period of ninety (90) days fail fully and entirely to remedy such breach or default, then a notice in writing may be served on Grantee by Grantor, notifying Grantee that Grantor elects that the title to the whole of the conveyed premises (excluding subdivided lots that may have been sold to third parties) shall revert to Grantor; and thereupon the title to the whole of such premises shall immediately and without the necessity of any further action on the part of Grantor, revert to and revest in Grantor, and Grantee

shall lose and forfeit all of Grantee's rights, title and interest in and to the whole of the conveyed premises and to the improvements and fixtures thereon, and Grantor shall have the right of re-entry to the Property conveyed by this instrument.

4. *Reversion on breach - effect on mortgage.* No reversion or forfeiture shall render invalid or operate in any way against the lien of any mortgage made solely for the purpose of improving the property in compliance with Guahan Law and Public Law Nos. 20-225, 24-91, 25-116, and 30-390, and where the funds are actually used for that purpose given with respect to the conveyed property in good faith, and for value; and on any such reversion or forfeiture Grantor shall take title to the conveyed land subject to any such mortgage or deed of trust. Provided, however, that should any such mortgage or deed of trust be foreclosed, then the title acquired by such foreclosure, and the person or persons who thereby and thereafter become the owner or owners of the conveyed premises, shall be subject to and bound by all the restrictions contained in this instrument; and further provided, that Grantor may enforce any covenants, conditions, and restrictions by any other appropriate action at Grantor's sole option.

5. *Future deeds to contain restrictions.* Grantee agrees that all the covenants, conditions, and restrictions contained in this Deed herein below shall be inserted in full in all future deeds of the above-described Property conveyed by this Deed.

5.1. No noxious, illegal, or offensive use of property shall be carried on on any lot, nor shall anything be done thereon that may be, or become, an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time

conduct or permit to be conducted on any residential lot any trade or business of any description, either commercial or noncommercial, religious or otherwise, including day schools, nurseries, or church schools, nor shall such premises be used for any other purpose whatsoever except for the purpose of providing a private single-family dwelling or residence.

5.2. No trash, garbage, ashes, or other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growths or objects, shall be maintained or allowed on any lot. All fences and buildings shall be kept in a state of repair. All residences, garages, and accessory buildings shall be painted or stained, from time to time, so as to maintain a reasonable state of repair.

5.3. No animals, livestock, or poultry shall be raised, bred, or kept on any lot of the subdivision for commercial purposes.

5.4. All lines or wires for telephone, power, cable television, or otherwise shall be placed underground.

5.5. No outside toilet facilities shall be constructed or maintained on any portion of the above-described Property. Septic tanks, sewage disposal systems, and drinking water facilities shall conform to all requirements established by the Department of Public Health and Social Services in Guam.

#### ***Enforcement of restrictions***

It is expressly understood and agreed that the several restrictive covenants contained in this instrument shall attach to and run with the land, and it shall be lawful not only for Grantor and Grantor's successors and assigns, but also for the owner or owners of any subdivided lots adjoining of

the Property granted by this instrument, deriving title from or through Grantor, to institute and prosecute any proceedings at law or in equity against the person or persons violating or threatening to violate such restrictive covenants and conditions.

*Availability of water and power*

We, the Grantor and the Grantee, AGREE that water and electric power are available on the Property or within one hundred feet (100') thereof, and that the government of Guam is not responsible for water and power hookup thereto.

*Execution*

IN WITNESS WHEREOF, we, the Grantor and the Grantee, have executed this Grant Deed on the dates of notarization as set forth below.

**GRANTOR:**

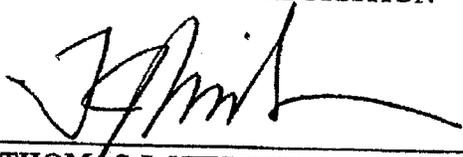
**GUAM HOUSING CORPORATION**

By 

JEREMY ROJAS, President

**GRANTEE:**

**MAEDA PACIFIC CORPORATION**

By 

THOMAS J. NIELSEN, President

///

GUAM, U.S.A., )  
( ss.:  
City of Hagåtña. )

On this 6<sup>th</sup> day of Oct., 2010, before me, a notary public in and for Guam, personally appeared **JEREMY ROJAS**, known to me to be the President who executed the foregoing **GRANT DEED** on behalf of **GUAM HOUSING CORPORATION**, the instrumentality of the government of Guam herein named, and he acknowledged to me that such instrumentality executed the same.

WITNESS my hand and official seal.

)SEAL(

Victoria S. Quichocho-Rojas

VICTORIA S. QUICHOCHO-ROJAS  
NOTARY PUBLIC  
In and for Guam, U.S.A.  
My Commission Expires: April 15, 2014  
P.O. Box 23498 Barrigada, Guam 96921

GUAM, U.S.A., )  
( ss.:  
City of Hagåtña. )

On this 11<sup>th</sup> day of OCTOBER, 2010, before me, a notary public in and for Guam, personally appeared **THOMAS J. NIELSEN**, known to me to be the President who executed the foregoing **GRANT DEED** on behalf of **MAEDA PACIFIC CORPORATION**, the Guam corporation herein named, and he acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

)SEAL(

Joyleen Sanchez

JOYLEEN SANCHEZ  
NOTARY PUBLIC  
IN AND FOR GUAM, U.S.A.  
MY COMMISSION EXPIRES SEPT 13, 2014  
P.O. BOX 7581 AGAT GUAM 96925

LJT.cs  
PLDGS:MAEDA PACIFIC-LADA ESTATES:028B

**EXHIBIT "C"**

**Decision and Order**

Island of Guam, Government of Guam  
Department of Land Management

File for record is Instrument No. 831094

For the Year 12, Month 01, Day 10, Time 1:50

Recording Fee 25 Receipt No. 34847

Deputy Recorder [Signature]

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**DECISION AND ORDER**

**(CIVIL CASE NO. CV0135-04)**

A. Teker

FILED  
SUPERIOR COURT  
OF GUAM

IN THE SUPERIOR COURT OF GUAM

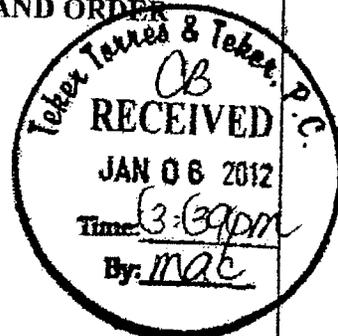
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1  
2  
3 MAEDA PACIFIC CORPORATION, )  
4 )  
5 Plaintiff, )  
6 )  
7 vs. )  
8 )  
9 GOVERNMENT OF GUAM and GUAM )  
10 HOUSING CORPORATION, )  
11 Defendants. )

CLERK OF COURT

CIVIL CASE NO. CV0135-04 --

DECISION AND ORDER



INTRODUCTION

12 This matter came before the Honorable Judge Michael J. Bordallo on September 28, 2011  
13 by reassignment. The Plaintiff filed a motion to approve settlement and the parties stipulated to  
14 submit the matter on the briefs and without oral argument on July 13, 2011. Attorney Lawrence  
15 J. Teker represented the Plaintiff, Assistant Attorney General Philip D. Issac appeared on behalf  
16 of Defendant Government of Guam, and Attorney Cynthia V. Ecube represented Defendant  
17 Guam Housing Corporation. Having considered the parties' briefs and the applicable law, the  
18 Court now issues the following Decision and Order granting Plaintiff's motion to approve  
19 settlement.

BACKGROUND

21 In this public contract matter, Plaintiff Maeda Pacific Corporation ("Maeda") seeks  
22 payment for infrastructure construction of the Lada Estates public housing project against  
23 Defendants Government of Guam ("Government") and Guam Housing Corporation ("GHC"), an  
24 autonomous agency of the Government.

25 In 1991, the Guam Legislature passed an act to develop and sell the Lada Estates as  
26 affordable housing. See Guam Pub. L. No. 20-225. Pursuant to the act, the Governor transferred  
27 approximately forty-six (46) acres of government land to the GHC by grant deed on June 24,  
28 1991. *Id.* at 2 see also (Plaintiff's Reply Memorandum, Exhibit "1", Jul. 28, 2011.)

1 Maeda won the public bid to construct the Lada Estates' infrastructure and signed a  
2 contract with the Defendants in August of 1997. (Declaration of Jose P. Morcilla Jr., "Exhibit  
3 2", Mar. 5, 2004.) Maeda completed construction of the Lada Estates infrastructure pursuant to  
4 the contract and obtained a certificate of substantial completion from the Department of Public  
5 Works on July 24, 1998. *Id.* at "Exhibit 5". Thereafter, GHC could not find a contractor to build  
6 the Lada Estates homes despite legislative attempts to revive the project. *See e.g.* Public Law  
7 Nos. 24-81:14 and 25-116:5. The Lada Estates project was not finished and Maeda was not paid  
8 for its performance of the infrastructure contract.

9 Maeda filed a government claim in 2002 and the present civil action in 2004. On March  
10 8, 2011, the Court granted summary judgment of Maeda's claims against the Government for the  
11 costs of off-site infrastructure construction. (Decision and Order, Mar. 8, 2011.) On March 21,  
12 2011, Maeda and GHC filed the present motion to settle Maeda's remaining claim against GHC  
13 for the costs of on-site infrastructure construction, alleged to be more than seven (7) million  
14 dollars. The settlement proposes for GHC to convey the Lada Estates property to Maeda via  
15 grant deed with a condition that Maeda build and sell affordable housing units within six (6)  
16 years and pursuant to Public Law Nos. 20-225, 24-81, 25-116 and 30-390 under the penalty of  
17 reverter to GHC. (Motion to Approve Settlement, Exhibit 1, Oct. 11, 2010.) The agreement was  
18 executed with the understanding that it shall be submitted to the Superior Court for approval and  
19 for dismissal with prejudice of the claim against GHC with the parties to bear their own costs  
20 and fees. *Id.*

21 On July 20, 2011, the Government filed an opposition to the motion to approve  
22 settlement for the following reasons: 1) the Court has no jurisdiction to approve this government  
23 land transfer without legislative approval; and 2) the settlement is in violation of procurement  
24 law insofar as it effectively awards the home construction contract to Maeda.

## 25 DISCUSSION

### 26 I. Standing

27 Standing is a threshold jurisdictional matter that must be addressed before the merits of a  
28 dispute. *Guam Imaging Consultants, Inc. v. Guam Mem'l Hosp. Auth.*, 2004 Guam 15, ¶¶ 17.

1 19. Although Guam law does not address the issue of standing to object to a settlement, "the  
2 view of other courts is that a non-settling defendant, in general, lacks standing to object to a  
3 partial settlement." *Waller v. Financial Corp. of America*, 828 F.2d 579, 582 (9th Cir. 1987)  
4 (citing *In re Viatron Computer Systems Corp. Litigation*, 614 F.2d 11, 14 (1st Cir. 1980); *In re*  
5 *Beef Industry*, 607 F.2d 167, 172 (5th Cir. 1979)). This rule encourages the voluntary settlement  
6 of lawsuits. *Id.* at 583.

7 In this case, Maeda built the Lada Estates infrastructure and filed claims against the  
8 Government and GHC for payment. The claim against the Government for the off-site costs was  
9 successful on summary judgment, and Maeda now seeks to settle its claim against GHC for the  
10 on-site costs. The Government is a non-settling defendant who generally lacks standing to object  
11 to the partial settlement between Maeda and GHC pursuant to the reasoning of the Federal  
12 Circuit Courts of Appeal.

13 However, an exception is made to allow a non-settling defendant to object, "where it can  
14 demonstrate that it will sustain some formal legal prejudice as a result of the settlement."  
15 *Waller*, 828 F.2d at 583 (citing *Quad/Graphics Inc. v. Fass*, 724 F.2d 1230, 1233 (7th Cir.  
16 1983)). Under this exception, a party suffers plain legal prejudice and has standing to object to  
17 any settlement that strips it of a legal claim or infringes upon a contractual right. *Id.* See also  
18 *Agretti v. ANR Freight System, Inc.*, 982 F.2d 242, 247 (7th Cir. 1992). For example, Guam law  
19 provides that a joint-tortfeasor may be prevented from entering a settlement agreement which  
20 bars claims of contribution by non-settling parties. See 7 GCA §§ 24605 and 24606. A party  
21 does not suffer plain legal prejudice and does not have standing to object to a settlement which  
22 causes factual prejudice, such as the prospect of a second lawsuit. *Quad/Graphics*, 724 F.2d at  
23 1233.

24 In this case, the Government opposes Maeda and GHC's settlement based upon  
25 assertions that Legislative approval or procurement procedures are necessary. The Government  
26 does not allege that it suffers any legal prejudice by the settlement, and the settlement does not  
27 strip the Government of a cause of action or infringe upon a contractual right of the Government  
28 in this matter. The Government may suffer the prospect of a second lawsuit or proceeding

1 against the performance of the settlement, but this factual prejudice does not confer standing to  
2 object to a settlement agreement. *See Quad/Graphics*, 724 F.2d at 1233. The Government does  
3 not suffer plain legal prejudice and it does not have standing to object to the settlement as a non-  
4 settling party. For this reason, the Court shall not consider the objections of the Government.

## 5 **II. Judicial Approval of Settlement**

6 Guam law does not exact a standard for settlement approval, and a court should not  
7 ordinarily become involved in the settlement of a civil dispute between private parties. *See U.S.*  
8 *v. City of Miami, Fla.*, 614 F.2d 1322, 1330 (8th Cir. 1980). Indeed, the Guam Housing  
9 Corporation has the power, "to settle and adjust claims held...by other persons or parties against  
10 [it]," without judicial approval. 12 GCA § 4104(k). However, where important public interests  
11 are involved, judicial review may be appropriate. *See e.g. City of Miami*, 614 F.2d at 1330  
12 (citing examples in federal law where judicial approval of settlement is required).

13 In this case, Maeda and GHC move the Court to review and approve their settlement  
14 agreement. Assuming *arguendo* that the settlement between Maeda and GHC, as an autonomous  
15 agency of the Government, involves important public interests, the Court shall address the merits  
16 of the motion for approval.

17 Where a court is required to approve a settlement agreement, it must generally determine  
18 whether the agreement is adequate, fair, reasonable or equitable. *See City of Miami*, 614 F.2d at  
19 1330-1331. The judicial review of a settlement agreement is an exceptional situation, and "trial  
20 judges have been told that absent fraud, collusion, or the like they should be hesitant to substitute  
21 their judgment for that of experienced counsel." *Id. citing Cotton v. Hinton*, 559 F.2d 1326 (5th  
22 Cir. 1977).

23 The parties do not raise allegations of fraud or collusion in this case, and the Court is  
24 inclined to rely upon the allegations of experienced counsel that the agreement is adequate and in  
25 the public interest. Viewing the proposed settlement agreement as a whole, it appears to provide  
26 an adequate, fair and reasonable compromise. The settlement gives Maeda the Lada Estates to  
27 develop and sell, releases GHC from its liability for the costs of on-site infrastructure, and  
28 attempts to provide affordable housing pursuant to public law and within six (6) years under

1 penalty of reverter. The agreement is the result of an arms-length negotiation between  
2 competent and experienced counsels, and it aims to resolve the underlying problem by  
3 completing the Lada Estates affordable housing project. For all of these reasons, the motion to  
4 approve settlement agreement shall be granted.

5 It is noteworthy that these proceedings have called attention to the possible problems that  
6 GHC may encounter in the performance of the settlement agreement. The Government alleges  
7 that GHC cannot convey the Lada Estates property to Maeda without legislative or procurement  
8 approval. The Government does not allege that such approval cannot be obtained, and the Court  
9 does not find that the settlement agreement is impossible to perform. However, Maeda and GHC  
10 have been notified of the quality of their bargain and of the quality of the land title conveyance  
11 which they intend to make.

12 ///

13 ///

14 ///

15 **CONCLUSION**

16 Based upon the foregoing, Plaintiff Maeda Pacific Corporation's Motion to Approve  
17 Settlement is hereby GRANTED.

18 **SO ORDERED** this 6 day of January, 2012.

19  
20 Original Signed By  
21 **HON. MICHAEL J. BORDALLO**

22  
23 **HONORABLE MICHAEL J. BORDALLO**  
24 Judge, Superior Court of Guam

25 I do hereby certify that the foregoing  
26 is a full and correct copy of the  
27 original as it is on file of the  
28 Clerk of the Superior Court of Guam  
District of Agaña, Guam

JAN 06 2012

**EXHIBIT "D"**

**Public Law 20-225**

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

Bill No. 44  
Substituted by the Committee on  
Housing and Community Development  
and as further substituted by the  
Committee on Rules.

Introduced by:

P. C. Lujan  
T. S. Nelson  
~~J. T. San Agustin~~  
G. Mailloux  
J. P. Aguon  
E. P. Arriola  
J. G. Bamba  
M. Z. Bordallo  
D. F. Brooks  
H. D. Dierking  
E. R. Duenas  
E. M. Espaldon  
C. T. C. Gutierrez  
M. D. A. Manibusan  
D. Parkinson  
F. J. A. Quitugua  
E. D. Reyes  
M. C. Ruth  
F. R. Santos  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT AUTHORIZING THE GOVERNOR OF GUAM TO  
TRANSFER CERTAIN PROPERTY IN DEDEDO TO THE  
GUAM HOUSING CORPORATION TO DEVELOP  
AFFORDABLE HOUSING FOR SALE TO FIRST TIME  
HOMEOWNERS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:  
2 Section 1. Legislative findings. The Legislature finds that there is a  
3 critical shortage of affordable housing on Guam and further finds that

1 significant savings can also be realized if the government of Guam uses its  
2 negotiating leverage to build housing units at less than market prices on  
3 government land for sale to low and middle income families. The  
4 Legislature further finds that it is nearly impossible for most low or  
5 middle income families on Guam to purchase homes at market prices.

6 Section 2. Authorization. The Governor of Guam is authorized to  
7 transfer Lot No. 10120-14, consisting of eight (8) acres, and Lot No. 10120-  
8 16, consisting of thirty-eight (38) acres, both of Dededo, to the Guam  
9 Housing Corporation (the "Corporation") to develop affordable housing  
10 units for sale to first time homeowners who are U. S. citizens or permanent  
11 resident aliens and who have been domiciled in Guam for a five (5)  
12 consecutive year period immediately preceding the date of sale of the unit.

13 Section 3. Registration. The conveyance of said lots shall take effect  
14 upon completion of the land registration of Basic Lot No. 10120 by the  
15 government of Guam.

16 Section 4. Definition of first time homeowners. "First time  
17 homeowners" are defined as families (married persons or single persons  
18 with dependents) who have not had any ownership interest in residential  
19 real property within the three (3) year period immediately preceding the  
20 date of sale of a unit developed under this Act. Divorced persons or  
21 individuals having an ownership interest in the property of the parents do  
22 qualify as first time homeowners; provided, that any interest in residential  
23 real property is terminated prior to the purchase of a unit developed  
24 under this Act.

25 Section 5. Allocation. The units shall be allocated to families on the  
26 following basis: Thirty percent (30%) to families whose incomes are up to  
27 one hundred percent (100%) of the median income for Guam established  
28 by the U. S. Department of Housing and Urban Development ("HUD"); fifty  
29 percent (50%) to families whose incomes are between one hundred percent  
30 (100%) and one hundred thirty percent (130%) of such HUD-established  
31 median income; and twenty percent (20%) to families whose incomes are  
32 between one hundred thirty (130%) and one hundred fifty percent (150%)  
33 of such HUD-established median income. The homes may be sold to  
34 families in the next lower or higher category in the event that there are  
35 insufficient qualified applicants in a given class.

1           Section 6. Prices. The units shall be sold at cost plus two percent  
2 (2%), and Three Dollars (\$3) per square meter for the house lot, and for a  
3 first time owner, no down payment shall be required. Costs shall include  
4 but are not limited to all costs associated with the design, on-site  
5 infrastructure, construction, financing, sale and project management of the  
6 development. The two percent (2%) in excess of the costs shall be retained  
7 by the Corporation for the payment of expenses it will incur during the  
8 construction and monitoring of the project. The cost of off-site  
9 infrastructure and off-site access roads shall be the responsibility of the  
10 government of Guam. On-site infrastructure is defined as all infrastructure  
11 improvements inside the lots described in Section 2 of this Act. The  
12 proceeds from the sale of the lots shall be retained by the Corporation. Of  
13 these proceeds, Two Hundred Thousand Dollars (\$200,000) shall be used to  
14 prepare a comprehensive housing study on homeownership for Guam and  
15 the balance shall be used for costs associated with future affordable  
16 housing projects. The Corporation shall establish a fund for the proceeds of  
17 the land sales that is separate from its other accounts and shall report to  
18 the Legislature each year on the status of this fund.

19           Section 7. Equity to Corporation. The equity between the selling  
20 price of each unit and the initial appraised value of each unit at the time of  
21 sale shall remain the property of the Corporation for a period of not less  
22 than twenty-five (25) years following the sale of the property. The  
23 Corporation shall be given the right of first refusal on all homes sold by the  
24 initial owners and subsequent owners who purchase a home constructed  
25 under this Act from the Corporation in the event the homes are sold within  
26 twenty-five (25) years of the date of purchase. The right of first refusal  
27 price on sale of the home shall be the original selling price plus any equity  
28 beyond the initial appraisal not to exceed five percent (5%) per year. In  
29 the event the homes are purchased by the Corporation, they shall be sold  
30 at cost to first time homeowners who shall be subject to the equity sharing  
31 provisions of this section. The owners shall not mortgage or attach or  
32 cause to attach any liens for equity which is not considered to be theirs  
33 under this section. Homes purchased under the Corporation's right of first  
34 refusal shall be sold at cost plus ten percent (10%). The Corporation shall  
35 share in the equity on all homes sold that were acquired by the right of

**EXHIBIT "E"**

**Public Law 24-81**

**TWENTY- FOURTH GUAM LEGISLATURE  
1997 (FIRST) Regular Session**

**Bill No. 149 (COR)**

As substituted by the Committee on Finance  
and Taxation and as amended on the Floor.

Introduced by:

Committee on Rules,  
Government Reform and  
Federal Affairs

by request of the Governor in  
accordance with the Organic  
Act of Guam.

Mark Forbes

A. C. Blaz

A. C. Lamorena, V

T. C. Ada

F. B. Aguon, Jr.

E. Barrett-Anderson

J. M.S. Brown

Felix P. Camacho

Francisco P. Camacho

M. C. Charfauros

E.J. Cruz

W. B.S.M. Flores

L. F. Kasperbauer

C. A. Leon Guerrero

L. Leon Guerrero

V. C. Pangelinan

J. C. Salas

A. L.G. Santos

F. E. Santos

A. R. Unpingco

J. Won Pat-Borja

**AN ACT TO AMEND §4101, §4104(a), §4104(m),  
§4105, §4106 AND §4214, TO ADD A NEW §4103.5  
AND §4106.1, AND ADD A NEW ARTICLE 6 TO**

CHAPTER 4, ALL TO TITLE 12 OF THE GUAM  
CODE ANNOTATED, AND TO APPROVE THE  
TERMS AND CONDITIONS OF THE ISSUANCE  
OF UP TO \$50,000,000 OF REVENUE BONDS OF  
THE GUAM HOUSING CORPORATION, AND TO  
AMEND §§ 4, 6, 7, 8, 10 AND 13 OF P. L. NO. 20-225,  
RELATIVE TO THE LADA ESTATES AFFORDABLE  
HOUSING PROJECT.

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

2 Section 1. Legislative Finding. Section 4103 of Title 12, Guam Code  
3 Annotated, authorizes the Guam Housing Corporation ("GHC") to encourage  
4 and engage in low and moderate income housing activities, including the  
5 development and financing of homes. Amendments are needed for the  
6 following purposes:

7 (a) to facilitate the issuance by GHC of its revenue bonds for the  
8 purpose of financing mortgage loans for the purchase of homes by low  
9 and moderate income residents of Guam;

10 (b) to provide GHC with perpetual succession and to permit  
11 GHC to utilize amounts originally appropriated to the Foreclosure  
12 Protection Fund of GHC to pay its mortgage insurance risk sharing  
13 obligations; and

14 (c) to amend P. L. No. 20-225, to allow GHC to utilize a portion  
15 of the proceeds of any bond issuance for the benefit of the Lada Estates  
16 Affordable Housing Project.

17 Subsection (k) of §2103 of Title 12, Guam Code Annotated, provides that  
18 agencies and instrumentalities of the government of Guam shall issue  
19 obligations only by means of and through the agency of the Guam Economic  
20 Development Authority ("GEDA"). This Subsection further provides that

1 GEDA shall not sell any obligation without the approval of the Guam  
2 Legislature of the terms and conditions of the issuance of the obligations. The  
3 Guam Legislature has been provided a proposed form of indenture, as  
4 evidence by the attached "Exhibit A" made part of this Act, pursuant to which  
5 GHC proposes to issue revenue bonds for the purchase of homes by low and  
6 moderate income residents of Guam.

7 **Section 2. Recognizing that the GHC's Purpose is to Improve Housing**  
8 **Supply and Affordability, as well as Housing Standards.** Section 4101 of  
9 Title 12 of the Guam Code Annotated is hereby amended to read as follows:

10 "Section 4101. **Creation of Corporation: Name.** In order to  
11 promote the general welfare of the inhabitants of the Territory of Guam  
12 through the improvement of housing standards, housing supply and  
13 housing affordability in Guam, there is created a body corporate to be  
14 known as the Guam Housing Corporation, hereinafter referred to as the  
15 "Housing Corporation." The Housing Corporation shall be deemed to  
16 be exercising essential government functions and shall be subject to the  
17 general direction of the Governor of Guam."

18 **Section 3. Addition of Definition of "Bonds."** A new §4103.5 is hereby  
19 added to Title 12 of the Guam Code Annotated to read as follows:

20 "Section 4103.5. **Definition of 'Bonds.'** For purposes of this  
21 Chapter the term 'bonds' shall mean any bonds, notes or other evidences  
22 of indebtedness of the Housing Corporation issued pursuant to this  
23 Chapter."

24 **Section 4. Providing for Perpetual Succession for the Guam Housing**  
25 **Corporation.** Section 4104(a) of Title 12 of the Guam Code Annotated is  
26 hereby amended to read as follows:

1           "(a) To have perpetual succession."

2           **Section 5. Providing Authority for Guam Housing Corporation to**  
3 **Obtain Financing for Certain Purposes.** Section 4104(m) of Title 12 of the  
4 Guam Code Annotated is hereby amended to read as follows:

5           "(m) To borrow funds required to finance or refinance its revenue  
6 producing projects or to finance or refinancing a home financing  
7 program under §4602 by the issuance, from time to time, of bonds under  
8 such terms and conditions as the Housing Corporation may prescribe,  
9 and to pledge and assign specified revenues and other property of the  
10 Housing Corporation to the repayment of such bonds."

11           **Section 6. Clarifying that Guam Housing Corporation Bonds are**  
12 **Special Obligations of Guam Housing Corporation.** Section 4105 of Title 12  
13 of the Guam Code Annotated is hereby amended to read as follows:

14           "**Section 4105. Bonds as Special Obligations.** Every Bond issued  
15 by the Housing Corporation pursuant to this Chapter shall be a special  
16 obligation of the Housing Corporation payable solely from the revenues  
17 and other property specified in the indenture or resolution providing for  
18 the issuance of such bond. Every bond shall recite that it is not public  
19 indebtedness of the Territory of Guam as that term is used in §11 of the  
20 Organic Act."

21           **Section 7. Providing for Various Terms and Conditions of the**  
22 **Issuance of Bonds.** Section 4106 of Title 12 of the Guam Code Annotated is  
23 hereby amended to read as follows:

24           "**Section 4106. Appointment of Trustee: Provision of Indenture**  
25 **or Resolution.** (a) The Housing Corporation may appoint a bank or  
26 trust company to act as trustee for the Board and the holders of the

1 bonds issued hereunder, and the Board may authorize the trustee to act  
2 on behalf of the holders of the bonds, or a stated percentage thereof, and  
3 to exercise and prosecute on behalf of the holders of the bonds such  
4 rights and remedies as may be available to the holders.

5 (b) The indenture or resolution pursuant to which any bonds are  
6 issued may provide for (i) the deposit of all revenues with the trustee  
7 and for the holding thereof by the trustee in one or more separate funds  
8 or accounts, and (ii) the transfer to such trustee of such portions of  
9 revenues as are provided as security for the bonds and for the holding  
10 thereof by such trustee in one (1) or more separate funds or accounts.  
11 All money in each such fund or account shall be disbursed only as  
12 provided in the indenture or resolution pursuant to which the bonds are  
13 issued.

14 (c) Any indenture or resolution pursuant to which bonds of the  
15 Housing Corporation are issued may provide for any or all of the  
16 following:

17 (i) the payment of the principal and interest of the bonds  
18 at one (1) or more places in the Territory or in the United States  
19 and in any specified coin or currency of the United States;

20 (ii) the pledge and assignment of all or any portion of the  
21 revenues or other property of the Housing Corporation, including,  
22 without limitation, mortgage loans and mortgage-backed  
23 securities, to secure the payment of the bonds, subject to existing  
24 agreements with holders;

25 (iii) reserves or sinking funds in the hands of trustees,  
26 paying agents and other depositories and the regulation and

1 disposition thereof;

2 (iv) limitations on the purpose to which the proceeds of  
3 sale of bonds may be applied;

4 (v) limitations on the issuance of additional bonds, the  
5 terms upon which additional bonds may be issued and secured  
6 and the refunding of outstanding bonds;

7 (vi) the procedure, if any, by which the terms of any  
8 contract with the holders of bonds may be amended or abrogated,  
9 the amount of bonds the holders of which must consent thereto,  
10 and the manner in which such consent may be given;

11 (vii) vesting in a trustee property, rights, powers and duties  
12 in trust as the Housing Corporation determines;

13 (viii) the specification of the acts or omissions to act which  
14 shall constitute a default in the obligations and duties of the  
15 Housing Corporation to the holders of the bonds and providing  
16 for the rights and remedies of the holders, and any limitations on  
17 such rights and remedies, in the event of such default; and

18 (ix) any other matters of like or different character which in  
19 any way affect the security or protection of the holders of the  
20 bonds or the rights of the Housing Corporation.

21 (d) Bonds of the Housing Corporation issued pursuant to this  
22 Chapter shall: (i) bear such date, (ii) mature at such times, (iii) bear  
23 interest at such fixed or variable rates, (iv) be sold at public or private  
24 sale at such prices above or below par, (v) be in such denominations, (vi)  
25 be in such form, (vii) carry such registration privileges, (viii) be executed  
26 in such manner and (ix) be subject to such terms of redemption as

1 provided in the indenture or resolution authorizing their issuance."

2 **Section 8. Establishing Validity of Pledge by Guam Housing**  
3 **Corporation from Time Pledge is Made, Without Need for Further**  
4 **Documentation.** A new §4106.1 is hereby added to Title 12 of the Guam Code  
5 Annotated to read as follows:

6 "Section 4106.1. **Validity of Pledge.** Any pledge made by the  
7 Housing Corporation shall be valid and binding from the time the  
8 pledge is made. The revenues or other property pledged and thereafter  
9 received by the Housing Corporation shall immediately be subject to  
10 the lien of the pledge without any physical delivery thereof or further  
11 act. The lien of any pledge shall be valid and binding against all parties  
12 having claims of any kind in tort, contract, or otherwise against the  
13 Housing Corporation, irrespective of whether such parties have notice  
14 thereof. Neither the resolution, the indenture nor any other instrument  
15 by which a pledge is created need be recorded."

16 **Section 9. Providing Authority for the Guam Housing Corporation to**  
17 **Use the Foreclosure Protection Fund to Repay Bonds as well as to Pay Off**  
18 **the First Mortgage on Foreclosure.** Section 4214 of Title 12 of the Guam Code  
19 Annotated is hereby amended to read as follows:

20 "Section 4214. **Foreclosure Protection Fund.** There is hereby  
21 created the Foreclosure Protection Fund (the 'Fund'). The Fund shall be  
22 used by GHC to protect the interest of the Trust as the second mortgagee  
23 and shall be used for the purpose of paying off the first mortgage on  
24 foreclosure and may also be used to pay any obligation of the  
25 Corporation pursuant to any risk sharing arrangement entered into  
26 pursuant to §4602."



1           'Lending institution' means any public or private entity or  
2 governmental agency approved by the Housing Corporation and  
3 authorized by law to make or participate in making residential loans in  
4 Guam.

5           'Mortgage' means a mortgage, deed of trust or other security  
6 instrument which shall constitute a lien on real property in fee simple or  
7 on a leasehold under a lease having a remaining term of a duration  
8 necessary to protect the interest of the mortgagee thereunder, as  
9 determined by the Housing Corporation.

10          'Mortgage-backed security' means any security, whether  
11 guaranteed or not, backed by one (1) or more home mortgages or pools  
12 consisting of home mortgages.

13          **Section 4602. Authorization of Home Financing Program.** In  
14 addition to the powers of the Housing Corporation set forth elsewhere,  
15 in this Chapter, and notwithstanding any restrictions, requirements or  
16 limitations set forth in Articles 1, 2, 3, 4 and 5 of this Chapter, the  
17 Housing Corporation shall have the power to make, purchase, make  
18 commitments to purchase, and take assignments from lending  
19 institutions, of home mortgages and mortgage-backed securities, under  
20 terms and conditions specified by the Housing Corporation. The  
21 Housing Corporation may obtain or require mortgagors to obtain  
22 mortgage insurance on home mortgages, and may enter into risk-sharing  
23 agreements with the providers of the mortgage insurance upon terms  
24 and conditions determined by the Housing Corporation. Any  
25 obligations of the Housing Corporation to a mortgage insurer under a  
26 risk-sharing agreement shall be payable only out of the assets of the

1 Housing Corporation that are not pledged to secure other obligations of  
2 the Housing Corporation."

3 **Section 11. Approval of Terms and Conditions to Guam Housing**  
4 **Corporation Bonds.** The Guam Legislature, pursuant to Subsection (k) of  
5 §2103 of Title 12, Guam Code Annotated, approves the terms and conditions  
6 of the issuance by Guam Housing Corporation of revenue bonds in one (1) or  
7 more issues or series in an aggregate principal amount not to exceed Fifty  
8 Million Dollars (\$50,000,000), with a final maturity not exceeding forty (40)  
9 years and bearing interest at fixed or variable rates not exceeding nine percent  
10 (9.0%) per annum if interest on such bonds is intended to be excludable from  
11 gross income for Federal income tax purposes, and twelve percent (12.0%) per  
12 annum of interest on such bonds if not intended to be excludable from gross  
13 income for Federal income tax purposes. The bonds shall be issued in one (1)  
14 or more issues or series, pursuant to §4104 of Title 12, Guam Code Annotated,  
15 and one (1) or more indentures in substantially the form of the indenture  
16 presented to this Legislature, as evidenced by the attached "Exhibit A" made  
17 part of this Act.

18 **Section 12. Local Sale of Bonds.** Guam Housing Corporation and  
19 Guam Economic Development Authority shall undertake their best efforts to  
20 cause a portion of any bonds issued pursuant to this Act to be offered for sale  
21 in Guam, as well as in other jurisdictions, if and to the extent that such offer  
22 and any sales resulting from such offer do not increase the cost to the Guam  
23 Housing Corporation or government of Guam of issuing and repaying such  
24 bonds.

25 **Section 13. Clarifying the Definition of First Time Homeowners for**  
26 **Purposes of Public Law No. 20-225.** Section 4 of P. L. No. 20-225 is hereby

1 amended to read as follows:

2           **"Section 4. Definition of First Time Homeowners.** 'First time  
3 homeowners' are defined as persons who have not had any ownership  
4 interest in residential real property within the three (3) year period  
5 immediately preceding the date of application for purchase of a unit  
6 developed under this Act. Divorced persons having an ownership  
7 interest in a joint property or individuals having an ownership interest  
8 in the property of the parents do qualify as first time homeowners;  
9 provided, that any interest in residential real property is terminated  
10 prior to the date of application for the purchase of a unit developed  
11 under this Act."

12           **Section 14. Amendment to Section 6 of Public Law No. 20-225 to**  
13 **permit Corporation to Pay for Off-site Infrastructure.** Section 6 of P. L. No.  
14 20-225 is hereby amended to read as follows:

15           **"Section 6. Prices.** The unit shall be sold at cost plus two percent  
16 (2%), and Three Dollars (\$3.00) per square meter for the house lot, and  
17 for a first time owner, no down payment shall be required. Costs shall  
18 include, but are not limited to, all costs associated with the design, on-  
19 site infrastructure, off-site infrastructure, construction, financing, sale  
20 and project management of the development. The two percent (2%) in  
21 excess of the costs shall be retained by the Corporation for the payment  
22 of expenses it will incur during the construction and monitoring of the  
23 project. The proceeds from the sale of the lots shall be retained by the  
24 Corporation. Of these proceeds, Two Hundred Thousand Dollars  
25 (\$200,000.00) shall be used to prepare a comprehensive housing study on  
26 homeownership for Guam and the balance shall be used for costs

1 associated with future affordable housing projects. The Corporation  
2 shall establish a fund for the proceeds of the land sales that is separate  
3 from its other accounts and shall report to the Guam Legislature each  
4 year on the status of this fund."

5 **Section 15. Repealing and Re-enacting Section 7 of Public Law No. 20-**  
6 **225 to Define a Second Mortgage for Equity in Favor of the Guam Housing**  
7 **Corporation.** Section 7 of P. L. No. 20-225 is hereby repealed and re-enacted to  
8 read as follows:

9 "Section 7. **Second Mortgage for Equity.** The difference between  
10 (a) the initial selling price of each unit, and (b) the lesser of the initial  
11 appraised value of each unit at the time of sale or the maximum  
12 purchase price permitted under §143 of the Internal Revenue Code, if  
13 applicable, shall be treated as a shared-appreciation second mortgage  
14 loan from the Corporation to the purchaser. The term of the loan shall  
15 be twenty-five (25) years, the loan shall be subject to prepayment at any  
16 time by the borrower and at maturity the loan shall be forgiven in its  
17 entirety. The Corporation's share of appreciation (contingent, deferred  
18 interest) shall be a percentage less than or equal to one-half (1/2) of the  
19 ratio of the loan principal amount to the initial purchase price. The  
20 Corporation may also charge deferred interest at a fixed rate not greater  
21 than five percent (5%) per annum.

22 The Corporation shall also have for twenty-five (25) years a right  
23 to first refusal upon any sale of the unit by the borrower or upon any  
24 first mortgage default for which a notice of public auction is given. For  
25 the first four (4) years from the date of purchase of the unit by the  
26 borrower, the option price shall be the lesser of (i) the fair market value

1 of the unit at the time of sale, or (ii) the initial appraised value increased  
2 in proportion to the increase in the consumer price index for Guam for  
3 the period from the date of initial purchase of the unit to the date of sale.

4 After the first four (4) years, the option price shall be the fair market  
5 value of the unit to the date of sale.

6 Any units purchased by the Corporation shall, if possible, be  
7 resold to the first time homeowners under agreements with the same  
8 general terms as the agreements with the original purchasers.

9 Any money received by the Corporation from the payment of any  
10 loan authorized by this Section shall be deposited to the fund created  
11 under Section 6 of Public Law No. 20-225. Amounts in the fund are also  
12 authorized to be used to pay the purchase price of units purchased by  
13 the Corporation pursuant to the option to purchase described in this  
14 Section."

15 **Section 16. Guam Housing Corporation to Exercise Option Under**  
16 **Second Mortgage for Equity in the Event of a First Mortgage Default.**  
17 Section 8 of P. L. No. 20-225 is hereby amended to read as follows:

18 "Section 8. Default. In the event of a first mortgage default, with  
19 respect to a unit the Corporation may exercise its option under Section 7  
20 of Public Law No. 20-225 to purchase the unit or may bid for the unit at  
21 the public auction."

22 **Section 17. Application of §143 of Internal Revenue Code to Any**  
23 **Transferee of Bond-Financed First Mortgage.** Section 10 of P. L. No. 20-225 is  
24 hereby amended to read as follows:

25 "Section 10. Gifts. The homeowner may without consideration  
26 transfer by means of a gift, the home purchased under this Act to any

1 member of the homeowner's immediate family. For purposes of this  
2 Act, 'immediate family' is defined as the homeowner's spouse, parents,  
3 and children by birth or by legal adoption. In cases of authorized family  
4 transfer, the same restrictions that applied to the previous homeowner  
5 apply to the new homeowner. The assumption by the transferee of any  
6 bond-financed first mortgage shall be subject to the requirements of  
7 Section 143 of the Internal Revenue Code."

8 **Section 18. Clarification that Mortgages Financed by Guam Housing**  
9 **Corporation Bonds do Not Disqualify a Person from Government of Guam**  
10 **Mortgage Subsidy Programs.** Section 13 of P.L. No. 20-225 is hereby  
11 amended to read as follows:

12 "Section 13. **No Subsidy Mortgages.** Persons who purchase a  
13 home under this Act are not eligible for government of Guam mortgage  
14 subsidy programs. For this purpose, mortgages financed by qualified  
15 mortgage bonds issued by the Corporation shall not be treated as  
16 financed by a mortgage subsidy program."

**EXHIBIT "F"**

**Public Law 25-116**

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN**  
**2000 (SECOND) Regular Session**

**Bill No. 377 (COR)**

As substituted by the Committee on  
Housing, General Government Services  
and Foreign Affairs.

Introduced by:

K. S. Moylan  
J. C. Salas  
A. C. Lamorena, V  
A. R. Unpingco  
V. C. Pangelinan  
M. G. Camacho  
F. B. Aguon, Jr.  
E. C. Bermudes  
A. C. Blaz  
J. M.S. Brown  
E. B. Calvo  
Mark Forbes  
L. F. Kasperbauer  
C. A. Leon Guerrero  
S. A. Sanchez, II

**AN ACT TO ADD ARTICLE 7 TO CHAPTER 4 OF  
TITLE 12 OF THE GUAM CODE ANNOTATED;  
AND TO ADD §§5.1, 7.1 AND 17, TO AMEND §6  
AND TO REPEAL AND REENACT §12, ALL TO P.L.  
NO. 20-225, RELATIVE TO ESTABLISHING A  
LEASE-TO-OWN HOUSING PROGRAM FOR  
QUALIFIED APPLICANTS AND FIRST TIME  
HOMEBUYERS, AND TO CITE THE ACT AS "THE  
LEASE-TO-OWN HOUSING PROGRAM ACT OF  
2000".**



1           **Section 4702. Legislative Findings.** *I Liheslaturan Guåhan*  
2 finds that in 1997, Guam Housing Corporation announced a bid for the  
3 design, building and financing of infrastructure requirements for Lada  
4 Estates. As a result, Maeda Pacific Corporation ('Maeda') the selected  
5 bidder, was granted a contract to design, build and finance the project.  
6 The Guam Housing Corporation and Maeda executed a contract in the  
7 amount over Ten Million Dollars to fulfill the project's scope of work.

8           Furthermore, *I Liheslaturan Guåhan* finds that Maeda agreed to the  
9 terms such that payment would be due from a developer who would  
10 finance both the outstanding contract with Maeda and the development  
11 of the units at Lada Estates. To date, Guam Housing Corporation has  
12 entertained several bids, but is unable to secure any contract with a  
13 developer. Also, *I Liheslaturan Guåhan* finds that the infrastructure  
14 project was due and payable on or before November 1998.

15           *I Liheslaturan Guåhan* also finds that while there have been several  
16 bid announcements, initiated by the Guam Housing Corporation, for  
17 the construction of the Lada Estates project which have been advertised  
18 in conformance with the procurement laws of Guam. Unfortunately, no  
19 bidder has been able to meet the required terms of the contract due to  
20 the provisions requiring substantial up front financial reimbursement to  
21 Maeda. As a result of this hindrance, Maeda has agreed to renegotiate  
22 some of the terms to allow for easier repayment criteria.

23           More importantly, *I Liheslaturan Guåhan* in discussions with the  
24 Guam Housing Corporation and the mortgage community, identified  
25 the key problems that adversely affected the eligibility of customers and

1 clients to participate in purchasing of not only the Lada Estates  
2 residential project, but also various single family housing development  
3 projects on Guam. Some of the problems are identified as:

4 (i) most prospective clients have high debt to income  
5 ratios five (5) year short term debts;

6 (ii) most prospective clients are unable to meet the  
7 required closing cost and down payment for their first-time home;  
8 *and*

9 (iii) most prospective first-time homebuyers may need the  
10 lease-to-own housing program so that they may utilize the lease  
11 term to re-establish their credit and thus qualify for a typical  
12 residential loan at the time of escrow closing of the purchase.

13 **Section 4703. Legislative Policy.** *I Liheslaturan Guåhan* in  
14 its continuing effort to promote affordable housing programs for the  
15 people finds that for many individuals and families the primary  
16 obstacle to homeownership is their inability to save money for the initial  
17 cost of buying a home, such as down payment and closing costs. To  
18 effectuate additional housing programs, *I Liheslaturan Guåhan* in its  
19 wisdom wishes to hereby establish a '*Lease-to-Own Housing Program*'.  
20 Said Program shall afford opportunities for the private and government  
21 sector to invest in affordable housing developments, particularly those  
22 that offer lease to own provisions with options to exercise purchase  
23 within three (3) to five (5) years. This would encourage public and  
24 private collaboration in the search for the suitable financing mechanism  
25 or mechanisms which could benefit the families who can afford to

1 purchase homes given financial assistance for closing costs and down  
2 payment.

3 *I Liheslaturan Guåhan* wishes to encourage the participation of the  
4 private sector working through the authority vested in the Guam  
5 Housing Corporation through this Act. Furthermore, *I Liheslaturan*  
6 *Guåhan* recognizes the opportunity for certain lending institutions and  
7 lenders of capital to assist families in purchasing or building their first  
8 home on their lot or purchasing homes available in the market. *I*  
9 *Liheslaturan Guåhan* also wishes to recognize that the programs  
10 contained herein are Community Reinvestment Act qualified, and in  
11 conformance with various housing programs administered by the  
12 Guam Housing Corporation, particularly those which can accommodate  
13 the concept of 'lease-to-own' residential units of various sorts.

14 *I Liheslaturan Guåhan* also encourages the granting of any Guam  
15 Economic Development Authority qualifying certificate benefits to the  
16 developers involved in the Lada Estates project, as well as other similar  
17 housing projects. In the case where a government entity is the  
18 developer, such benefits may be passed on to the participating  
19 contractors provided that such incentive would decrease the overall unit  
20 cost of housing in the respective project.

21 **Section 4704. Definitions.** For purposes of this Act,  
22 the following words and phrases are defined to mean:

23 (a) '*Affordable housing unit*' shall mean a single family  
24 dwelling unit inclusive of land, built in accordance with the  
25 Uniform Building Code and in consonance with the Guam zoning

1 and subdivision laws whose selling price meets the criteria set  
2 forth in the Guam Economic Development Authority Rules and  
3 Regulations pertaining to 'affordable housing' adopted pursuant  
4 to Public Law Number 24-266.

5 (b) 'Corporation' shall mean the Guam Housing  
6 Corporation created pursuant to §4101 of Title 12 of the Guam  
7 Code Annotated.

8 (c) 'Residence' shall mean a single family home, a  
9 condominium housing unit or a housing unit owned by a  
10 cooperative housing cooperation.

11 (d) 'Seller' shall mean the party to the lease-to-own  
12 contract who is the seller of the residence.

13 (e) 'Tenant-Purchaser' shall mean the prospective person  
14 who is a party to the lease-to-own contract.

15 **Section 4705. Lease-to-Own Program; Establishment;**  
16 **Authorization to Participate.** The Guam Housing  
17 Corporation ('Corporation') is hereby authorized to participate in lease-  
18 to-own programs described in this Act. The purpose of a lease-to-own  
19 program is to provide mortgage financing for a residence occupied as a  
20 primary residence by a prospective mortgagor pursuant to a lease-to-  
21 own contract with the owner of such property. The lease-to-own  
22 contract shall provide for the eventual purchase by the resident of the  
23 residence and an interim lease of the residence *prior to* the closing of the  
24 purchase thereof.

25 **Section 4706. Authorization to Acquire Mortgage Loans.**

1 The Corporation may contract to acquire and may acquire a mortgage  
2 loan or loans made by a bank, or other financial institution, to a seller  
3 who has entered a lease-to-own contract with an eligible Tenant-  
4 Purchaser for the property which is the subject of and security for such  
5 mortgage loan.

6 **Section 4707. Lease-to-Own Contract.** The  
7 Corporation is empowered to purchase or build, as well as incur debt to  
8 achieve same, residences which the Corporation would own and lease  
9 under the Program established herein.

10 (a) The lease-to-own contract shall contain:

11 (1) a lease of the residence, or in the case of  
12 cooperative housing units a sublease, for a term *not* to  
13 exceed five (5) years;

14 (2) provision for a rental payment *not less than* the  
15 sum of:

16 (i) an amount sufficient to pay the estimated  
17 property taxes and insurance on the residence, or in  
18 the case of a cooperative unit, the maintenance  
19 charges;

20 (ii) the cost of routine maintenance of the  
21 residence, *unless* the lease-to-own contract requires the  
22 Tenant-Purchaser to perform such maintenance at his  
23 own expense;

24 (iii) an amount sufficient to pay interest on the  
25 mortgage loan held by the Corporation on the

1 residence, less the estimated earnings on the escrow  
2 fund provided in §4708 of this Act which is allocable  
3 to such mortgage held by the Corporation;

4 (iv) an amount to be held in escrow, referred to  
5 as the 'Tenant-Purchaser escrow,' which, when  
6 accumulated over the period of the lease-to-own  
7 contract or no more than five (5) years, will amount to  
8 a sum sufficient to pay the Tenant-Purchaser's  
9 required down payment under the lease-to-own  
10 contract, plus the estimated closing costs of purchase  
11 which will be allocable to the Tenant-Purchaser,  
12 including the seller's closing cost at the initial closing  
13 of the mortgage to the seller; and

14 (v) in the case of a condominium unit,  
15 common charges;

16 (3) provisions obligating the Tenant-Purchaser to  
17 buy and the seller to sell the residence at the end of the lease  
18 term, which shall *not* exceed five (5) years;

19 (i) if Tenant Purchaser seeks to utilize any  
20 HUD grants for down payment and closing cost  
21 assistance, then Tenant Purchaser shall exercise the  
22 purchase option on or before three (3) years;

23 (4) a provision that the default by the Tenant-  
24 Purchaser under the provision of the lease-to-own contract  
25 shall result in the forfeiture to the seller of all amount in the

1 Tenant-Purchaser escrow; furthermore, the various escrow  
2 funds funded under the Program should be residence  
3 specific, such that a default or other failure of the tenant to  
4 purchase the unit within the five (5) years allowed would  
5 result in the escrow being forfeited to the successor Tenant-  
6 Purchaser, *and not* the Corporation;

7 (5) a provision that the Tenant-Purchaser shall have  
8 the option upon reasonable notice to the seller and the  
9 Corporation to elect to close the purchase of the residence  
10 *not* earlier than one (1) year from the date of execution of the  
11 lease-to-own contract;

12 (6) a provision that the rent shall be adjusted under  
13 the lease-to-own contract periodically to take account of  
14 changes in taxes, insurance, escrow earning, mortgage  
15 interest and other variables intended to be covered by the  
16 tenant's rental payments; *and*

17 (7) a provision governing the consequences of  
18 default by each of the parties.

19 (b) The provisions of this Act shall *not* apply to the  
20 tenancy of the Tenant-Purchaser under the lease-to-own contract  
21 from and after the purchase by the Corporation of the mortgage  
22 loan on the residence so long as the Corporation holds the  
23 mortgage loan. The Corporation shall *not* sell the mortgage loan  
24 *prior to* the closing of the transfer of title to the Tenant-Purchaser

1 or default by the Tenant-Purchaser under the lease-to-own  
2 contract.

3 (c) The Corporation shall adopt procedures to ensure that  
4 the payments contemplated by §4707(a)(2) of this Section are in  
5 fact applied to those purposes.

6 **Section 4708. Tenant-Purchaser Escrow Account.**

7 (a) The mortgage loan documents, with respect to a  
8 mortgage loan(s) in effect *prior to* the Tenant-Purchaser's purchase  
9 of their respective units, shall provide there shall be retained over  
10 the Tenant-Purchaser's lease term an amount held as additional  
11 security for such loan(s) called the Tenant-Purchaser Escrow  
12 Account. The Tenant-Purchaser Escrow Account will receive a  
13 predetermined portion of the Tenant-Purchaser's monthly rental  
14 amount as provided for in §4707(a)(2)(iv) of this Act, such portion  
15 to be determined at commencement of the Tenant-Purchaser's  
16 lease. The total amount contributed to the Tenant-Purchaser  
17 Escrow Account by the Tenant-Purchaser over the lease term  
18 should *not* be less than ten percent (10%) of the Tenant-  
19 Purchaser's anticipated purchase price. Such Tenant-Purchaser  
20 Escrow Account shall be held by a Trustee for the benefit of the  
21 Corporation and the first mortgagee(s). The Corporation will  
22 approve such Trustee. At the time of the Tenant-Purchaser's  
23 purchase of the respective unit, the Trustee shall release and  
24 disperse the Tenant-Purchaser Escrow Account to the unit Seller  
25 to meet the Tenant-Purchaser's down payment requirement.

1           The escrow amounts pertaining to various lease-to-own  
2 loans may be commingled for investment purposes. Trustees shall  
3 keep separate records showing the amount in each Tenant-  
4 Purchaser Escrow Account. Investment earnings on the Tenant-  
5 Purchaser Escrow Account shall accrue to the benefit of the  
6 Tenant-Purchaser.

7           (b) The Trustee shall periodically advise both the  
8 Corporation and the Seller as to the amount and earnings in each  
9 Tenant-Purchaser Escrow Account.

10           (c) In the event a default by the Tenant-Purchaser occurs,  
11 as provided for in §4707(a)(5), the Trustee shall release only that  
12 portion of the respective Tenant-Purchaser Escrow Account that is  
13 needed to meet the following funding requirements:

14           (i) any costs incurred by the Corporation related to  
15 deferred maintenance of the Tenant-Purchaser's respective  
16 housing unit;

17           (ii) any costs to the Corporation due to re-  
18 advertising, administrative financial fees and other liabilities  
19 that may be a result of the Tenant-Purchaser caused default;  
20 and

21           (iii) all funds remaining in the unit specific Tenant-  
22 Purchaser Escrow Account will be retained by the Trustee  
23 for the benefit of the next prospective Tenant-Purchaser to  
24 occupy the defaulted unit, as is intended by and provided  
25 for in §4704(a)(5) of this Act.

1           **Section 4709. Closing of Transfer of Title. (a) Disbursement**  
2           **of Escrow Account.** At the closing of the transfer of title to the  
3           residence to the Tenant-Purchaser to the lease-to-own contract, the  
4           Corporation shall disburse the escrow amount to or for the  
5           account of the Tenant-Purchaser.

6           (b) **Insurance.** At such closing the Corporation may  
7           require the Tenant-Purchaser to furnish private mortgage  
8           insurance if such insurance is required in the case of other  
9           mortgage loans under this Title. *If* such insurance is *not*  
10          obtainable in the private market at the time of such closing, the  
11          Corporation is authorized to issue such insurance.

12          **Section 4710. Rules, Regulations and Restrictions.** The  
13          Corporation shall establish such requirements with regard to lease-to-  
14          own contracts, lease-to-own residence, the qualifications of Tenant-  
15          Purchaser and the Corporation's participation in any lease-to-own  
16          program, as may be deemed appropriate by the Corporation to achieve  
17          the objectives of this Act. The Corporation's requirements, including,  
18          but not limited to income limit applicable to the Tenant-Purchaser and  
19          the purchase price of the residence, must be satisfied at or before the  
20          time the mortgage loan is purchased, and the Tenant-Purchaser must be  
21          deemed qualified by the Corporation at that time.

22          **Section 4711. Severability.** *If* any provision of this Law or  
23          its application to any person or circumstance is found to be invalid or  
24          contrary to law, such invalidity shall *not* affect other provisions or  
25          applications of this Law which can be given effect without the invalid

1 provisions or application, and to this end the provisions of this Law are  
2 severable."

3 **Section 3. Legislative Statement.** *I Liheslaturan Guåhan* finds that  
4 Public Law Number 20-225, as amended by Public Law Number 24-81,  
5 created an affordable housing program to be developed by the Guam  
6 Housing Corporation ("Corporation") on Lot Numbers 10120-14 and 10120-16  
7 in the municipality of Dededo, Guam. Furthermore, the property has been  
8 conveyed to the Corporation and the Corporation has issued a request for  
9 proposals for development of three hundred ninety-nine (399) residential  
10 units, and is currently negotiating with qualified offers to design, finance and  
11 construct the affordable housing units. Also, the Corporation has caused the  
12 necessary infrastructure to be developed.

13 More importantly, the Corporation has requested *I Liheslaturan Guåhan*  
14 to amend certain provisions of Public Law Number 20-225 in order to  
15 facilitate the financing, design and construction of the units in order to render  
16 the entire project viable. Moreover, *I Liheslaturan Guåhan* finds that the certain  
17 amendments to Public Law Number 20-225 are necessary in order to comply  
18 with Guam Law and allow the Corporation to fully develop and market the  
19 affordable housing units.

20 **Section 4.** Section 5.1 is hereby *added* to Public Law Number 20-225 to  
21 read as follows:

22 "Section 5.1. In the event that there are insufficient qualified  
23 applicants of all classes ready, willing and able to purchase all of the  
24 homes and lots upon their completion, the Corporation is authorized to  
25 lease unsold homes and lots to qualified purchasers with or without

1 provisions to such leases providing for options or obligations to  
2 purchase the homes and lots, and to assign the proceeds of such leases  
3 to finance payment of the initial design, finance and construction of the  
4 homes. In the event that the Corporation is unable to locate a sufficient  
5 number of qualified purchasers to purchase or lease the homes and lots  
6 as provided herein, the Corporation is authorized to lease the homes  
7 and lots for terms *not* in excess of one (1) year, which lease shall be  
8 renewable annually at the option of the Corporation. The proceeds of  
9 the sales of such homes and lots, and the leases of such homes and lots,  
10 may be assigned by the Corporation to the developer chosen by the  
11 Corporation to the design, finance and construct the housing units in  
12 order to finance payment of the initial design, finance and construction  
13 of the homes and infrastructure improvements. As soon as qualified  
14 purchasers become available, the homes and lots shall then be sold to  
15 such qualified purchasers as provided in this Act."

16 Section 5. Section 6 of Public Law Number 20-225, as amended by  
17 Public Law Number 24-81, is hereby further *amended* to read as follows:

18 "Section 6. Prices. The unit shall be sold at cost plus two  
19 percent (2%), and Three Dollars (\$3.00) per square meter for the house  
20 lot, and for a first time owner, no down payment shall be required.  
21 Costs shall include, but are not limited to, all costs associated with the  
22 design, on-site infrastructure, construction, financing, sale and project  
23 management of the development. The two percent (2%) in excess of the  
24 costs shall be retained by the Corporation for the payment of expenses it  
25 will incur during the construction and monitoring of the project. The

1 proceeds from the sale of the lots shall be retained by the Corporation.  
2 The costs of off-site infrastructure and off-site access roads shall be the  
3 responsibility of the government of Guam. On-site infrastructure is  
4 defined as all infrastructure improvements inside the lots described in  
5 §2 of this Act. The proceeds from the sale of the lots shall be retained by  
6 the Corporation. Of these proceeds, Two Hundred Thousand Dollars  
7 (\$200,000.00) shall be used to prepare a comprehensive housing study  
8 on homeownership for Guam and the balance shall be used for costs  
9 associated with future affordable housing projects. The Corporation  
10 shall establish a fund for the proceeds of the land sales that is separate  
11 from its other accounts and shall report to *I Liheslaturan Guahan* each  
12 year on the status of this fund."

13 **Section 6.** Section 7.1 is hereby *added* to §7 of Public Law Number 20-  
14 225, as further amended by Public Law Number 24-81, to read as follows:

15 "Section 7.1. **Equity Interest Recapture.** The difference  
16 between the selling price of each unit and the initial appraised value of  
17 each unit at the time of the sale is considered equity and shall be  
18 available to the purchaser for down payment assistance and closing  
19 costs. This equity shall *not* be used for debt consolidation. Participating  
20 banks and financial institutions are encouraged to access this equity for  
21 the purposes stated herein. *If* a homeowner uses any portion of this  
22 equity for any purpose listed herein, and the homeowner decides to sell  
23 the home before five (5) years have transpired from the date of original  
24 purchase, then the homeowner shall be obligated to pay to Guam

1 Housing Corporation five percent (5%) interest per year on the amount  
2 of equity used.

3 Guam Housing Corporation shall insert a provision in the  
4 warranty deed for the property title 'Equity Interest Recapture Clause'.  
5 The purpose of this provision is to establish a vehicle to recapture five  
6 percent (5%) interest per year on the equity used by the homeowners in  
7 the event the homeowners decide to resell the property in the first five  
8 (5) years. This interest must be paid to the Corporation at the close of  
9 escrow. *If the homeowner sells the home after five (5) years, then the*  
10 *recapture clause shall have expired and the homeowner shall not be*  
11 *required to pay the interest."*

12 **Section 7.** Section 12 of Public Law Number 20-225 is hereby *repealed*  
13 *and reenacted* to read as follows:

14 "Section 12. Zoning. Upon conveyance of the  
15 property described in §2 of this Act to the Corporation, such property  
16 shall thereupon be zoned as a 'Multi-residential (R2)'. Any variance  
17 required from Subdivision laws of Guam which would allow the Guam  
18 Housing Corporation to maximize the marketability of the housing  
19 units and lots of the Lada Estate Project is hereby granted so long as the  
20 waiving or granting of such variance does *not* cause or result in danger  
21 to the health, safety or livelihood of the residents of Lada and the  
22 general public, and that such variance would *not* result in economic loss  
23 to the Guam Housing Corporation and the homeowners of Lada  
24 Estates".

1           Section 8. Section 17 is hereby *added* to Public Law Number 20-225 to  
2 read as follows:

3                   **Section 17.                   Exemption.**                   Sales of homes of  
4 lots to qualified purchasers pursuant to this Act are hereby exempt from  
5 the provisions of §60112 of Article 1 of Title 21 of the Guam Code  
6 Annotated and §2107 of Chapter 2 of Title 2 of the Guam Code  
7 Annotated. For purposes of this Act, the Lada Estates Project shall be  
8 exempted from the provisions of Public Law Number 18-15."

9           Section 9. **Severability.**   *If* any provision of this Law or its  
10 application to any person or circumstance is found to be invalid or contrary to  
11 law, such invalidity shall *not* affect other provisions or applications of this  
12 Law which can be given effect without the invalid provisions or application,  
13 and to this end the provisions of this Law are severable.

**EXHIBIT "G"**

**Public Law 30-172**

*I MINA'TRENTA NA LIHESLATURAN GUÅHAN*  
2010 (SECOND) Regular Session

**Bill No. 390-30 (COR)**

As amended on the Floor.

Introduced by:

T. R. Muña Barnes  
Judith T. Won Pat, Ed.D.  
T. C. Ada  
V. Anthony Ada  
F. B. Aguon Jr.  
F. F. Blas, Jr.  
E. J.B. Calvo  
B. J.F. Cruz  
J. V. Espaldon  
Judith P. Guthertz, DPA  
Adolpho B. Palacios, Sr.  
v. c. pangelinan  
R. J. Respicio  
Telo Taitague  
Ray Tenorio

**AN ACT TO AMEND SUBSECTION (d) OF SECTION 38,  
CHAPTER VI OF PUBLIC LAW 29-113, RELATIVE TO  
THE LADA ESTATES PROJECT AND ENSURING  
ACCESS TO AFFORDABLE HOUSING FOR THE  
PEOPLE OF GUAM.**

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

1           **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the  
2 demand for affordable housing for Guam families is rising exponentially each  
3 month as the military expansion and concurrent increase in economic activities  
4 progress. The shortage of affordable housing for Guam families and residents  
5

1 requires immediate action to facilitate access to equitable homeownership  
2 programs.

3 *I Liheslaturan Guåhan* also finds that legislation providing access to, and  
4 existing laws governing, the “*Lada Estates Affordable Housing Project*”, as  
5 enacted by P.L. 20-225 and further amended by P.L. 24-81, P.L. 25-116, and by  
6 Section 38 of P.L. 29-113, need to be amended further in order to facilitate and  
7 make more feasible the participation by local developers in creating more  
8 affordable-homes stock for Guam’s working families and access to  
9 homeownership programs.

10 **Section 2.** Subsection (d) of Section 38 of Chapter VI of Public Law 29-  
11 113, is hereby *amended* to read as follows:

12 “(d) A new Section 6.1 is hereby *added* to P.L. 20-225 to read as  
13 follows:

14 “Section 6.1. **Prices for Rental Development.** The Property  
15 *shall* be sold to a private, non-profit organization for the same price as  
16 reflected in Section 6 of P.L. 20-225, as amended. Rental developments  
17 *shall* be developed for families whose income *do not* exceed up to one  
18 hundred fifty percent (150%) of the median income for Guam households as  
19 established by the U.S. Department of Housing and Urban Development  
20 (HUD). When the property is sold to a private, non-profit organization to  
21 develop affordable rental development the transfer of sale *shall* have a deed  
22 restriction to ensure the following:

23 (a) In the event the private, non-profit organization sells the  
24 Property after the rental period, the Property *shall only* be sold to a  
25 first time homeowner. First time homeowner, as it relates to this Act,  
26 *shall* be an eligible buyer as stated on Section 5 of P.L. 20-225, as  
27 amended by Section 38 of P.L. 29-113.

1 (b) In the event the private, non-profit organization sells the  
2 Property after the rental period, the Property *shall only* be sold to a  
3 first time homeowner at the same value the private, non-profit  
4 organization purchased the Property and as stipulated on Section 6 of  
5 P.L. 20-225, as amended.

6 (c) When the private, non-profit organization sells the house  
7 and lot after the rental period it will recover any cost of the vertical  
8 construction, rehabilitation cost, administrative fee, and the allowable  
9 developer fee allowed by HUD. The developer fee can be *only*  
10 applied to the cost of the vertical unit and *not* the land. As stated in  
11 Subsection (b) of this legislation, the land will be sold to the first-time  
12 homeowner with the same value the private, non-profit organization  
13 bought the property as stated in Section 6 of P.L. 20-225.

14 (d) The private, non-profit organization purchaser of the  
15 "Lada Estates Affordable Housing Project" *shall* assume all current  
16 and future liabilities associated with all claims and liens filed against  
17 the property including property taxes.

18 (e) The Guam Housing Corporation *shall* have the first right  
19 of refusal to all mortgages for property sold by the private, non-profit  
20 organization purchaser, pursuant to Section 6 of Public Law 20-225."

21 **Section 3. Superceding.** *If* any provisions of any laws of Guam conflict  
22 with any Sections of this Law, then the provisions of this Law *shall* supersede any  
23 such provisions.



the People

I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

MAR 15 2012

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

Chairman
Committee on Appropriations,
Taxation, Public Debt, Banking,
Insurance, Retirement, and
Land

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 416-31 (COR), As amended

Vice Chairman
Committee on Education

Dear Speaker Won Pat:

Member
Committee on Rules,
Federal, Foreign &
Micronesia Affairs and
Human & Natural
Resources

Transmitted herewith is the Committee Report Bill No. 416-31 (COR):
'An act to approve and ratify the transfer of certain property relative to the
Lada Estates Project by the Guam Housing Corporation for the purpose of
developing affordable housing for the people of Guam' which was
referred to and amended by the Committee on Appropriations, Taxation,
Public Debt, Banking, Insurance, Retirement, and Land.

Member
Committee on
Municipal Affairs,
Tourism, Housing, and
Recreation

Committee votes are as follows:

Member
Committee on the Guam
Military Buildup and
Homeland Security

- 5 TO PASS
0 TO NOT PASS
1 TO REPORT OUT ONLY
0 TO ABSTAIN
0 TO PLACE IN INACTIVE FILE

Member
Committee on Health and
Human Services, Senior
Citizens, Economic
Development, and Election
Reform

Si Yu'os Ma'åse',

Vicente (Ben) Cabrera Pangelinan
Chairman

**Committee  
Report  
On**

**Bill No. 416-31 (COR), As amended:**

**“An act to approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam.”**



I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

MAR 13 2012

**MEMORANDUM**

**To: All Members**  
Committee on Appropriations, Taxation, Public Debt, Banking,  
Insurance, Retirement, and Land

**From: Senator Vicente (Ben) Cabrera Pangelinan**  
Committee Chairperson

**Subject: Committee Report on Bill No. 416-31 (COR), As amended**

Transmitted herewith is the Committee Report on Bill No. 416-31 (COR): "An act to approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam" sponsored by Senator Tina Muna-Barnes and was referred to and amended by the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land.

This report includes the following:

1. Committee Voting Sheet
2. Committee Report Narrative
3. Copy of Bill No. 416-31 (COR)
4. Copy of Amended Bill No. 416-31 (COR)
5. Public Hearing Sign-in Sheet
6. Copies of Submitted Testimony & Supporting Documents
7. Notices of Public Hearing
8. Copy of the Public Hearing Agenda
9. Fiscal Notes

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact my office.

*Si Yu'os Ma'åse',*



Vicente (Ben) Cabrera Pangelinan  
Chairman

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

Vice Chairman  
Committee on Education

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security

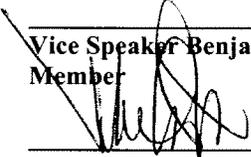
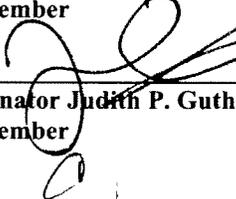
Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

I MINA 'TRENTAI UNU NA LIHESLATURAN GUÅHAN

Committee Voting Sheet

Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land

Bill No. 416-31 (COR), As amended: "An act to approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam."

Committee Members	To Pass	Not To Pass	Report Out Only	Abstain	Inactive File
 Senator Vicente (Ben) Cabrera Pangelinan Chairman	✓				
Speaker Judith T. Won Pat, Ed.D. Vice Chairperson					
 Vice Speaker Benjamin J.F Cruz Member	3/15/12 ✓				
 Senator Tina R. Muña-Barnes Member	M				
 Senator Judith P. Guthertz, DPA Member			5/15/12		
Senator Dennis G. Rodriguez, Jr. Member	3/15/12 ✓				
Senator V. Anthony Ada Member	3/15/12 ✓				
 Senator Christopher M. Dueñas Member	✓				
Senator Mana Silva Taijeron Member					



**Committee Report**

Bill No. 416-31 (COR): An act to approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam.

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

Vice Chairman  
Committee on Education

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security

Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

**I. OVERVIEW**

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land convened a public hearing on February 24, 2012 at 9:00 am in *I Liheslatura's* public hearing room.

**Public Notice Requirements**

Notices were disseminated via hand-delivery and e-mail to all senators and all main media broadcasting outlets on February 17, 2012 (5-Day Notice), and again on February 22, 2012 (48 Hour Notice).

**(a) Committee Members and Senators Present**

Senator Vicente (ben) Cabrera Pangelinan, Chairman  
Senator Tina Muña-Barnes, Member  
Senator V. Anthony Ada, Member  
Senator Mana Silva Taijeron, Member  
Senator Aline Yamashita, Ph. D.

**(b) Appearing before the Committee**

Mr. Tom Nielsen, President, Maeda Pacific Corporation  
Mr. Carlos Camacho, Executive Director, Micronesia Community Development Corporation  
Ms. Sara Pangelinan, AVP/Escrow Manager, Pacific American Title  
Mr. Martin Benavenete, President, Guam Housing Corporation

**(c) Written Testimonies Submitted**

Mr. Martin Benavente, Guam Housing Corporation  
Ms. Sara Pangelinan, AVP/Escrow Manager, Pacific American Title  
Mr. Monte Mafnas, Department of Land Management

## II. COMMITTEE PROCEEDINGS

**Chairman Pangelinan:** Will go ahead and start this morning and I want to thank everyone for their presence this morning at this public hearing by the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land. All notices for the public hearing were issued in conformance with the Open Government Law. This morning we have Bill No. 416-31 (COR): An act to approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam. We have with us the sponsor of the legislation and we would like to give her the opportunity to introduce the bill.

### **(a) Bill Sponsor Summary**

**Senator Muña-Barnes:** I just want to say that in the efforts in making the transfer over on this Lada Estates project by the Guam Housing Corporation for the purpose of developing affordable homes for the people of Guam. I want you to know that this endeavor started over twenty-three (23) years ago with a lot of heartache and a lot of frustration because of the housing development moving forward. And of course at a time when infrastructure was put in by one of the major corporations on Guam, Maeda Corp, the next step was to build the homes and work with the company that put in the infrastructure for repayment. Because the market was soft back then, it was difficult to sell or bid for the second phase of the project. Literally speaker, it took twenty (20) years. We have had recent legislation that would include a portion to provide more opportunities to working class families within the median income and this was increased to provide more families with this type of housing. We also want to make it a point to have a part for rental development here.

This case was finally settled with the court and there were agreements made and I know Mr. Benavente will speak on that. I just want to say that this is the last key ingredient for this program, which the government really intended to provide affordable housing and rental housing for our constituents for our community here on Guam will finally come to fruition. I ask my colleagues for their support and I will also ask Mr. Benavente to go ahead and speak on the effort on the measure.

### **(a) Testimony**

#### **1. Mr. Tom Nielsen, President, Maeda Pacific Corporation**

**Mr. Nielsen:** Good morning Senators, my name is Tom Nielsen and I am the President of Maeda Corporation and I am here to thank you for introducing this bill, Senator Barnes, and I hope we get your support for this bill. It has been a very long road. My company started this project twelve or thirteen years ago now and we have been trying to get some resolution and

some home built. I think we are getting close and I hope that we pass this bill so we can get moving with the Lada subdivision.

## PANEL COMMENTS AND QUESTIONS

None

### **2. Mr. Carlos Camacho, Executive Director, Micronesia Community Development Corporation**

**Mr. Camacho:** Senator Pangelinan and other Senators, thank you for the opportunity. My name is Carlos Camacho and I am the Executive Director for Micronesia Community Development Corporation, formally known as Micronesia Self-Help Corporation.

I am here to support bill 416 as it would hopefully put the final ingredient to make this property marketable and insurable title. Through this long title course, in the 25<sup>th</sup> Guam Legislature, looking at multiple laws to make Lada flexible to allow for affordable housing. As the sponsor has stated, when this was originally passed it was for the home ownership approach. Later when we went into the market with Guam Housing Corporation and they put out an RFP for developers for two phases. Phase one is the infrastructure and that is why Maeda is here and phase two would be sold to market to pay down Maeda debt.

The 24<sup>th</sup> Guam Legislature passed the mortgage revenue bond. This was supposed to be the financial tool to offer the financing for these first time homeowners. The reason why that was passed, if you all recall, the downfall for homeownership the down payment and the closing costs. The mortgage revenue bond allowed for 98% financing thereby the homeowner would come up with 3% down payment and closing costs. Little did we know that the market turned soft here on Guam, it was under written by Freddie Mac guidelines, and the mortgage revenue bond became a very restrictive A rated type of loan. A lot of the families that were on the waiting list had some credit issues and so we weren't able to get the families to qualify so the project stalled.

Then came the 25<sup>th</sup> Legislature Senator Pangelinan was apart of our task fore. Freddie Mac came up with a program called the Lease to own program. The Lease to own program, is backed by Freddie Mac and Fannie Mae, and allows for families with credit issues or high debt ratios to get into a home with what is called a bridge lease to own rent approach. The families would come in as a renter and next converts to home ownership. That program never got into place. As a matter of fact, it was Martin Benavente that was at GHC when that law passed. Many years later Freddie Mac and Fannie Mae decided to discontinue the lease to own program because they had a lot of issues in the United States. When this happened they were unable to offer this through their portfolio so the program did not become available and that is when Lada Estates was on hold and we were unable to convince any other developer to come in and fulfill the development of the homes. I can't speak for what history says but that's when Maeda decided to take legal action to settle this with GHC and eight years later we went to court and Judge Bordallo decided to concur with GHC and Maeda and through civil litigation convey the property through a court decision order.

There are two things there, the reason for me inviting Pacific American Title, was the two important ingredients to make this work, making it marketable and having an insurable title. That is important because if we go into homeownership the individuals borrowing these funds through a participating lender, needs a marketable and insurable title as part of their title policy when they close their loans. If you look at the decision order, which is attached to the proposed bill, even though the judge conveyed the property to Maeda, the judge made some clarity about the title agreed and bargained on but some obtainable concurrence through the legislature.

The final law that this body passed here was P.L. 30-172 and I was here for that public hearing way, way back and that allowed Lada to become flexible to become a mixed development as everyone sees. We wanted this project to have a mixed development for those families who are not ready to go into homeownership. These families may have income but may not have access to the buying power to pay what it costs so the step to homeownership is through the rental step or if they are ready, they can go into the homeownership side. The 30-172 law allowed for the two step mechanism and that is why I am supporting bill 416 because it will be the final ingredient for this body to make this property available. And there are programs out there that this property can utilize for such development. For the record, yes I did submit Lada as a tax credit project but I was unable to qualify due to technical reasons as stated by another agency on Guam.

We want to make sure that we have the I's and T's dotted because we plan to competitively plan for this program but we don't want to be disqualified due to any technical reasons that some agency can claim that there no equitable title. Thank you very much.

### **PANEL COMMENTS AND QUESTIONS**

None

#### **3. Ms. Sara Pangelinan, AVP/Escrow Manager, Pacific American Title**

**Ms. Pangelinan:** Good day Senator Pangelinan. My name is Sara Pangelinan and I am with Pacific American Title and I am here to testify in support of bill 416-31 to support and ratify the courts decision in GHC conveying the property over to Maeda.

By the legislature ratifying this bill, it would allow the developers to be able to convey the property to affordable home ownership and give the title company clear, marketable and insurable titles to the properties to the qualified home buyers. Thank you.

### **PANEL COMMENTS AND QUESTIONS**

None

#### **4. Mr. Martin Benavente, President, Guam Housing Corporation**

**Mr. Benavente:** Thank you senator. For the record, my name is Martin Benavente, President of GHC. We too are excited over the passage of bill for all the reasons that Carlos and the group here already stated. We do support it and it is the next big step in seeing the 400 affordable housing built. It needs to be done and I think it is the answer that the Attorney General and the Judge wants to bring to light. The first step was to get it out of court and the next step is to pass legislation to rectify what the AG was opposed to in the beginning. It is something that I know we need to do right now because 400 homes and families are waiting and we are ready to provide that. Thank you.

### PANEL COMMENTS AND QUESTIONS

**Chairman Pangelinan:** Mr. Camacho I have one question. You said that you are ready to apply to the tax credit program but the property is not yours, is it?

**Mr. Camacho:** That is correct Senator. There are four types of mechanisms that we attach on our application to the federal government. I will be very clear; the program is called the Low Income Housing Tax Credit Program. Under the four types of vehicles allowed, as stated under "site control", you can have a proposed MOU with the developer or the landowner, in this case it was conveyed to Maeda. Or we can have a proposed purchase agreement with Maeda or a mortgage or a deed with Maeda to show together with the development. In this case what we did with Maeda was have a site control proposed.

**Chairman Pangelinan:** That is my question. Tom are you working exclusively with Carlos or are you open to work with other individuals who may offer financing for development with you as the property owner?

**Mr. Camacho:** I am just one developer that approached Maeda.

**Mr. Nielson:** At this point in time, yes, I am working with Carlos and we are trying to proceed with this. I have had approaches from many others.

**Chairman Pangelinan:** That's what I am trying to get at. I just want to make sure that the bill is only for the purpose of title and that it would only involve Maeda. Maeda, with this legislation is seeking to develop and finance the property any way it sees fit as long as it meets the criteria for affordable housing.

**Mr. Nielson:** That is correct.

**Chairman Pangelinan:** Okay, that is all I wanted to know.

**Senator Muña-Barnes:** I just want to thank the panel for giving more history on how this legislation came to play and I know, as we look forward to trying to provide that affordable housing. This started twenty-three years ago with P.L. 20-225 and just knowing that some of the key players that were there then aren't here today. I think this just needs to happen and I am hoping that my colleagues support that. I want to bring up what you had mentioned about the

Low Income Housing Tax Program that can be attached to something with this magnitude, with this program.

If this were to happen today, worse case scenario, could the corporation go out and bid based on the three criteria's you just mentioned. If this didn't go soon enough, could your invitation to bid on one of the programs that one of the other agencies have, could it still be foreseeable or could it have a continued glitch?

**Mr. Camacho:** None of the process I've been through in the last few months, under a technical scenario they can say because we don't have a marketable and insurable title, you can't get financing. That's if we compete. That tax credit is a competitive process. Let's make it very clear. We do have a working relationship with Maeda, the deed restrictions and the laws that have passed.

Let's say I try to do this with Maeda and cannot fulfill that one angle I was going after, then it is up to Maeda because he has up to six years to develop and if he doesn't, Maeda has to return the property.

**Chairman Pangelinan:** But even that, according to Ms. Pangelinan, if Maeda was able to find financing without tax credit, you would still have the same problem. That is not to avail the project to tax credits but to proceed with the project without any clouds on the title or the ownership once you build the house or sell it.

**Mr. Camacho:** That is correct.

**Senator Muña-Barnes:** Si yu'os Mr. Speaker.

**Senator Duenas:** Good morning to all of you and thank you for being here. It is nice to see you. I am quite pleased. Carlos in your definition, this would be a blighted area.

**Mr. Camacho:** A blighted area, as defined, is an area that is run down and dilapidated. If you visit the site, it has been used as a dumping area and the streetlights that were erected fifteen (15) years ago are all gone.

**Chairman Pangelinan:** Blighted but not yours.

**Senator Duenas:** Once this is passed, and the determination there is that the site control is then demonstrated.

**Mr. Camacho:** Whoever that developer may be, they develop under all the deed restrictions, at the end of the day it is a financeable product.

**Senator Duenas:** I wanted to be clear that this is full transparency. Any private corporation can enter into any agreement with any individual to provide opportunities for development. That is probably how other applications have move forward. So, there is nothing unusual about the fact that you two work together.

**Mr. Camacho:** That is what you do in a free enterprise system. We approached Maeda directly; we want to make sure that we abide by the rules directly, set an agreement and abide by the deed restrictions. The deed restriction is the road map as to what programs you can offer and who is your target audience. There is no way I can go out and sell this any higher than what is restricted by law. I have to stick with in the confines of the law and the restriction of the deed.

**Senator Duenas:** Mr. Chair, I bring this up only because at some point or some juncture with the recent discussions on what are being made, we'll let that work its way through the system. I want to be clear as Carlos is here that it is understood that the many developers and many opportunities are abounding in our community but there is nothing that restricts any body in seeking that opportunity to make Guam a better place and I thank you (Carlos) for your aggressiveness. Thank you very much.

**Chairman Pangelinan:** Mr. Benavente, did you still want to talk?

**Mr. Benavente:** Yes. I don't often get a chance to talk on a microphone. I want to let you know that the things that are happening here, what we are trying to get to occur is apart of a big plan that we have had since the first year in office. Sagan Linhayan is one, Lada Estates is another and the abandon teacher housing. Our purpose here is to develop lands and build houses but we were spitting against the wind because everywhere we go, we don't have infrastructure so we went back a little bit to see how low the mango hangs, and the lowest hanging mangos are the developments that are already there. Maybe missing manholes and wires and things like that but it is already there, the streets the sidewalks, everything. It is coming together and we are starting to see something in the housing market that deals with government own properties.

This time, this group, these Senators, this administration is going to get something done. We just need to do it; it just needs to get done. These are abandoned properties that are just sitting there and it is ready. Thank you.

**Chairman Pangelinan:** Thank you very much, si yu'os ma'ase for your testimony. If there are no other comments, this concludes the testimony on Bill No. 416-31. There being no additional individuals to present any additional testimony, this Committee will continue to remain open for the acceptance of any additional information or public testimony on the bill discussed. You can submit those testimonies to my office directly on Soledad Avenue, as well as the Guam Legislature or through any of the electronic processes either email at [senbenp@guam.net](mailto:senbenp@guam.net) or through our website at [senbenp.com](http://senbenp.com).

### **III. FINDINGS & RECOMMENDATIONS**

The Committee on Appropriation, Taxation, Public Debt, Banking, Insurance, Retirement, and Land, hereby reports Bill No. 416-31 (COR), as amended with the recommendation to Pass.

*MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN*  
2012 (SECOND) Regular Session

2012 JUN 21 AM 9:23  
WUW

Bill No. 416-31 (Car)

Introduced by:

T. R Muña Barnes  
J. T. Won Pat, Ed.D.  
B.J.F. Cruz

**AN ACT TO APPROVE AND RATIFY THE TRANSFER OF CERTAIN PROPERTY RELATIVE TO THE LADA ESTATES PROJECT BY THE GUAM HOUSING CORPORATION FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING FOR THE PEOPLE OF GUAM.**

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

**Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that there is a continuing demand for affordable housing for Guam families and that this demand has resulted in a critical shortage of affordable housing on Guam. The Lada Estates Project, an endeavor started 23 years ago by the Twentieth Guam Legislature with Public Law No. 20-225 (attached as Exhibit D) and continued by this and past legislatures, is a project to develop affordable housing that will help address this very important issue.

During these past two decades, the property constituting the Lada Estates which had been transferred to the Guam Housing Corporation for the purpose of developing affordable housing has been the subject of much controversy and eventually a lawsuit involving Guam Housing Corporation, the Government of Guam and Maeda Pacific Corporation (Superior Court of Guam Civil Case No. CV0135-04). This lawsuit spanning eight years has now finally been resolved and the settlement of the lawsuit which was

1 approved by the Superior Court of Guam on January 6, 2012 paves the way  
2 for the realization of this long endeavor to provide affordable housing to the  
3 people of Guam.

4 *I Liheslaturan Guåhan* also finds that since the enactment of Public  
5 Law 20-225 (attached as Exhibit D) in 1991, Public Laws 24-81 (attached as  
6 Exhibit E), 25-116 (attached as Exhibit F), and 30-172 (attached as Exhibit  
7 G) have been enacted which amended or otherwise affected the Lada  
8 Estates Project, that the terms and conditions of the Settlement Agreement  
9 and the Grant Deed transferring the subject properties to Maeda Pacific  
10 Corporation are consistent with Guam law and the letter and spirit of these  
11 public laws in particular.

12 *I Liheslaturan Guåhan* further finds that the above referenced statutes  
13 attached hereto as exhibits were authored to build affordable homes or bring  
14 a responsible end to the legal action which has hindered a favorable outcome  
15 for the people of Guam.

16 *I Liheslaturan Guåhan* further seeks to ensure that the eventual  
17 owners of the affordable homes will be able to obtain clear, marketable and  
18 insurable title, by approving and ratifying the transfer of the subject property  
19 and accepting the Lada Estates Settlement Agreement (attached as Exhibit  
20 A), Grant Deed with Continuing Conditions and Restrictions (herein referred  
21 to as "Grant Deed" and attached hereto as Exhibit B), and Decision and  
22 Order (attached as Exhibit C) by and between Guam Housing Corporation  
23 and Maeda Pacific Corporation.

24 It is and has been the intent of *I Liheslaturan Guåhan* that the subject  
25 property be used for the development of affordable housing for either rental  
26 and/or first time home ownership in accordance with Public Law 20-225  
27 (attached as Exhibit D), 24-81 (attached as Exhibit E), 25-116 (attached as

1 Exhibit F), and 30-172 (attached as Exhibit G). Since covenant number 1  
2 under the Grant Deed states in part that “said houses shall be constructed and  
3 sold in accordance with Guahan Law, within six (6) years from the date of  
4 execution of the Deed. . .” and does not mention that the houses may also be  
5 used for affordable rentals as provided by Public Law 30-172 (attached as  
6 Exhibit G), it is hereby clarified that homes constructed on the subject  
7 property shall be sold or rented in accordance with Guahan Law.

8 *I Liheslaturan Guåhan* finds that the Decision and Order (Exhibit C)  
9 of the Superior Court of Guam on January 6, 2012 states:

10 *“It is noteworthy that these proceedings have called attention to the*  
11 *possible problems that GHC may encounter in the performance of the*  
12 *settlement agreement. The Government alleges that GHC cannot convey the*  
13 *Lada Estates property to Maeda without legislative or procurement*  
14 *approval.”*

15 *I Liheslaturan Guåhan* further finds that since there has been a  
16 substantial delay between the date the Grant Deed was executed and the date  
17 the settlement was approved by the Superior Court and the recording of the  
18 Grant Deed and since it was necessary for this Grant Deed to be approved  
19 and ratified by this legislature, the date from which to commence the  
20 running of the six years to construct the affordable homes shall be the date  
21 of the enactment of this public law.

22 **Section 2. Approval of Settlement.** Notwithstanding any provision  
23 of law, the settlement by and between Guam Housing Corporation and  
24 Maeda Pacific Corporation under the terms and conditions found in the  
25 Settlement Agreement approved by the Superior Court of Guam on January  
26 6, 2012, a copy of which is attached hereto as Exhibit A, are hereby  
27 approved and ratified and shall be valid and binding obligations

1 enforceable in accordance with their respective terms, and there shall  
2 be no power to terminate or declare null and void.

3       **Section 3. Transfer of Property.** Notwithstanding any provision of  
4 law, the transfer of the following described parcels of real property by Guam  
5 Housing Corporation to Maeda Pacific Corporation by Grant Deed recorded  
6 at the Department of Land Management on January 10, 2012 under  
7 Document No. 831095 is hereby approved and ratified;

8       (a) Lot No. 10120-14, containing an area of 32,455+ square  
9 meters (8.020 acres), Dededo, Guam, as shown on Land  
10 Management Drawing No. 14-91T395, Map Drawing No.  
11 PRB90-138, recorded under Document No. 450102; and  
12

13       (b) Lot No. 10120-16, containing an area of 154,395+  
14 square meters (38.152 acres), Dededo, Guam, as shown on  
15 Land Management Drawing No. 14-91T395, Map Drawing  
16 No. PRB90-138, recorded under Document No. 450102.

17       **Section 4. Covenant to Build Affordable Homes.** Notwithstanding  
18 any provision of law, homes constructed on the properties referenced in  
19 Section 3 of this Act shall be sold or rented in accordance with Public Law  
20 30-172 (attached as Exhibit G), within 6 years from the date of enactment.

21       **Section 5. Effective Date.** This Act shall be effective upon  
22 enactment into law.  
23

**EXHIBIT "A"**

**Settlement Agreement**

## LADA ESTATES SETTLEMENT AGREEMENT

This Agreement is entered into by and between MAEDA PACIFIC CORPORATION, a Guam corporation, whose mailing address is Post Office Box 8110, Tamuning, Guam 96913 ("Maeda") and GUAM HOUSING CORPORATION, an autonomous instrumentality of the government of Guam ("GHC"), and is made with reference to the following:

### RECITALS:

A. On or about January 11, 1991, the government of Guam passed Public Law No. 20-225, which was later amended by Public Law No. 24-81 and Public Law No. 25-116.

B. On or about June 24, 1991, GovGuam conveyed the following described parcels of property to GHC pursuant to Public Law No. 20-225 (collectively the "property"):

Lot No. 10120-14, containing an area of 32,455± square meters (8.020 acres), Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map Drawing No. PRB90-138, recorded under Document No. 450102; and

Lot No. 10120-16, containing an area of 154,395± square meters (38.152 acres), Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map Drawing No. PRB90-138, recorded under Document No. 450102.

C. The intent of the legislation was to have a contractor build low-cost houses on the Project site for sale to lower income people in Guam.

D. On or about August 6, 1997, Maeda entered into a written contract with GHC and GovGuam, which provided that Maeda would furnish the necessary materials and labor for the construction of the *Lada Estates Affordable Subdivision Improvement Project* on the property (the "Project"), which consisted of the on-site and off-site civil works, all for the agreed upon price of Ten Million Four Hundred Sixty Thousand Dollars (\$10,460,000.00), plus Change Order No. 1, of Ninety-Five Thousand Dollars (\$95,000.00), for a total of Ten Million Five Hundred Fifty-Five

ORIGINAL

Thousand Dollars (\$10,555,000.00). The contract is described as Government Contract No. 630-5-1001-L-DED (the "Contract").

B. The project was divided into two phases:

Phase I consisted of construction of the off-site infrastructure at the agreed upon price of Two Million Nine Hundred Fifteen Thousand Dollars (\$2,915,000.00).

Phase II consisted of construction of the on-site infrastructure at the agreed upon price of Seven Million Six Hundred Forty Thousand Dollars (7,640,000.00).

F. Maeda completed all work under Phase I and Phase II of the Contract, the work has been accepted and Maeda therefore became immediately entitled to the full construction cost of Ten Million Five Hundred Fifty-Five Thousand Dollars (\$10,555,000.00), however, payment was not made to Maeda arising out of the completion of Phase I and Phase II work.

G. Accordingly, Maeda filed a lawsuit against GovGuam and GHC in the Superior Court of Guam, styled as Civil Case No. CV0135-04 (the "Lawsuit"), to recover those funds. That case remains pending.

H. As a result of the non-payment to Maeda and other problems with the development of the Project, the work has been stalled on the construction of the homes on the Project site. The Project site is deteriorating in value and has become an eyesore for GovGuam. Practically all the streetlight posts, electrical wirings and tubings and the like have been removed or destroyed by thieves or vandals, and the sewer line is being used as a dump site and the sidewalks and streets have been partially destroyed and are overgrown with weeds and it therefore behooves Maeda, and GHC to find a solution to this problem.

I. In order to resolve the differences between GHC and Maeda, the parties have been meeting in an effort to craft a solution to this predicament so that all parties can benefit, including the

People of Guam, by GHC conveying the property to Maeda and requiring Maeda to build the proposed houses on the Project site.

NOW, THEREFORE, in consideration of the foregoing, and of all the agreements of all the parties set forth herein, the parties agree as follows:

§1. *Conveyance of property.* GHC agrees to convey the subject property to Maeda via a Grant Deed and, in consideration thereof, Maeda agrees to give up its rights and claims to collect the monies due under the Construction Contract, including all penalties and interest assessed and at law, subject to the following conditions.

§2. *Conditions.* The Deed will contain the following conditions and restrictions:

2.1. An agreement by the Grantee (hereinafter "Maeda") that it will build and sell affordable houses on the property within six (6) years from the date of execution of the Deed by the respective parties, all in accordance and compliance with Public Law Nos. 20-225, 24-81 and 25-116, and 30-390, <sup>= 50-172</sup> and all other applicable laws consistent herein. Upon determination that the constructed home is to be sold to a prospective homeowner as provided under the Affordable Homes Act herein, Maeda shall convey clear and marketable title to the subsequent owner therein.

2.2. The property shall be subject to covenants in the Deed that will require the homeowners to maintain and keep up their homes.

2.3. An agreement by the Grantee that if it does not fully comply with the conditions of the said Deed, that the property shall automatically revert to GHC six (6) years from the date of execution of the Deed.

2.4. The parties agree that the Grantee will be responsible for marketing the sale of the *Lada Estates* houses, either by doing it in-house, or by designating a real estate broker.

2.5. That there shall be no other extensions as a result of any modifications or change orders to the development and construction of the affordable homes beyond the six (6) year period.

§3. *Approval by Court.* Upon the execution of this Agreement, the Agreement will be submitted to the Superior Court of Guam for approval and upon approval by the Court, the above-mentioned civil action shall be dismissed with prejudice against GHC and the parties shall sign the Mutual Release of claims, a copy of which is attached hereto. Maeda reserves the right to continue on with the lawsuit against only the government of Guam to collect the Two Million Nine Hundred Fifteen Thousand Dollars (\$2,915,000.00) for the off-site improvement.

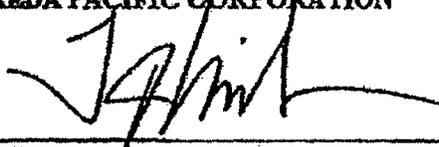
§4. *Costs and attorneys' fees.* Upon execution and approval of this Agreement by the Court, each party shall bear their own costs, expenses and reasonable attorney fees in this action.

IN WITNESS WHEREOF, the parties have executed this Agreement in Hagåtña, Guam, on the dates set opposite their signatures.

MAEDA PACIFIC CORPORATION

Date: 10/11/10

By

  
THOMAS J. NIELSEN, President

GUAM HOUSING CORPORATION

Date: 10/6/10

By

  
JEREMY ROJAS, President

LJEs  
FLDGS:MAEDA PACIFIC-LADA ESTATES:017D

**EXHIBIT "B"**

**Grant Deed with Continuing Conditions and  
Restrictions**



Lot No. 10120-16, containing an area of 154,395+ square meters (38.152 acres),  
Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map  
Drawing No. PRB90-138, recorded under Document No. 450102.

*Grant includes improvements, etc.*

TOGETHER with the improvements, buildings, rights of way ("R/W"), easements, tenements, privileges and appurtenances belonging or in anyway pertaining to the Property, and the reversion or reversions, remainder or remainders, rents, issues and profits of the Property; and, also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law and in equity, of the Grantor, of, in and to the Property and every part and parcel thereof.

*Covenants running with the land*

It is understood and agreed that this conveyance is made and accepted, and the realty is granted, on and subject to the following covenants, conditions, restrictions, and reservations (in addition to any such covenants, conditions, restrictions, and reservations stated elsewhere in this document), which covenants, conditions, restrictions, and reservations shall apply to and run with the conveyed land; all successive future owners and occupants shall have the same right to invoke and enforce the covenants, conditions, restrictions, and reservations applicable to this conveyance as the original parties to this document.

1. **Build houses.** In consideration of conveying the within Property to Grantee, the Grantee agrees that it will build and offer for sale houses on the subject Property all in accordance with Public Law Nos. 20-225, 24-81, 25-116, and 30-390, and all other applicable laws consistent herein, and that all of said houses shall be constructed and sold in accordance with Guahan Law, within six (6) years from the date of execution of the Deed, hereof. Upon determination that the

constructed home is to be sold as provided under the Affordable Homes Laws, Maeda shall convey clear and marketable title to the subsequent owner or grantee therein.

2. *Acceptance of Deed as acceptance of restrictions.* The acceptance of this Deed by the Grantee shall constitute an acceptance of all the terms, conditions, limitations, restrictions, and uses to which the above-described Property conveyed by this Deed is made. Additionally, any subsequent lien or mortgage on the subject property shall be subject to those conditions, covenants, and restrictions as contained in this Deed, herein.

3. *Reversion on breach – with notice by Grantor.* It is further agreed by Grantee that each and all of the restrictions contained in this instrument shall, as between the parties to this instrument, their heirs, successors and assigns, be deemed to be and construed as express conditions subsequent, on each of which the conveyance is made. If Grantee shall neglect or fail to perform and to comply strictly with the several conditions and restrictions on Grantee's part, or any of them, Grantor and Grantor's successors and assigns, may at any time thereafter serve on Grantee a notice in writing specifying the particular or particulars in which default or breach thereof has been made and directing Grantee to remedy such default or breach. Should Grantee thereafter for a period of ninety (90) days fail fully and entirely to remedy such breach or default, then a notice in writing may be served on Grantee by Grantor, notifying Grantee that Grantor elects that the title to the whole of the conveyed premises (excluding subdivided lots that may have been sold to third parties) shall revert to Grantor; and thereupon the title to the whole of such premises shall immediately and without the necessity of any further action on the part of Grantor, revert to and revest in Grantor, and Grantee

shall lose and forfeit all of Grantee's rights, title and interest in and to the whole of the conveyed premises and to the improvements and fixtures thereon, and Grantor shall have the right of re-entry to the Property conveyed by this instrument.

4. *Reversion on breach - effect on mortgage.* No reversion or forfeiture shall render invalid or operate in any way against the lien of any mortgage made solely for the purpose of improving the property in compliance with Guahan Law and Public Law Nos. 20-225, 24-91, 25-116, and 30-390, and where the funds are actually used for that purpose given with respect to the conveyed property in good faith, and for value; and on any such reversion or forfeiture Grantor shall take title to the conveyed land subject to any such mortgage or deed of trust. Provided, however, that should any such mortgage or deed of trust be foreclosed, then the title acquired by such foreclosure, and the person or persons who thereby and thereafter become the owner or owners of the conveyed premises, shall be subject to and bound by all the restrictions contained in this instrument; and further provided, that Grantor may enforce any covenants, conditions, and restrictions by any other appropriate action at Grantor's sole option.

5. *Future deeds to contain restrictions.* Grantee agrees that all the covenants, conditions, and restrictions contained in this Deed herein below shall be inserted in full in all future deeds of the above-described Property conveyed by this Deed.

5.1. No noxious, illegal, or offensive use of property shall be carried on on any lot, nor shall anything be done thereon that may be, or become, an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time

conduct or permit to be conducted on any residential lot any trade or business of any description, either commercial or noncommercial, religious or otherwise, including day schools, nurseries, or church schools, nor shall such premises be used for any other purpose whatsoever except for the purpose of providing a private single-family dwelling or residence.

5.2. No trash, garbage, ashes, or other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growths or objects, shall be maintained or allowed on any lot. All fences and buildings shall be kept in a state of repair. All residences, garages, and accessory buildings shall be painted or stained, from time to time, so as to maintain a reasonable state of repair.

5.3. No animals, livestock, or poultry shall be raised, bred, or kept on any lot of the subdivision for commercial purposes.

5.4. All lines or wires for telephone, power, cable television, or otherwise shall be placed underground.

5.5. No outside toilet facilities shall be constructed or maintained on any portion of the above-described Property. Septic tanks, sewage disposal systems, and drinking water facilities shall conform to all requirements established by the Department of Public Health and Social Services in Guam.

#### ***Enforcement of restrictions***

It is expressly understood and agreed that the several restrictive covenants contained in this instrument shall attach to and run with the land, and it shall be lawful not only for Grantor and Grantor's successors and assigns, but also for the owner or owners of any subdivided lots adjoining of

the Property granted by this instrument, deriving title from or through Grantor, to institute and prosecute any proceedings at law or in equity against the person or persons violating or threatening to violate such restrictive covenants and conditions.

*Availability of water and power*

We, the Grantor and the Grantee, AGREE that water and electric power are available on the Property or within one hundred feet (100') thereof, and that the government of Guam is not responsible for water and power hookup thereto.

*Execution*

IN WITNESS WHEREOF, we, the Grantor and the Grantee, have executed this Grant Deed on the dates of notarization as set forth below.

**GRANTOR:**

**GUAM HOUSING CORPORATION**

By   
\_\_\_\_\_  
JEREMY ROJAS, President

**GRANTEE:**

**MAEDA PACIFIC CORPORATION**

By   
\_\_\_\_\_  
THOMAS J. NIELSEN, President

///

GUAM, U.S.A., )  
( ss.:  
City of Hagåtña. )

On this 6th day of Oct., 2010, before me, a notary public in and for Guam, personally appeared **JEREMY ROJAS**, known to me to be the President who executed the foregoing **GRANT DEED** on behalf of **GUAM HOUSING CORPORATION**, the instrumentality of the government of Guam herein named, and he acknowledged to me that such instrumentality executed the same.

WITNESS my hand and official seal.

)SEAL(

Victoria S. Quichocho-Rojas

VICTORIA S. QUICHOCHO-ROJAS  
NOTARY PUBLIC  
In and for Guam, U.S.A.  
My Commission Expires: April 15, 2014  
P.O. Box 23498 Barrigada, Guam 96921

GUAM, U.S.A., )  
( ss.:  
City of Hagåtña. )

On this 17th day of OCTOBER, 2010, before me, a notary public in and for Guam, personally appeared **THOMAS J. NIELSEN**, known to me to be the President who executed the foregoing **GRANT DEED** on behalf of **MAEDA PACIFIC CORPORATION**, the Guam corporation herein named, and he acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

)SEAL(

Joyleen Sanchez

LJTs  
PLD&S:MAEDA PACIFIC-LADA ESTATES:028B

JOYLEEN SANCHEZ  
NOTARY PUBLIC  
IN AND FOR GUAM, U.S.A.  
MY COMMISSION EXPIRES SEPT 13, 2014  
P.O. BOX 7591 AGAT GUAM 96926

**EXHIBIT "C"**

**Decision and Order**

Island of Guam, Government of Guam  
Department of Land Management

File for record instrument No. 831094

For the Year 12, Month 01, Day 10, Time 1:50

Recording Fee 25 Receipt No. 31847

Deputy Recorder Juan Yamaniti

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**DECISION AND ORDER**

**(CIVIL CASE NO. CV0135-04)**

L. Teker

FILED  
SUPERIOR COURT  
OF GUAM

IN THE SUPERIOR COURT OF GUAM

2012 JAN -6 AM 10:55

1  
2  
3 MAEDA PACIFIC CORPORATION, )  
4 Plaintiff, )  
5 vs. )  
6 GOVERNMENT OF GUAM and GUAM )  
7 HOUSING CORPORATION, )  
8 Defendants. )

CLERK OF COURT  
CIVIL CASE NO. CV0135-04 --  
DECISION AND ORDER

Teker, Teker & Teker, P.C.  
OB  
RECEIVED  
JAN 06 2012  
Time: 3:39pm  
By: mac

INTRODUCTION

11  
12 This matter came before the Honorable Judge Michael J. Bordallo on September 28, 2011  
13 by reassignment. The Plaintiff filed a motion to approve settlement and the parties stipulated to  
14 submit the matter on the briefs and without oral argument on July 13, 2011. Attorney Lawrence  
15 J. Teker represented the Plaintiff, Assistant Attorney General Philip D. Issac appeared on behalf  
16 of Defendant Government of Guam, and Attorney Cynthia V. Ecube represented Defendant  
17 Guam Housing Corporation. Having considered the parties' briefs and the applicable law, the  
18 Court now issues the following Decision and Order granting Plaintiff's motion to approve  
19 settlement.

BACKGROUND

20  
21 In this public contract matter, Plaintiff Maeda Pacific Corporation ("Maeda") seeks  
22 payment for infrastructure construction of the Lada Estates public housing project against  
23 Defendants Government of Guam ("Government") and Guam Housing Corporation ("GHC"), an  
24 autonomous agency of the Government.

25  
26 In 1991, the Guam Legislature passed an act to develop and sell the Lada Estates as  
27 affordable housing. See Guam Pub. L. No. 20-225. Pursuant to the act, the Governor transferred  
28 approximately forty-six (46) acres of government land to the GHC by grant deed on June 24,  
1991. *Id.* at 2 see also (Plaintiff's Reply Memorandum, Exhibit "1", Jul. 28, 2011.)

1 Maeda won the public bid to construct the Lada Estates' infrastructure and signed a  
2 contract with the Defendants in August of 1997. (Declaration of Jose P. Morcilla Jr., "Exhibit  
3 2", Mar. 5, 2004.) Maeda completed construction of the Lada Estates infrastructure pursuant to  
4 the contract and obtained a certificate of substantial completion from the Department of Public  
5 Works on July 24, 1998. *Id.* at "Exhibit 5". Thereafter, GHC could not find a contractor to build  
6 the Lada Estates homes despite legislative attempts to revive the project. *See e.g.* Public Law  
7 Nos. 24-81:14 and 25-116:5. The Lada Estates project was not finished and Maeda was not paid  
8 for its performance of the infrastructure contract.

9 Maeda filed a government claim in 2002 and the present civil action in 2004. On March  
10 8, 2011, the Court granted summary judgment of Maeda's claims against the Government for the  
11 costs of off-site infrastructure construction. (Decision and Order, Mar. 8, 2011.) On March 21,  
12 2011, Maeda and GHC filed the present motion to settle Maeda's remaining claim against GHC  
13 for the costs of on-site infrastructure construction, alleged to be more than seven (7) million  
14 dollars. The settlement proposes for GHC to convey the Lada Estates property to Maeda via  
15 grant deed with a condition that Maeda build and sell affordable housing units within six (6)  
16 years and pursuant to Public Law Nos. 20-225, 24-81, 25-116 and 30-390 under the penalty of  
17 reverter to GHC. (Motion to Approve Settlement, Exhibit 1, Oct. 11, 2010.) The agreement was  
18 executed with the understanding that it shall be submitted to the Superior Court for approval and  
19 for dismissal with prejudice of the claim against GHC with the parties to bear their own costs  
20 and fees. *Id.*

21 On July 20, 2011, the Government filed an opposition to the motion to approve  
22 settlement for the following reasons: 1) the Court has no jurisdiction to approve this government  
23 land transfer without legislative approval; and 2) the settlement is in violation of procurement  
24 law insofar as it effectively awards the home construction contract to Maeda.

## 25 DISCUSSION

### 26 I. Standing

27 Standing is a threshold jurisdictional matter that must be addressed before the merits of a  
28 dispute. *Guam Imaging Consultants, Inc. v. Guam Mem'l Hosp. Auth.*, 2004 Guam 15, ¶¶ 17.

1 19. Although Guam law does not address the issue of standing to object to a settlement, "the  
2 view of other courts is that a non-settling defendant, in general, lacks standing to object to a  
3 partial settlement." *Waller v. Financial Corp. of America*, 828 F.2d 579, 582 (9th Cir. 1987)  
4 (citing *In re Viatron Computer Systems Corp. Litigation*, 614 F.2d 11, 14 (1st Cir. 1980); *In re*  
5 *Beef Industry*, 607 F.2d 167, 172 (5th Cir. 1979)). This rule encourages the voluntary settlement  
6 of lawsuits. *Id.* at 583.

7 In this case, Maeda built the Lada Estates infrastructure and filed claims against the  
8 Government and GHC for payment. The claim against the Government for the off-site costs was  
9 successful on summary judgment, and Maeda now seeks to settle its claim against GHC for the  
10 on-site costs. The Government is a non-settling defendant who generally lacks standing to object  
11 to the partial settlement between Maeda and GHC pursuant to the reasoning of the Federal  
12 Circuit Courts of Appeal.

13 However, an exception is made to allow a non-settling defendant to object, "where it can  
14 demonstrate that it will sustain some formal legal prejudice as a result of the settlement."  
15 *Waller*, 828 F.2d at 583 (citing *Quad/Graphics Inc. v. Fass*, 724 F.2d 1230, 1233 (7th Cir.  
16 1983)). Under this exception, a party suffers plain legal prejudice and has standing to object to  
17 any settlement that strips it of a legal claim or infringes upon a contractual right. *Id.* See also  
18 *Agretti v. ANR Freight System, Inc.*, 982 F.2d 242, 247 (7th Cir. 1992). For example, Guam law  
19 provides that a joint-tortfeasor may be prevented from entering a settlement agreement which  
20 bars claims of contribution by non-settling parties. See 7 GCA §§ 24605 and 24606. A party  
21 does not suffer plain legal prejudice and does not have standing to object to a settlement which  
22 causes factual prejudice, such as the prospect of a second lawsuit. *Quad/Graphics*, 724 F.2d at  
23 1233.

24 In this case, the Government opposes Maeda and GHC's settlement based upon  
25 assertions that Legislative approval or procurement procedures are necessary. The Government  
26 does not allege that it suffers any legal prejudice by the settlement, and the settlement does not  
27 strip the Government of a cause of action or infringe upon a contractual right of the Government  
28 in this matter. The Government may suffer the prospect of a second lawsuit or proceeding

1 against the performance of the settlement, but this factual prejudice does not confer standing to  
2 object to a settlement agreement. *See Quad/Graphics*, 724 F.2d at 1233. The Government does  
3 not suffer plain legal prejudice and it does not have standing to object to the settlement as a non-  
4 settling party. For this reason, the Court shall not consider the objections of the Government.

## 5 **II. Judicial Approval of Settlement**

6 Guam law does not exact a standard for settlement approval, and a court should not  
7 ordinarily become involved in the settlement of a civil dispute between private parties. *See U.S.*  
8 *v. City of Miami, Fla.*, 614 F.2d 1322, 1330 (8th Cir. 1980). Indeed, the Guam Housing  
9 Corporation has the power, "to settle and adjust claims held...by other persons or parties against  
10 [it]," without judicial approval. 12 GCA § 4104(k). However, where important public interests  
11 are involved, judicial review may be appropriate. *See e.g. City of Miami*, 614 F.2d at 1330  
12 (citing examples in federal law where judicial approval of settlement is required).

13 In this case, Maeda and GHC move the Court to review and approve their settlement  
14 agreement. Assuming *arguendo* that the settlement between Maeda and GHC, as an autonomous  
15 agency of the Government, involves important public interests, the Court shall address the merits  
16 of the motion for approval.

17 Where a court is required to approve a settlement agreement, it must generally determine  
18 whether the agreement is adequate, fair, reasonable or equitable. *See City of Miami*, 614 F.2d at  
19 1330-1331. The judicial review of a settlement agreement is an exceptional situation, and "trial  
20 judges have been told that absent fraud, collusion, or the like they should be hesitant to substitute  
21 their judgment for that of experienced counsel." *Id. citing Cotton v. Hinton*, 559 F.2d 1326 (5th  
22 Cir. 1977).

23 The parties do not raise allegations of fraud or collusion in this case, and the Court is  
24 inclined to rely upon the allegations of experienced counsel that the agreement is adequate and in  
25 the public interest. Viewing the proposed settlement agreement as a whole, it appears to provide  
26 an adequate, fair and reasonable compromise. The settlement gives Maeda the Lada Estates to  
27 develop and sell, releases GHC from its liability for the costs of on-site infrastructure, and  
28 attempts to provide affordable housing pursuant to public law and within six (6) years under

1 penalty of reverter. The agreement is the result of an arms-length negotiation between  
2 competent and experienced counsels, and it aims to resolve the underlying problem by  
3 completing the Lada Estates affordable housing project. For all of these reasons, the motion to  
4 approve settlement agreement shall be granted.

5 It is noteworthy that these proceedings have called attention to the possible problems that  
6 GHC may encounter in the performance of the settlement agreement. The Government alleges  
7 that GHC cannot convey the Lada Estates property to Maeda without legislative or procurement  
8 approval. The Government does not allege that such approval cannot be obtained, and the Court  
9 does not find that the settlement agreement is impossible to perform. However, Maeda and GHC  
10 have been notified of the quality of their bargain and of the quality of the land title conveyance  
11 which they intend to make.

12 ///

13 ///

14 ///

15 **CONCLUSION**

16 Based upon the foregoing, Plaintiff Maeda Pacific Corporation's Motion to Approve  
17 Settlement is hereby GRANTED.

18 SO ORDERED this 6 day of January, 2012.

19  
20 Original Signed By  
21 HON. MICHAEL J. BORDALLO

22 \_\_\_\_\_  
23 HONORABLE MICHAEL J. BORDALLO  
24 Judge, Superior Court of Guam

25 I do hereby certify that the foregoing  
26 is a full and true copy of the  
27 original as it appears in the files of the  
28 Clerk of the Superior Court of Guam  
Printed at Hagåtña, Guam

JAN 06 2012



**EXHIBIT "D"**

**Public Law 20-225**

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

Bill No. 44  
Substituted by the Committee on  
Housing and Community Development  
and as further substituted by the  
Committee on Rules.

Introduced by:

P. C. Lujan  
T. S. Nelson  
~~L. T. San Agustin~~  
G. Mailloux  
J. P. Aguon  
E. P. Arriola  
J. G. Bamba  
M. Z. Bordallo  
D. F. Brooks  
H. D. Dierking  
E. R. Duenas  
E. M. Espaldon  
C. T. C. Gutierrez  
M. D. A. Manibusan  
D. Parkinson  
F. J. A. Quitugua  
E. D. Reyes  
M. C. Ruth  
F. R. Santos  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT AUTHORIZING THE GOVERNOR OF GUAM TO  
TRANSFER CERTAIN PROPERTY IN DEDEDO TO THE  
GUAM HOUSING CORPORATION TO DEVELOP  
AFFORDABLE HOUSING FOR SALE TO FIRST TIME  
HOMEOWNERS.

1           **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**  
2           **Section 1. Legislative findings. The Legislature finds that there is a**  
3           **critical shortage of affordable housing on Guam and further finds that**

1 significant savings can also be realized if the government of Guam uses its  
2 negotiating leverage to build housing units at less than market prices on  
3 government land for sale to low and middle income families. The  
4 Legislature further finds that it is nearly impossible for most low or  
5 middle income families on Guam to purchase homes at market prices.

6 Section 2. Authorization. The Governor of Guam is authorized to  
7 transfer Lot No. 10120-14, consisting of eight (8) acres, and Lot No. 10120-  
8 16, consisting of thirty-eight (38) acres, both of Dededo, to the Guam  
9 Housing Corporation (the "Corporation") to develop affordable housing  
10 units for sale to first time homeowners who are U. S. citizens or permanent  
11 resident aliens and who have been domiciled in Guam for a five (5)  
12 consecutive year period immediately preceding the date of sale of the unit.

13 Section 3. Registration. The conveyance of said lots shall take effect  
14 upon completion of the land registration of Basic Lot No. 10120 by the  
15 government of Guam.

16 Section 4. Definition of first time homeowners. "First time  
17 homeowners" are defined as families (married persons or single persons  
18 with dependents) who have not had any ownership interest in residential  
19 real property within the three (3) year period immediately preceding the  
20 date of sale of a unit developed under this Act. Divorced persons or  
21 individuals having an ownership interest in the property of the parents do  
22 qualify as first time homeowners; provided, that any interest in residential  
23 real property is terminated prior to the purchase of a unit developed  
24 under this Act.

25 Section 5. Allocation. The units shall be allocated to families on the  
26 following basis: Thirty percent (30%) to families whose incomes are up to  
27 one hundred percent (100%) of the median income for Guam established  
28 by the U. S. Department of Housing and Urban Development ("HUD"); fifty  
29 percent (50%) to families whose incomes are between one hundred percent  
30 (100%) and one hundred thirty percent (130%) of such HUD-established  
31 median income; and twenty percent (20%) to families whose incomes are  
32 between one hundred thirty (130%) and one hundred fifty percent (150%)  
33 of such HUD-established median income. The homes may be sold to  
34 families in the next lower or higher category in the event that there are  
35 insufficient qualified applicants in a given class.

1           Section 6. Prices. The units shall be sold at cost plus two percent  
2 (2%), and Three Dollars (\$3) per square meter for the house lot, and for a  
3 first time owner, no down payment shall be required. Costs shall include  
4 but are not limited to all costs associated with the design, on-site  
5 infrastructure, construction, financing, sale and project management of the  
6 development. The two percent (2%) in excess of the costs shall be retained  
7 by the Corporation for the payment of expenses it will incur during the  
8 construction and monitoring of the project. The cost of off-site  
9 infrastructure and off-site access roads shall be the responsibility of the  
10 government of Guam. On-site infrastructure is defined as all infrastructure  
11 improvements inside the lots described in Section 2 of this Act. The  
12 proceeds from the sale of the lots shall be retained by the Corporation. Of  
13 these proceeds, Two Hundred Thousand Dollars (\$200,000) shall be used to  
14 prepare a comprehensive housing study on homeownership for Guam and  
15 the balance shall be used for costs associated with future affordable  
16 housing projects. The Corporation shall establish a fund for the proceeds of  
17 the land sales that is separate from its other accounts and shall report to  
18 the Legislature each year on the status of this fund.

19           Section 7. Equity to Corporation. The equity between the selling  
20 price of each unit and the initial appraised value of each unit at the time of  
21 sale shall remain the property of the Corporation for a period of not less  
22 than twenty-five (25) years following the sale of the property. The  
23 Corporation shall be given the right of first refusal on all homes sold by the  
24 initial owners and subsequent owners who purchase a home constructed  
25 under this Act from the Corporation in the event the homes are sold within  
26 twenty-five (25) years of the date of purchase. The right of first refusal  
27 price on sale of the home shall be the original selling price plus any equity  
28 beyond the initial appraisal not to exceed five percent (5%) per year. In  
29 the event the homes are purchased by the Corporation, they shall be sold  
30 at cost to first time homeowners who shall be subject to the equity sharing  
31 provisions of this section. The owners shall not mortgage or attach or  
32 cause to attach any liens for equity which is not considered to be theirs  
33 under this section. Homes purchased under the Corporation's right of first  
34 refusal shall be sold at cost plus ten percent (10%). The Corporation shall  
35 share in the equity on all homes sold that were acquired by the right of

**EXHIBIT "E"**

**Public Law 24-81**

**TWENTY- FOURTH GUAM LEGISLATURE  
1997 (FIRST) Regular Session**

**Bill No. 149 (COR)**

As substituted by the Committee on Finance  
and Taxation and as amended on the Floor.

Introduced by:

Committee on Rules,  
Government Reform and  
Federal Affairs

by request of the Governor in  
accordance with the Organic  
Act of Guam.

Mark Forbes

A. C. Blaz

A. C. Lamorena, V

T. C. Ada

F. B. Aguon, Jr.

E. Barrett-Anderson

J. M.S. Brown

Felix P. Camacho

Francisco P. Camacho

M. C. Charfauros

E.J. Cruz

W. B.S.M. Flores

L. F. Kasperbauer

C. A. Leon Guerrero

L. Leon Guerrero

V. C. Pangelinan

J. C. Salas

A. L.G. Santos

F. E. Santos

A. R. Unpingco

J. Won Pat-Borja

**AN ACT TO AMEND §4101, §4104(a), §4104(m),  
§4105, §4106 AND §4214, TO ADD A NEW §4103.5  
AND §4106.1, AND ADD A NEW ARTICLE 6 TO**

**CHAPTER 4, ALL TO TITLE 12 OF THE GUAM  
CODE ANNOTATED, AND TO APPROVE THE  
TERMS AND CONDITIONS OF THE ISSUANCE  
OF UP TO \$50,000,000 OF REVENUE BONDS OF  
THE GUAM HOUSING CORPORATION, AND TO  
AMEND §§ 4, 6, 7, 8, 10 AND 13 OF P. L. NO. 20-225,  
RELATIVE TO THE LADA ESTATES AFFORDABLE  
HOUSING PROJECT.**

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

2           **Section 1. Legislative Finding.** Section 4103 of Title 12, Guam Code  
3 Annotated, authorizes the Guam Housing Corporation ("GHC") to encourage  
4 and engage in low and moderate income housing activities, including the  
5 development and financing of homes. Amendments are needed for the  
6 following purposes:

7           (a) to facilitate the issuance by GHC of its revenue bonds for the  
8 purpose of financing mortgage loans for the purchase of homes by low  
9 and moderate income residents of Guam;

10           (b) to provide GHC with perpetual succession and to permit  
11 GHC to utilize amounts originally appropriated to the Foreclosure  
12 Protection Fund of GHC to pay its mortgage insurance risk sharing  
13 obligations; and

14           (c) to amend P. L. No. 20-225, to allow GHC to utilize a portion  
15 of the proceeds of any bond issuance for the benefit of the Lada Estates  
16 Affordable Housing Project.

17           Subsection (k) of §2103 of Title 12, Guam Code Annotated, provides that  
18 agencies and instrumentalities of the government of Guam shall issue  
19 obligations only by means of and through the agency of the Guam Economic  
20 Development Authority ("GEDA"). This Subsection further provides that

1 GEDA shall not sell any obligation without the approval of the Guam  
2 Legislature of the terms and conditions of the issuance of the obligations. The  
3 Guam Legislature has been provided a proposed form of indenture, as  
4 evidence by the attached "Exhibit A" made part of this Act, pursuant to which  
5 GHC proposes to issue revenue bonds for the purchase of homes by low and  
6 moderate income residents of Guam.

7 **Section 2. Recognizing that the GHC's Purpose is to Improve Housing**  
8 **Supply and Affordability, as well as Housing Standards.** Section 4101 of  
9 Title 12 of the Guam Code Annotated is hereby amended to read as follows:

10 "Section 4101. **Creation of Corporation: Name.** In order to  
11 promote the general welfare of the inhabitants of the Territory of Guam  
12 through the improvement of housing standards, housing supply and  
13 housing affordability in Guam, there is created a body corporate to be  
14 known as the Guam Housing Corporation, hereinafter referred to as the  
15 "Housing Corporation." The Housing Corporation shall be deemed to  
16 be exercising essential government functions and shall be subject to the  
17 general direction of the Governor of Guam."

18 **Section 3. Addition of Definition of "Bonds."** A new §4103.5 is hereby  
19 added to Title 12 of the Guam Code Annotated to read as follows:

20 "Section 4103.5. **Definition of 'Bonds.'** For purposes of this  
21 Chapter the term 'bonds' shall mean any bonds, notes or other evidences  
22 of indebtedness of the Housing Corporation issued pursuant to this  
23 Chapter."

24 **Section 4. Providing for Perpetual Succession for the Guam Housing**  
25 **Corporation.** Section 4104(a) of Title 12 of the Guam Code Annotated is  
26 hereby amended to read as follows:

1           "(a) To have perpetual succession."

2           **Section 5. Providing Authority for Guam Housing Corporation to**  
3 **Obtain Financing for Certain Purposes.** Section 4104(m) of Title 12 of the  
4 Guam Code Annotated is hereby amended to read as follows:

5           "(m) To borrow funds required to finance or refinance its revenue  
6 producing projects or to finance or refinancing a home financing  
7 program under §4602 by the issuance, from time to time, of bonds under  
8 such terms and conditions as the Housing Corporation may prescribe,  
9 and to pledge and assign specified revenues and other property of the  
10 Housing Corporation to the repayment of such bonds."

11           **Section 6. Clarifying that Guam Housing Corporation Bonds are**  
12 **Special Obligations of Guam Housing Corporation.** Section 4105 of Title 12  
13 of the Guam Code Annotated is hereby amended to read as follows:

14           "**Section 4105. Bonds as Special Obligations.** Every Bond issued  
15 by the Housing Corporation pursuant to this Chapter shall be a special  
16 obligation of the Housing Corporation payable solely from the revenues  
17 and other property specified in the indenture or resolution providing for  
18 the issuance of such bond. Every bond shall recite that it is not public  
19 indebtedness of the Territory of Guam as that term is used in §11 of the  
20 Organic Act."

21           **Section 7. Providing for Various Terms and Conditions of the**  
22 **Issuance of Bonds.** Section 4106 of Title 12 of the Guam Code Annotated is  
23 hereby amended to read as follows:

24           "**Section 4106. Appointment of Trustee: Provision of Indenture**  
25 **or Resolution.** (a) The Housing Corporation may appoint a bank or  
26 trust company to act as trustee for the Board and the holders of the

1 bonds issued hereunder, and the Board may authorize the trustee to act  
2 on behalf of the holders of the bonds, or a stated percentage thereof, and  
3 to exercise and prosecute on behalf of the holders of the bonds such  
4 rights and remedies as may be available to the holders.

5 (b) The indenture or resolution pursuant to which any bonds are  
6 issued may provide for (i) the deposit of all revenues with the trustee  
7 and for the holding thereof by the trustee in one or more separate funds  
8 or accounts, and (ii) the transfer to such trustee of such portions of  
9 revenues as are provided as security for the bonds and for the holding  
10 thereof by such trustee in one (1) or more separate funds or accounts.  
11 All money in each such fund or account shall be disbursed only as  
12 provided in the indenture or resolution pursuant to which the bonds are  
13 issued.

14 (c) Any indenture or resolution pursuant to which bonds of the  
15 Housing Corporation are issued may provide for any or all of the  
16 following:

17 (i) the payment of the principal and interest of the bonds  
18 at one (1) or more places in the Territory or in the United States  
19 and in any specified coin or currency of the United States;

20 (ii) the pledge and assignment of all or any portion of the  
21 revenues or other property of the Housing Corporation, including,  
22 without limitation, mortgage loans and mortgage-backed  
23 securities, to secure the payment of the bonds, subject to existing  
24 agreements with holders;

25 (iii) reserves or sinking funds in the hands of trustees,  
26 paying agents and other depositories and the regulation and

1 disposition thereof;

2 (iv) limitations on the purpose to which the proceeds of  
3 sale of bonds may be applied;

4 (v) limitations on the issuance of additional bonds, the  
5 terms upon which additional bonds may be issued and secured  
6 and the refunding of outstanding bonds;

7 (vi) the procedure, if any, by which the terms of any  
8 contract with the holders of bonds may be amended or abrogated,  
9 the amount of bonds the holders of which must consent thereto,  
10 and the manner in which such consent may be given;

11 (vii) vesting in a trustee property, rights, powers and duties  
12 in trust as the Housing Corporation determines;

13 (viii) the specification of the acts or omissions to act which  
14 shall constitute a default in the obligations and duties of the  
15 Housing Corporation to the holders of the bonds and providing  
16 for the rights and remedies of the holders, and any limitations on  
17 such rights and remedies, in the event of such default; and

18 (ix) any other matters of like or different character which in  
19 any way affect the security or protection of the holders of the  
20 bonds or the rights of the Housing Corporation.

21 (d) Bonds of the Housing Corporation issued pursuant to this  
22 Chapter shall: (i) bear such date, (ii) mature at such times, (iii) bear  
23 interest at such fixed or variable rates, (iv) be sold at public or private  
24 sale at such prices above or below par, (v) be in such denominations, (vi)  
25 be in such form, (vii) carry such registration privileges, (viii) be executed  
26 in such manner and (ix) be subject to such terms of redemption as

1 provided in the indenture or resolution authorizing their issuance."

2 **Section 8. Establishing Validity of Pledge by Guam Housing**  
3 **Corporation from Time Pledge is Made, Without Need for Further**  
4 **Documentation.** A new §4106.1 is hereby added to Title 12 of the Guam Code  
5 Annotated to read as follows:

6 "Section 4106.1. **Validity of Pledge.** Any pledge made by the  
7 Housing Corporation shall be valid and binding from the time the  
8 pledge is made. The revenues or other property pledged and thereafter  
9 received by the Housing Corporation shall immediately be subject to  
10 the lien of the pledge without any physical delivery thereof or further  
11 act. The lien of any pledge shall be valid and binding against all parties  
12 having claims of any kind in tort, contract, or otherwise against the  
13 Housing Corporation, irrespective of whether such parties have notice  
14 thereof. Neither the resolution, the indenture nor any other instrument  
15 by which a pledge is created need be recorded."

16 **Section 9. Providing Authority for the Guam Housing Corporation to**  
17 **Use the Foreclosure Protection Fund to Repay Bonds as well as to Pay Off**  
18 **the First Mortgage on Foreclosure.** Section 4214 of Title 12 of the Guam Code  
19 Annotated is hereby amended to read as follows:

20 "Section 4214. **Foreclosure Protection Fund.** There is hereby  
21 created the Foreclosure Protection Fund (the 'Fund'). The Fund shall be  
22 used by GHC to protect the interest of the Trust as the second mortgagee  
23 and shall be used for the purpose of paying off the first mortgage on  
24 foreclosure and may also be used to pay any obligation of the  
25 Corporation pursuant to any risk sharing arrangement entered into  
26 pursuant to §4602."



1            'Lending institution' means any public or private entity or  
2 governmental agency approved by the Housing Corporation and  
3 authorized by law to make or participate in making residential loans in  
4 Guam.

5            'Mortgage' means a mortgage, deed of trust or other security  
6 instrument which shall constitute a lien on real property in fee simple or  
7 on a leasehold under a lease having a remaining term of a duration  
8 necessary to protect the interest of the mortgagee thereunder, as  
9 determined by the Housing Corporation.

10           'Mortgage-backed security' means any security, whether  
11 guaranteed or not, backed by one (1) or more home mortgages or pools  
12 consisting of home mortgages.

13           **Section 4602. Authorization of Home Financing Program.** In  
14 addition to the powers of the Housing Corporation set forth elsewhere,  
15 in this Chapter, and notwithstanding any restrictions, requirements or  
16 limitations set forth in Articles 1, 2, 3, 4 and 5 of this Chapter, the  
17 Housing Corporation shall have the power to make, purchase, make  
18 commitments to purchase, and take assignments from lending  
19 institutions, of home mortgages and mortgage-backed securities, under  
20 terms and conditions specified by the Housing Corporation. The  
21 Housing Corporation may obtain or require mortgagors to obtain  
22 mortgage insurance on home mortgages, and may enter into risk-sharing  
23 agreements with the providers of the mortgage insurance upon terms  
24 and conditions determined by the Housing Corporation. Any  
25 obligations of the Housing Corporation to a mortgage insurer under a  
26 risk-sharing agreement shall be payable only out of the assets of the

1 Housing Corporation that are not pledged to secure other obligations of  
2 the Housing Corporation."

3 **Section 11. Approval of Terms and Conditions to Guam Housing**  
4 **Corporation Bonds.** The Guam Legislature, pursuant to Subsection (k) of  
5 §2103 of Title 12, Guam Code Annotated, approves the terms and conditions  
6 of the issuance by Guam Housing Corporation of revenue bonds in one (1) or  
7 more issues or series in an aggregate principal amount not to exceed Fifty  
8 Million Dollars (\$50,000,000), with a final maturity not exceeding forty (40)  
9 years and bearing interest at fixed or variable rates not exceeding nine percent  
10 (9.0%) per annum if interest on such bonds is intended to be excludable from  
11 gross income for Federal income tax purposes, and twelve percent (12.0%) per  
12 annum of interest on such bonds if not intended to be excludable from gross  
13 income for Federal income tax purposes. The bonds shall be issued in one (1)  
14 or more issues or series, pursuant to §4104 of Title 12, Guam Code Annotated,  
15 and one (1) or more indentures in substantially the form of the indenture  
16 presented to this Legislature, as evidenced by the attached "Exhibit A" made  
17 part of this Act.

18 **Section 12. Local Sale of Bonds.** Guam Housing Corporation and  
19 Guam Economic Development Authority shall undertake their best efforts to  
20 cause a portion of any bonds issued pursuant to this Act to be offered for sale  
21 in Guam, as well as in other jurisdictions, if and to the extent that such offer  
22 and any sales resulting from such offer do not increase the cost to the Guam  
23 Housing Corporation or government of Guam of issuing and repaying such  
24 bonds.

25 **Section 13. Clarifying the Definition of First Time Homeowners for**  
26 **Purposes of Public Law No. 20-225.** Section 4 of P. L. No. 20-225 is hereby

1 amended to read as follows:

2           **"Section 4. Definition of First Time Homeowners.** 'First time  
3 homeowners' are defined as persons who have not had any ownership  
4 interest in residential real property within the three (3) year period  
5 immediately preceding the date of application for purchase of a unit  
6 developed under this Act. Divorced persons having an ownership  
7 interest in a joint property or individuals having an ownership interest  
8 in the property of the parents do qualify as first time homeowners;  
9 provided, that any interest in residential real property is terminated  
10 prior to the date of application for the purchase of a unit developed  
11 under this Act."

12           **Section 14. Amendment to Section 6 of Public Law No. 20-225 to**  
13 **permit Corporation to Pay for Off-site Infrastructure.** Section 6 of P. L. No.  
14 20-225 is hereby amended to read as follows:

15           **"Section 6. Prices.** The unit shall be sold at cost plus two percent  
16 (2%), and Three Dollars (\$3.00) per square meter for the house lot, and  
17 for a first time owner, no down payment shall be required. Costs shall  
18 include, but are not limited to, all costs associated with the design, on-  
19 site infrastructure, off-site infrastructure, construction, financing, sale  
20 and project management of the development. The two percent (2%) in  
21 excess of the costs shall be retained by the Corporation for the payment  
22 of expenses it will incur during the construction and monitoring of the  
23 project. The proceeds from the sale of the lots shall be retained by the  
24 Corporation. Of these proceeds, Two Hundred Thousand Dollars  
25 (\$200,000.00) shall be used to prepare a comprehensive housing study on  
26 homeownership for Guam and the balance shall be used for costs

1 associated with future affordable housing projects. The Corporation  
2 shall establish a fund for the proceeds of the land sales that is separate  
3 from its other accounts and shall report to the Guam Legislature each  
4 year on the status of this fund."

5 **Section 15. Repealing and Re-enacting Section 7 of Public Law No. 20-**  
6 **225 to Define a Second Mortgage for Equity in Favor of the Guam Housing**  
7 **Corporation.** Section 7 of P. L. No. 20-225 is hereby repealed and re-enacted to  
8 read as follows:

9 "Section 7. **Second Mortgage for Equity.** The difference between  
10 (a) the initial selling price of each unit, and (b) the lesser of the initial  
11 appraised value of each unit at the time of sale or the maximum  
12 purchase price permitted under §143 of the Internal Revenue Code, if  
13 applicable, shall be treated as a shared-appreciation second mortgage  
14 loan from the Corporation to the purchaser. The term of the loan shall  
15 be twenty-five (25) years, the loan shall be subject to prepayment at any  
16 time by the borrower and at maturity the loan shall be forgiven in its  
17 entirety. The Corporation's share of appreciation (contingent, deferred  
18 interest) shall be a percentage less than or equal to one-half (1/2) of the  
19 ratio of the loan principal amount to the initial purchase price. The  
20 Corporation may also charge deferred interest at a fixed rate not greater  
21 than five percent (5%) per annum.

22 The Corporation shall also have for twenty-five (25) years a right  
23 to first refusal upon any sale of the unit by the borrower or upon any  
24 first mortgage default for which a notice of public auction is given. For  
25 the first four (4) years from the date of purchase of the unit by the  
26 borrower, the option price shall be the lesser of (i) the fair market value

1 of the unit at the time of sale, or (ii) the initial appraised value increased  
2 in proportion to the increase in the consumer price index for Guam for  
3 the period from the date of initial purchase of the unit to the date of sale.

4 After the first four (4) years, the option price shall be the fair market  
5 value of the unit to the date of sale.

6 Any units purchased by the Corporation shall, if possible, be  
7 resold to the first time homeowners under agreements with the same  
8 general terms as the agreements with the original purchasers.

9 Any money received by the Corporation from the payment of any  
10 loan authorized by this Section shall be deposited to the fund created  
11 under Section 6 of Public Law No. 20-225. Amounts in the fund are also  
12 authorized to be used to pay the purchase price of units purchased by  
13 the Corporation pursuant to the option to purchase described in this  
14 Section."

15 **Section 16. Guam Housing Corporation to Exercise Option Under**  
16 **Second Mortgage for Equity in the Event of a First Mortgage Default.**

17 Section 8 of P. L. No. 20-225 is hereby amended to read as follows:

18 "Section 8. Default. In the event of a first mortgage default, with  
19 respect to a unit the Corporation may exercise its option under Section 7  
20 of Public Law No. 20-225 to purchase the unit or may bid for the unit at  
21 the public auction."

22 **Section 17. Application of §143 of Internal Revenue Code to Any**  
23 **Transferee of Bond-Financed First Mortgage.** Section 10 of P. L. No. 20-225 is  
24 hereby amended to read as follows:

25 "Section 10. Gifts. The homeowner may without consideration  
26 transfer by means of a gift, the home purchased under this Act to any

1 member of the homeowner's immediate family. For purposes of this  
2 Act, 'immediate family' is defined as the homeowner's spouse, parents,  
3 and children by birth or by legal adoption. In cases of authorized family  
4 transfer, the same restrictions that applied to the previous homeowner  
5 apply to the new homeowner. The assumption by the transferee of any  
6 bond-financed first mortgage shall be subject to the requirements of  
7 Section 143 of the Internal Revenue Code."

8 **Section 18. Clarification that Mortgages Financed by Guam Housing**  
9 **Corporation Bonds do Not Disqualify a Person from Government of Guam**  
10 **Mortgage Subsidy Programs.** Section 13 of P.L. No. 20-225 is hereby  
11 amended to read as follows:

12 "Section 13. **No Subsidy Mortgages.** Persons who purchase a  
13 home under this Act are not eligible for government of Guam mortgage  
14 subsidy programs. For this purpose, mortgages financed by qualified  
15 mortgage bonds issued by the Corporation shall not be treated as  
16 financed by a mortgage subsidy program."

**EXHIBIT "F"**

**Public Law 25-116**

**MINA'BENTE SINGKO NA LIHESLATURAN GUÁHAN  
2000 (SECOND) Regular Session**

**Bill No. 377 (COR)**

As substituted by the Committee on  
Housing, General Government Services  
and Foreign Affairs.

Introduced by:

K. S. Moylan  
J. C. Salas  
A. C. Lamorena, V  
A. R. Unpingco  
V. C. Pangelinan  
M. G. Camacho  
F. B. Aguon, Jr.  
E. C. Bermudes  
A. C. Blaz  
J. M.S. Brown  
E. B. Calvo  
Mark Forbes  
L. F. Kasperbauer  
C. A. Leon Guerrero  
S. A. Sanchez, II

**AN ACT TO ADD ARTICLE 7 TO CHAPTER 4 OF  
TITLE 12 OF THE GUAM CODE ANNOTATED;  
AND TO ADD §§5.1, 7.1 AND 17, TO AMEND §6  
AND TO REPEAL AND REENACT §12, ALL TO P.L.  
NO. 20-225, RELATIVE TO ESTABLISHING A  
LEASE-TO-OWN HOUSING PROGRAM FOR  
QUALIFIED APPLICANTS AND FIRST TIME  
HOMEBUYERS, AND TO CITE THE ACT AS "THE  
LEASE-TO-OWN HOUSING PROGRAM ACT OF  
2000".**



1           **Section 4702. Legislative Findings.** *I Liheslaturan Guåhan*  
2 finds that in 1997, Guam Housing Corporation announced a bid for the  
3 design, building and financing of infrastructure requirements for Lada  
4 Estates. As a result, Maeda Pacific Corporation ('Maeda') the selected  
5 bidder, was granted a contract to design, build and finance the project.  
6 The Guam Housing Corporation and Maeda executed a contract in the  
7 amount over Ten Million Dollars to fulfill the project's scope of work.

8           Furthermore, *I Liheslaturan Guåhan* finds that Maeda agreed to the  
9 terms such that payment would be due from a developer who would  
10 finance both the outstanding contract with Maeda and the development  
11 of the units at Lada Estates. To date, Guam Housing Corporation has  
12 entertained several bids, but is unable to secure any contract with a  
13 developer. Also, *I Liheslaturan Guåhan* finds that the infrastructure  
14 project was due and payable on or before November 1998.

15           *I Liheslaturan Guåhan* also finds that while there have been several  
16 bid announcements, initiated by the Guam Housing Corporation, for  
17 the construction of the Lada Estates project which have been advertised  
18 in conformance with the procurement laws of Guam. Unfortunately, no  
19 bidder has been able to meet the required terms of the contract due to  
20 the provisions requiring substantial up front financial reimbursement to  
21 Maeda. As a result of this hindrance, Maeda has agreed to renegotiate  
22 some of the terms to allow for easier repayment criteria.

23           More importantly, *I Liheslaturan Guåhan* in discussions with the  
24 Guam Housing Corporation and the mortgage community, identified  
25 the key problems that adversely affected the eligibility of customers and

1 clients to participate in purchasing of not only the Lada Estates  
2 residential project, but also various single family housing development  
3 projects on Guam. Some of the problems are identified as:

4 (i) most prospective clients have high debt to income  
5 ratios five (5) year short term debts;

6 (ii) most prospective clients are unable to meet the  
7 required closing cost and down payment for their first-time home;  
8 *and*

9 (iii) most prospective first-time homebuyers may need the  
10 lease-to-own housing program so that they may utilize the lease  
11 term to re-establish their credit and thus qualify for a typical  
12 residential loan at the time of escrow closing of the purchase.

13 **Section 4703. Legislative Policy.** *I Liheslaturan Guåhan* in  
14 its continuing effort to promote affordable housing programs for the  
15 people finds that for many individuals and families the primary  
16 obstacle to homeownership is their inability to save money for the initial  
17 cost of buying a home, such as down payment and closing costs. To  
18 effectuate additional housing programs, *I Liheslaturan Guåhan* in its  
19 wisdom wishes to hereby establish a '*Lease-to-Own Housing Program*'.  
20 Said Program shall afford opportunities for the private and government  
21 sector to invest in affordable housing developments, particularly those  
22 that offer lease to own provisions with options to exercise purchase  
23 within three (3) to five (5) years. This would encourage public and  
24 private collaboration in the search for the suitable financing mechanism  
25 or mechanisms which could benefit the families who can afford to

1 purchase homes given financial assistance for closing costs and down  
2 payment.

3 *I Liheslaturan Guåhan* wishes to encourage the participation of the  
4 private sector working through the authority vested in the Guam  
5 Housing Corporation through this Act. Furthermore, *I Liheslaturan*  
6 *Guåhan* recognizes the opportunity for certain lending institutions and  
7 lenders of capital to assist families in purchasing or building their first  
8 home on their lot or purchasing homes available in the market. *I*  
9 *Liheslaturan Guåhan* also wishes to recognize that the programs  
10 contained herein are Community Reinvestment Act qualified, and in  
11 conformance with various housing programs administered by the  
12 Guam Housing Corporation, particularly those which can accommodate  
13 the concept of 'lease-to-own' residential units of various sorts.

14 *I Liheslaturan Guåhan* also encourages the granting of any Guam  
15 Economic Development Authority qualifying certificate benefits to the  
16 developers involved in the Lada Estates project, as well as other similar  
17 housing projects. In the case where a government entity is the  
18 developer, such benefits may be passed on to the participating  
19 contractors provided that such incentive would decrease the overall unit  
20 cost of housing in the respective project.

21 **Section 4704. Definitions.** For purposes of this Act,  
22 the following words and phrases are defined to mean:

23 (a) '*Affordable housing unit*' shall mean a single family  
24 dwelling unit inclusive of land, built in accordance with the  
25 Uniform Building Code and in consonance with the Guam zoning

1 and subdivision laws whose selling price meets the criteria set  
2 forth in the Guam Economic Development Authority Rules and  
3 Regulations pertaining to 'affordable housing' adopted pursuant  
4 to Public Law Number 24-266.

5 (b) 'Corporation' shall mean the Guam Housing  
6 Corporation created pursuant to §4101 of Title 12 of the Guam  
7 Code Annotated.

8 (c) 'Residence' shall mean a single family home, a  
9 condominium housing unit or a housing unit owned by a  
10 cooperative housing cooperation.

11 (d) 'Seller' shall mean the party to the lease-to-own  
12 contract who is the seller of the residence.

13 (e) 'Tenant-Purchaser' shall mean the prospective person  
14 who is a party to the lease-to-own contract.

15 **Section 4705. Lease-to-Own Program; Establishment;**  
16 **Authorization to Participate.** The Guam Housing  
17 Corporation ('Corporation') is hereby authorized to participate in lease-  
18 to-own programs described in this Act. The purpose of a lease-to-own  
19 program is to provide mortgage financing for a residence occupied as a  
20 primary residence by a prospective mortgagor pursuant to a lease-to-  
21 own contract with the owner of such property. The lease-to-own  
22 contract shall provide for the eventual purchase by the resident of the  
23 residence and an interim lease of the residence *prior to* the closing of the  
24 purchase thereof.

25 **Section 4706. Authorization to Acquire Mortgage Loans.**

1 The Corporation may contract to acquire and may acquire a mortgage  
2 loan or loans made by a bank, or other financial institution, to a seller  
3 who has entered a lease-to-own contract with an eligible Tenant-  
4 Purchaser for the property which is the subject of and security for such  
5 mortgage loan.

6 **Section 4707. Lease-to-Own Contract. The**

7 Corporation is empowered to purchase or build, as well as incur debt to  
8 achieve same, residences which the Corporation would own and lease  
9 under the Program established herein.

10 (a) The lease-to-own contract shall contain:

11 (1) a lease of the residence, or in the case of  
12 cooperative housing units a sublease, for a term *not* to  
13 exceed five (5) years;

14 (2) provision for a rental payment *not less than* the  
15 sum of:

16 (i) an amount sufficient to pay the estimated  
17 property taxes and insurance on the residence, or in  
18 the case of a cooperative unit, the maintenance  
19 charges;

20 (ii) the cost of routine maintenance of the  
21 residence, *unless* the lease-to-own contract requires the  
22 Tenant-Purchaser to perform such maintenance at his  
23 own expense;

24 (iii) an amount sufficient to pay interest on the  
25 mortgage loan held by the Corporation on the

1 residence, less the estimated earnings on the escrow  
2 fund provided in §4708 of this Act which is allocable  
3 to such mortgage held by the Corporation;

4 (iv) an amount to be held in escrow, referred to  
5 as the 'Tenant-Purchaser escrow,' which, when  
6 accumulated over the period of the lease-to-own  
7 contract or no more than five (5) years, will amount to  
8 a sum sufficient to pay the Tenant-Purchaser's  
9 required down payment under the lease-to-own  
10 contract, plus the estimated closing costs of purchase  
11 which will be allocable to the Tenant-Purchaser,  
12 including the seller's closing cost at the initial closing  
13 of the mortgage to the seller; *and*

14 (v) in the case of a condominium unit,  
15 common charges;

16 (3) provisions obligating the Tenant-Purchaser to  
17 buy and the seller to sell the residence at the end of the lease  
18 term, which shall *not* exceed five (5) years;

19 (i) if Tenant Purchaser seeks to utilize any  
20 HUD grants for down payment and closing cost  
21 assistance, then Tenant Purchaser shall exercise the  
22 purchase option on or before three (3) years;

23 (4) a provision that the default by the Tenant-  
24 Purchaser under the provision of the lease-to-own contract  
25 shall result in the forfeiture to the seller of all amount in the

1 Tenant-Purchaser escrow; furthermore, the various escrow  
2 funds funded under the Program should be residence  
3 specific, such that a default or other failure of the tenant to  
4 purchase the unit within the five (5) years allowed would  
5 result in the escrow being forfeited to the successor Tenant-  
6 Purchaser, *and not* the Corporation;

7 (5) a provision that the Tenant-Purchaser shall have  
8 the option upon reasonable notice to the seller and the  
9 Corporation to elect to close the purchase of the residence  
10 *not* earlier than one (1) year from the date of execution of the  
11 lease-to-own contract;

12 (6) a provision that the rent shall be adjusted under  
13 the lease-to-own contract periodically to take account of  
14 changes in taxes, insurance, escrow earning, mortgage  
15 interest and other variables intended to be covered by the  
16 tenant's rental payments; *and*

17 (7) a provision governing the consequences of  
18 default by each of the parties.

19 (b) The provisions of this Act shall *not* apply to the  
20 tenancy of the Tenant-Purchaser under the lease-to-own contract  
21 from and after the purchase by the Corporation of the mortgage  
22 loan on the residence so long as the Corporation holds the  
23 mortgage loan. The Corporation shall *not* sell the mortgage loan  
24 *prior to* the closing of the transfer of title to the Tenant-Purchaser

1 or default by the Tenant-Purchaser under the lease-to-own  
2 contract.

3 (c) The Corporation shall adopt procedures to ensure that  
4 the payments contemplated by §4707(a)(2) of this Section are in  
5 fact applied to those purposes.

6 **Section 4708. Tenant-Purchaser Escrow Account.**

7 (a) The mortgage loan documents, with respect to a  
8 mortgage loan(s) in effect *prior to* the Tenant-Purchaser's purchase  
9 of their respective units, shall provide there shall be retained over  
10 the Tenant-Purchaser's lease term an amount held as additional  
11 security for such loan(s) called the Tenant-Purchaser Escrow  
12 Account. The Tenant-Purchaser Escrow Account will receive a  
13 predetermined portion of the Tenant-Purchaser's monthly rental  
14 amount as provided for in §4707(a)(2)(iv) of this Act, such portion  
15 to be determined at commencement of the Tenant-Purchaser's  
16 lease. The total amount contributed to the Tenant-Purchaser  
17 Escrow Account by the Tenant-Purchaser over the lease term  
18 should *not* be less than ten percent (10%) of the Tenant-  
19 Purchaser's anticipated purchase price. Such Tenant-Purchaser  
20 Escrow Account shall be held by a Trustee for the benefit of the  
21 Corporation and the first mortgagee(s). The Corporation will  
22 approve such Trustee. At the time of the Tenant-Purchaser's  
23 purchase of the respective unit, the Trustee shall release and  
24 disperse the Tenant-Purchaser Escrow Account to the unit Seller  
25 to meet the Tenant-Purchaser's down payment requirement.

1           The escrow amounts pertaining to various lease-to-own  
2 loans may be commingled for investment purposes. Trustees shall  
3 keep separate records showing the amount in each Tenant-  
4 Purchaser Escrow Account. Investment earnings on the Tenant-  
5 Purchaser Escrow Account shall accrue to the benefit of the  
6 Tenant-Purchaser.

7           (b) The Trustee shall periodically advise both the  
8 Corporation and the Seller as to the amount and earnings in each  
9 Tenant-Purchaser Escrow Account.

10           (c) In the event a default by the Tenant-Purchaser occurs,  
11 as provided for in §4707(a)(5), the Trustee shall release only that  
12 portion of the respective Tenant-Purchaser Escrow Account that is  
13 needed to meet the following funding requirements:

14           (i) any costs incurred by the Corporation related to  
15 deferred maintenance of the Tenant-Purchaser's respective  
16 housing unit;

17           (ii) any costs to the Corporation due to re-  
18 advertising, administrative financial fees and other liabilities  
19 that may be a result of the Tenant-Purchaser caused default;  
20 and

21           (iii) all funds remaining in the unit specific Tenant-  
22 Purchaser Escrow Account will be retained by the Trustee  
23 for the benefit of the next prospective Tenant-Purchaser to  
24 occupy the defaulted unit, as is intended by and provided  
25 for in §4704(a)(5) of this Act.

1           **Section 4709. Closing of Transfer of Title. (a) Disbursement**  
2           **of Escrow Account.** At the closing of the transfer of title to the  
3           residence to the Tenant-Purchaser to the lease-to-own contract, the  
4           Corporation shall disburse the escrow amount to or for the  
5           account of the Tenant-Purchaser.

6           (b) **Insurance.** At such closing the Corporation may  
7           require the Tenant-Purchaser to furnish private mortgage  
8           insurance if such insurance is required in the case of other  
9           mortgage loans under this Title. *If* such insurance is *not*  
10          obtainable in the private market at the time of such closing, the  
11          Corporation is authorized to issue such insurance.

12          **Section 4710. Rules, Regulations and Restrictions.** The  
13          Corporation shall establish such requirements with regard to lease-to-  
14          own contracts, lease-to-own residence, the qualifications of Tenant-  
15          Purchaser and the Corporation's participation in any lease-to-own  
16          program, as may be deemed appropriate by the Corporation to achieve  
17          the objectives of this Act. The Corporation's requirements, including,  
18          but not limited to income limit applicable to the Tenant-Purchaser and  
19          the purchase price of the residence, must be satisfied at or before the  
20          time the mortgage loan is purchased, and the Tenant-Purchaser must be  
21          deemed qualified by the Corporation at that time.

22          **Section 4711. Severability.** *If* any provision of this Law or  
23          its application to any person or circumstance is found to be invalid or  
24          contrary to law, such invalidity shall *not* affect other provisions or  
25          applications of this Law which can be given effect without the invalid

1 provisions or application, and to this end the provisions of this Law are  
2 severable."

3 **Section 3. Legislative Statement.** *I Liheslaturan Guåhan* finds that  
4 Public Law Number 20-225, as amended by Public Law Number 24-81,  
5 created an affordable housing program to be developed by the Guam  
6 Housing Corporation ("Corporation") on Lot Numbers 10120-14 and 10120-16  
7 in the municipality of Dededo, Guam. Furthermore, the property has been  
8 conveyed to the Corporation and the Corporation has issued a request for  
9 proposals for development of three hundred ninety-nine (399) residential  
10 units, and is currently negotiating with qualified offers to design, finance and  
11 construct the affordable housing units. Also, the Corporation has caused the  
12 necessary infrastructure to be developed.

13 More importantly, the Corporation has requested *I Liheslaturan Guåhan*  
14 to amend certain provisions of Public Law Number 20-225 in order to  
15 facilitate the financing, design and construction of the units in order to render  
16 the entire project viable. Moreover, *I Liheslaturan Guåhan* finds that the certain  
17 amendments to Public Law Number 20-225 are necessary in order to comply  
18 with Guam Law and allow the Corporation to fully develop and market the  
19 affordable housing units.

20 **Section 4.** Section 5.1 is hereby *added* to Public Law Number 20-225 to  
21 read as follows:

22 **"Section 5.1.** In the event that there are insufficient qualified  
23 applicants of all classes ready, willing and able to purchase all of the  
24 homes and lots upon their completion, the Corporation is authorized to  
25 lease unsold homes and lots to qualified purchasers with or without

1 provisions to such leases providing for options or obligations to  
2 purchase the homes and lots, and to assign the proceeds of such leases  
3 to finance payment of the initial design, finance and construction of the  
4 homes. In the event that the Corporation is unable to locate a sufficient  
5 number of qualified purchasers to purchase or lease the homes and lots  
6 as provided herein, the Corporation is authorized to lease the homes  
7 and lots for terms *not* in excess of one (1) year, which lease shall be  
8 renewable annually at the option of the Corporation. The proceeds of  
9 the sales of such homes and lots, and the leases of such homes and lots,  
10 may be assigned by the Corporation to the developer chosen by the  
11 Corporation to the design, finance and construct the housing units in  
12 order to finance payment of the initial design, finance and construction  
13 of the homes and infrastructure improvements. As soon as qualified  
14 purchasers become available, the homes and lots shall then be sold to  
15 such qualified purchasers as provided in this Act."

16 **Section 5.** Section 6 of Public Law Number 20-225, as amended by  
17 Public Law Number 24-81, is hereby further *amended* to read as follows:

18 "Section 6. **Prices.** The unit shall be sold at cost plus two  
19 percent (2%), and Three Dollars (\$3.00) per square meter for the house  
20 lot, and for a first time owner, no down payment shall be required.  
21 Costs shall include, but are not limited to, all costs associated with the  
22 design, on-site infrastructure, construction, financing, sale and project  
23 management of the development. The two percent (2%) in excess of the  
24 costs shall be retained by the Corporation for the payment of expenses it  
25 will incur during the construction and monitoring of the project. The

1 proceeds from the sale of the lots shall be retained by the Corporation.  
2 The costs of off-site infrastructure and off-site access roads shall be the  
3 responsibility of the government of Guam. On-site infrastructure is  
4 defined as all infrastructure improvements inside the lots described in  
5 §2 of this Act. The proceeds from the sale of the lots shall be retained by  
6 the Corporation. Of these proceeds, Two Hundred Thousand Dollars  
7 (\$200,000.00) shall be used to prepare a comprehensive housing study  
8 on homeownership for Guam and the balance shall be used for costs  
9 associated with future affordable housing projects. The Corporation  
10 shall establish a fund for the proceeds of the land sales that is separate  
11 from its other accounts and shall report to *I Liheslaturan Guahan* each  
12 year on the status of this fund."

13 **Section 6.** Section 7.1 is hereby *added* to §7 of Public Law Number 20-  
14 225, as further amended by Public Law Number 24-81, to read as follows:

15 "Section 7.1. **Equity Interest Recapture.** The difference  
16 between the selling price of each unit and the initial appraised value of  
17 each unit at the time of the sale is considered equity and shall be  
18 available to the purchaser for down payment assistance and closing  
19 costs. This equity shall *not* be used for debt consolidation. Participating  
20 banks and financial institutions are encouraged to access this equity for  
21 the purposes stated herein. *If* a homeowner uses any portion of this  
22 equity for any purpose listed herein, and the homeowner decides to sell  
23 the home before five (5) years have transpired from the date of original  
24 purchase, then the homeowner shall be obligated to pay to Guam

1 Housing Corporation five percent (5%) interest per year on the amount  
2 of equity used.

3 Guam Housing Corporation shall insert a provision in the  
4 warranty deed for the property title 'Equity Interest Recapture Clause'.  
5 The purpose of this provision is to establish a vehicle to recapture five  
6 percent (5%) interest per year on the equity used by the homeowners in  
7 the event the homeowners decide to resell the property in the first five  
8 (5) years. This interest must be paid to the Corporation at the close of  
9 escrow. *If the homeowner sells the home after five (5) years, then the*  
10 *recapture clause shall have expired and the homeowner shall not be*  
11 *required to pay the interest."*

12 Section 7. Section 12 of Public Law Number 20-225 is hereby *repealed*  
13 *and reenacted* to read as follows:

14 "Section 12. Zoning. Upon conveyance of the  
15 property described in §2 of this Act to the Corporation, such property  
16 shall thereupon be zoned as a 'Multi-residential (R2)'. Any variance  
17 required from Subdivision laws of Guam which would allow the Guam  
18 Housing Corporation to maximize the marketability of the housing  
19 units and lots of the Lada Estate Project is hereby granted so long as the  
20 waiving or granting of such variance does *not* cause or result in danger  
21 to the health, safety or livelihood of the residents of Lada and the  
22 general public, and that such variance would *not* result in economic loss  
23 to the Guam Housing Corporation and the homeowners of Lada  
24 Estates".

1           **Section 8.** Section 17 is hereby *added* to Public Law Number 20-225 to  
2 read as follows:

3                   **"Section 17.                   Exemption.**                   Sales of homes of  
4 lots to qualified purchasers pursuant to this Act are hereby exempt from  
5 the provisions of §60112 of Article 1 of Title 21 of the Guam Code  
6 Annotated and §2107 of Chapter 2 of Title 2 of the Guam Code  
7 Annotated. For purposes of this Act, the Lada Estates Project shall be  
8 exempted from the provisions of Public Law Number 18-15."

9           **Section 9. Severability.** *If* any provision of this Law or its  
10 application to any person or circumstance is found to be invalid or contrary to  
11 law, such invalidity shall *not* affect other provisions or applications of this  
12 Law which can be given effect without the invalid provisions or application,  
13 and to this end the provisions of this Law are severable.

**EXHIBIT "G"**

**Public Law 30-172**

***I MINA'TRENTA NA LIHESLATURAN GUÅHAN***  
**2010 (SECOND) Regular Session**

**Bill No. 390-30 (COR)**  
As amended on the Floor.

Introduced by:

T. R. Muña Barnes  
Judith T. Won Pat, Ed.D.  
T. C. Ada  
V. Anthony Ada  
F. B. Aguon Jr.  
F. F. Blas, Jr.  
E. J.B. Calvo  
B. J.F. Cruz  
J. V. Espaldon  
Judith P. Guthertz, DPA  
Adolpho B. Palacios, Sr.  
v. c. pangelinan  
R. J. Respicio  
Telo Taitague  
Ray Tenorio

**AN ACT TO *AMEND* SUBSECTION (d) OF SECTION 38,  
CHAPTER VI OF PUBLIC LAW 29-113, RELATIVE TO  
THE *LADA* ESTATES PROJECT AND ENSURING  
ACCESS TO AFFORDABLE HOUSING FOR THE  
PEOPLE OF GUAM.**

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the  
3 demand for affordable housing for Guam families is rising exponentially each  
4 month as the military expansion and concurrent increase in economic activities  
5 progress. The shortage of affordable housing for Guam families and residents

1 requires immediate action to facilitate access to equitable homeownership  
2 programs.

3 *I Liheslaturan Guåhan* also finds that legislation providing access to, and  
4 existing laws governing, the “*Lada Estates Affordable Housing Project*”, as  
5 enacted by P.L. 20-225 and further amended by P.L. 24-81, P.L. 25-116, and by  
6 Section 38 of P.L. 29-113, need to be amended further in order to facilitate and  
7 make more feasible the participation by local developers in creating more  
8 affordable-homes stock for Guam’s working families and access to  
9 homeownership programs.

10 **Section 2.** Subsection (d) of Section 38 of Chapter VI of Public Law 29-  
11 113, is hereby *amended* to read as follows:

12 “(d) A new Section 6.1 is hereby *added* to P.L. 20-225 to read as  
13 follows:

14 “Section 6.1. **Prices for Rental Development.** The Property  
15 *shall* be sold to a private, non-profit organization for the same price as  
16 reflected in Section 6 of P.L. 20-225, as amended. Rental developments  
17 *shall* be developed for families whose income *do not* exceed up to one  
18 hundred fifty percent (150%) of the median income for Guam households as  
19 established by the U.S. Department of Housing and Urban Development  
20 (HUD). When the property is sold to a private, non-profit organization to  
21 develop affordable rental development the transfer of sale *shall* have a deed  
22 restriction to ensure the following:

23 (a) In the event the private, non-profit organization sells the  
24 Property after the rental period, the Property *shall only* be sold to a  
25 first time homeowner. First time homeowner, as it relates to this Act,  
26 *shall* be an eligible buyer as stated on Section 5 of P.L. 20-225, as  
27 amended by Section 38 of P.L. 29-113.

1           (b) In the event the private, non-profit organization sells the  
2 Property after the rental period, the Property *shall only* be sold to a  
3 first time homeowner at the same value the private, non-profit  
4 organization purchased the Property and as stipulated on Section 6 of  
5 P.L. 20-225, as amended.

6           (c) When the private, non-profit organization sells the house  
7 and lot after the rental period it will recover any cost of the vertical  
8 construction, rehabilitation cost, administrative fee, and the allowable  
9 developer fee allowed by HUD. The developer fee can be *only*  
10 applied to the cost of the vertical unit and *not* the land. As stated in  
11 Subsection (b) of this legislation, the land will be sold to the first-time  
12 homeowner with the same value the private, non-profit organization  
13 bought the property as stated in Section 6 of P.L. 20-225.

14           (d) The private, non-profit organization purchaser of the  
15 “Lada Estates Affordable Housing Project” *shall* assume all current  
16 and future liabilities associated with all claims and liens filed against  
17 the property including property taxes.

18           (e) The Guam Housing Corporation *shall* have the first right  
19 of refusal to all mortgages for property sold by the private, non-profit  
20 organization purchaser, pursuant to Section 6 of Public Law 20-225.”

21       **Section 3. Superceding.** *If* any provisions of any laws of Guam conflict  
22 with any Sections of this Law, then the provisions of this Law *shall* supersede any  
23 such provisions.

***MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN***  
2012 (SECOND) Regular Session

Bill No. 416-31 (COR)

As Amended by the Committee on Appropriations, Taxation,  
Banking, Public Debt, Banking, Insurance, Retirement and Land

Introduced by:

T. R Muña Barnes

J. T. Won Pat, Ed.D

B. J.F. Cruz

**AN ACT TO APPROVE AND RATIFY THE TRANSFER OF  
CERTAIN PROPERTY RELATIVE TO THE LADA ESTATES  
PROJECT BY THE GUAM HOUSING CORPORATION FOR  
THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING  
FOR THE PEOPLE OF GUAM.**

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

2           **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that  
3 there is a continuing demand for affordable housing for Guam families and  
4 that this demand has resulted in a critical shortage of affordable housing on  
5 Guam. The Lada Estates Project, an endeavor started 23 years ago by the  
6 Twentieth Guam Legislature with Public Law No. 20-225 (attached as  
7 Exhibit D) and continued by this and past legislatures, is a project to develop  
8 affordable housing that will help address this very important issue.

9           During these past two decades, the property constituting the Lada  
10 Estates which had been transferred to the Guam Housing Corporation for the  
11 purpose of developing affordable housing has been the subject of much  
12 controversy and eventually a lawsuit involving Guam Housing Corporation,  
13 the Government of Guam and Maeda Pacific Corporation (Superior Court of  
14 Guam Civil Case No. CV0135-04). This lawsuit spanning eight years has  
15 now finally been resolved and the settlement of the lawsuit which was  
16 approved by the Superior Court of Guam on January 6, 2012 paves the way

1 Land Management Drawing No. 14-91T395, Map Drawing  
2 No. PRB90-138, recorded under Document No. 450102.

3 **Section 4. Covenant to Build Affordable Homes.** Notwithstanding  
4 any provision of law, homes constructed on the properties referenced in  
5 Section 3 of this Act shall be sold or rented in accordance with Public Law  
6 30-172 (attached as Exhibit G), within 6 years from the date of enactment.

7 **Section 5. Correction of Typographical Error in Settlement**  
8 **Agreement.** All references in the Settlement Agreement (Exhibit A) to  
9 Public Law 30-390 shall be understood to refer to Public Law 30-172.

10 **Section 6. Monitoring and Enforcement of Compliance with Laws.**  
11 Guam Housing Corporation shall monitor and enforce Maeda Pacific  
12 Corporation's or its Assignee's compliance with Public Laws 20-225, 24-81,  
13 25-116, and 30-172. Within 10 calendar days of the execution of the contract  
14 as required by Section 2 of this Act, the Developer shall transmit or cause to  
15 be transmitted said contract to the Speaker of I Liheslaturan Guahan,  
16 Attorney General of Guam, and the Executive Director of the Guam  
17 Housing Corporation. The Attorney General shall attest that the  
18 construction contract, as required in Section 2, conforms with all of the  
19 requirements enumerated within the section.

20 **Section 7. Effective Date.** This Act shall be effective upon  
21 enactment into law.



**Mina'trentai Unu Na Liheslaturan Guahan**  
**THIRTY-FIRST GUAM LEGISLATURE**

**Senator Vicente "ben" Cabrera Pangelinan**

**COMMITTEE ON APPROPRIATIONS, TAXATION, PUBLIC DEBT, BANKING,  
 INSURANCE, RETIREMENT AND LAND**

**February 24, 2012**

**BILL NO 416**

**SIGN UP SHEET**

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
Tom NIELSEN	Box 8110 Tam. Gu	646-4324	tnielseampc@ telesum.net		✓	YES	
Carlos Canab	P.O. Box 276506	6877235	hones@ite.net		✓	yes	
Martin Benante							
Senar Pangelinan	888 N. Manku Coops Pk. Tdm. 96917	648-7232	spangelinana pamericantitle.com	✓	✓	yes	

324 W. Soledad Ave. Hagatna, Guam 96910  
 Ph. 473-4236 Fax. 473-4238  
 Email: senbenp@guam.net



## GUAM HOUSING CORPORATION

*P.O. Box 3457, Hagåtña, Guam 96932*

February 24, 2012

TO: Honorable Senator Tina Rose Muna-Barnes  
Chairwoman on Municipal Affairs, Tourism, Housing & Recreation  
31<sup>st</sup> Guam Legislature

Esteem Members of the Housing Committee

FROM: Martin C. Benavente, President

Re: Bill No. #416-31

Buenas and Hafa Adai,

Guam Housing Corporation is confirming its support of Bill No. #416-31. "An act to approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam"

The aforementioned legislation will allow the Guam Housing Corporation to execute a Grant Deed and exercise its Settlement Agreement with Maeda Pacific Corporation for the Lada Estates Project.

With this enabling legislation, it is the intent of Guam Housing Corporation to continue to pursue the development of affordable housing for the people of Guam with the subject properties involved in the transfer to Maeda Pacific Corporation. Allowing such transfer and settlement between the two parties will accomplish this objective. The conditions of the transfer and the settlement agreement of the said properties, will allow Maeda Pacific Corporation to build approximately 400 affordable housing units within a (6) six year period from the date of transfer. Additionally, amending the original agreement to include the development of affordable housing units for "rental", will provide available homes for families of moderate to low-income households

It is with reaffirmation that Guam Housing Corporation is in support of this legislation, to provide affordable housing for the people of Guam as outlined by the Governor of Guam, the Honorable, Edcie Baza Calvo, Blueprint 2020 and the Affordable Housing initiatives.



February 24, 2012

Senator Vicente C. Pangelinan  
Suite 101, Quan Building  
324 West Soledad Ave.,  
Hagatna, Guam 96910

Dear Senator Pangelinan,

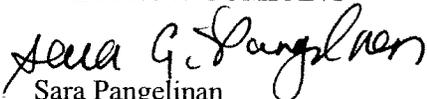
Please accept this letter of support for Bill Number 416-31 from Pacific American Title Insurance & Escrow Company. The passing of this Bill will support and ratify the Court's decision to award the conveyance from Guam Housing Corporation to Maeda Pacific Corporation.

It is imperative that the developers of the Lada Estate project obtain clear, marketable and insurable title. This will allow them to secure the necessary financing to allow the dream of Lada Estate to become the realty for the People of Guam.

Ultimately the end user will be the qualified People of Guam who deserves to have clear, marketable, and insurable title.

Sincerely,

PACIFIC AMERICAN TITLE INSURANCE  
& ESCROW COMPANY

  
Sara Pangelinan  
AVP/Escrow Manager

888 N. Marine Corps Drive, Suite 200, Tamuning, Guam 96913

Tel: (671) 648-7777 Fax: (671) 648-7213

[www.pamericantitle.com](http://www.pamericantitle.com)



**DIPĀTTAMENTON MINANEHAN TĀNO'**  
 (Department of Land Management)  
**GUBETNAMENTON GUĀHAN**  
 (Government of Guam)



EDDIE BAZA CALVO  
 Governor

MONTE MAFNAS  
 Acting Director

RAY TENORIO  
 Lieutenant Governor

Street Address:  
 590 S. Marine Corps Drive  
 Suite 733 ITC Building  
 Tamuning, GU 96913

Mailing Address:  
 P.O. Box 2950  
 Hagåtña, GU 96932

Website:  
<http://dlm.guam.gov>

E-mail Address:  
[dir@dlm.guam.gov](mailto:dir@dlm.guam.gov)

Telephone:  
 671-649-LAND (5263)

Facsimile:  
 671-649-5383

February 21, 2012

Senator Vicente (ben) C. Pangelan  
 31<sup>st</sup> Guam Legislature  
 Chairman, Committee on Appropriations,  
 Taxation, Public Debt, Banking,  
 Insurance, Retirement, and Land  
 324 W. Soledad Ave., Suite 100  
 Hagatna, GU 96932

Subject: Bill No. 416-31 (COR)

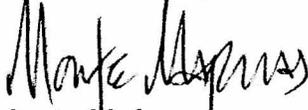
*Buenas yan Hafa Adai!*

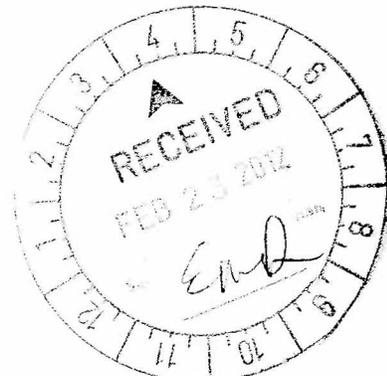
Our department has reviewed the bill as presented, and wishes to report its findings.

Land Management supports the bills intent, which would provide for the rising demand for affordable housing for Guam's working families and an access to realizing homeownership.

Therefore, the department has no objection to the approval of Bill No. 416-31 (COR).

Senseramente,

  
 Monte Mafnas



Leonardo M. Rapadas  
Attorney General



Phillip J. Tydingco  
Chief Deputy Attorney General

## OFFICE OF THE ATTORNEY GENERAL

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March 8, 2012

Hon. Vicente (ben) Cabrera Pangelinan  
Chairman, Committee on Appropriations, Taxation,  
Public Debt, Banking, Insurance, Retirement, and Land  
The 31<sup>st</sup> Guam Legislature  
324 W. Soledad Ave  
Hagatna, Guam 96910

Subject: **Bill 416-31 re: An Act to Approve and Ratify The Transfer of Certain Property Relative to the Lada Estates Project By the Guam Housing Corporation For the Purpose of Developing Affordable Housing for the People of Guam**

Hafa Adai Chairman Pangelinan,

Attorney General Leonardo Rapadas and the Office of Attorney General would like to first state that we support the public purpose of developing “affordable homes” for the citizens and residents of Guam. Attorney General Rapadas has however directed that I respectfully direct your attention and the Guam Legislature to consider the following points and issues:

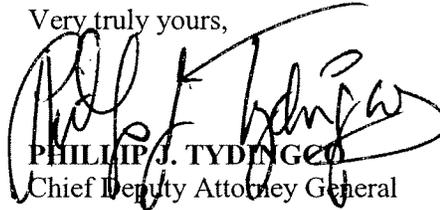
1. The Guam Housing Corporation had many years ago entered into a contract with a private construction company (“Maeda”) to construct the infrastructure for an “affordable homes” project called or referred to as Lada Estates. However, Maeda was not paid due in part to the fact that the next phase of procuring the financing and construction of the houses and using the housing sales proceeds to pay Maeda and whatever construction company won the bid to build the homes, did not occur.
2. Maeda filed lawsuits against GHC and or Government of Guam claiming about \$10 million dollars was owed to them, but there is currently only a judgment for just over \$2.9 million dollars.
3. GHC and Maeda reached a settlement agreement in the lawsuit(s) that essentially calls for the transfer of approximately 46 acres or 186,850 square meters of Government of Guam land or Lada Estates to Maeda in exchange for Maeda’s agreement to build “affordable homes” on this property within six (6) years.
4. The Office of the Attorney General opposed the settlement agreement for a number of reasons, chief among them included the lack of legal or legislative authority permitting the transfer of Government of Guam assets like real property for monies owed, and because no competitive procurement had been obtained for the actual construction of “affordable homes” on Lada Estates, which would or should have resulted in a *construction contract* involving the construction procurement authority of the Department of Public Works.

5. The Superior Court of Guam approved the settlement agreement over the objections and opposition of the Office of the Attorney General, but the Office of the Attorney General has also appealed that decision and order and the underlying settlement agreement in *Maeda v. Guam Housing Corp.*, CV0135-04 to the Supreme Court of Guam. The decision and settlement agreement are referenced in and attached to Bill No. 416-31 as Exhibits C & A, respectively.
6. It is important to note that the legislative findings set forth in Bill No. 416-31 inaccurately or mistakenly describe the substance of prior legislation. The bill states in section 1 that “the terms and conditions of the Settlement Agreement and the Grant Deed transferring the subject properties to Maeda Pacific Corporation are consistent with Guam law and the letter and spirit of these public laws in particular”, referring to Public Laws 20-225, 24-81, 25-116, and 30-172. However, the settlement agreement and grant deed do not comport with these statutes. For example, Public Law 30-172 authorized the sale of the property for Phase II of the project to a *non-profit* corporation. However, Bill No. 416-31 would transfer the property to Maeda, a *for-profit* subsidiary of a Japanese *for-profit* corporation. See Ex. G, P.L. 30-172, § 2.
7. It is equally if not more important to note that the settlement agreement contains no specifications with respect to the houses to be built. In addition, the Grant Deed provides that, in the event Maeda breaches the agreement, the land will revert to the Government encumbered by any mortgages on the property.
8. The recent public controversy surrounding the reported construction and safety issues about *JFK High School* and claims of insufficient legal remedies due in part to no legal contractual relationship between the Department of Public Works and the construction company and other third parties in order to obtain the construction performance consistent with desired specifications also heightened our awareness about the similarities between that situation and the settlement agreement referenced in Bill 416-31. For example, it appears that we may be transferring 186,5850 square meters of public lands to a construction company on the simple promise to build “affordable homes” without a construction contract between the government of Guam or GHC, and therefore no sufficient legal remedies or safeguards in the event the company fails to perform or performs badly other than a reversionary clause.
9. Indeed, the same Superior Court decision that approved the settlement agreement also made this cautionary statement in its decision about the parties’ ability to enforce the settlement agreement:

"It is noteworthy that these proceedings have called attention to the possible problems that GHC may encounter in the performance of the settlement agreement. The Government alleges that GHC cannot convey the Lada Estates property to Maeda without legislative or procurement approval. The Government does not allege that such approval cannot be obtained, and the Court does not find that the settlement agreement is impossible to perform. However, Maeda and GHC have been notified of the quality of their bargain and of the quality of the land title conveyance which they intend to make."
10. Therefore, we respectfully request that the Guam Legislature **not** enact Bill 416-31, or alternatively postpone its enactment for consideration of possible amendments to the bill based on further input and discussion with the Guam Housing Corporation , Department of Public Works and/or our Office for assurance or compliance concerns.

Should you have any further questions do not hesitate to contact myself or Deputy Attorney General J. Patrick Mason and Assistant Attorney General Marianne Woloschuk who are assigned to the cases and the appeal of the same.

Very truly yours,



PHILLIP J. TYDINGCO  
Chief Deputy Attorney General

cc: Attorney General Leonardo M. Rapadas  
Senator Tina Muna-Barnes  
Speaker Judith T. Won Pat, Ed.D.  
Vice-Speaker Benjamin J.F. Cruz  
DPW Director Joanne M. Salas Brown



**Bureau of Budget & Management Research  
Fiscal Note of Bill No. 416-31 (COR)**

**AN ACT TO APPROVE AND RATIFY THE TRANSFER OF CERTAIN PROPERTY RELATIVE TO THE LADA ESTATES PROJECT BY THE GUAM HOUSING CORPORATION FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING FOR THE PEOPLE OF GUAM.**

**Department/Agency Appropriation Information**

Dept./Agency Affected: Department of Land Management		Dept./Agency Head: Monte Mafnas, Acting Director	
Department's General Fund (GF) appropriation(s) to date:		640,932	
Department's Other Fund (Land Survey Revolving Fund) appropriation(s) to date:		2,885,837	
<b>Total Department/Agency Appropriation(s) to date:</b>		<b>\$3,526,769</b>	

**Fund Source Information of Proposed Appropriation**

	General Fund:	(Specify Special Fund):	Total:
FY 2011 Unreserved Fund Balance <sup>1</sup>		\$0	\$0
FY 2012 Adopted Revenues	\$0	\$0	\$0
FY 2012 Appro. (P.L. 31-75 & 31-77)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Estimated Fiscal Impact of Bill**

	One Full Fiscal Year	For Remainder of FY 2012 (if applicable)	FY 2013	FY 2014	FY 2015	FY 2016
General Fund	1/	\$0	\$0	\$0	\$0	\$0
(Land Survey Revolving Fund)	1/	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>1/</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- Does the bill contain "revenue generating" provisions? 1/ / x / Yes / / No  
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? / x / N/A / / Yes / / No  
If no, what is the additional amount required? \$ \_\_\_\_\_ / x / N/A
- Does the Bill establish a new program/agency? / / Yes / x / No  
If yes, will the program duplicate existing programs/agencies? / x / N/A / / Yes / / No  
Is there a federal mandate to establish the program/agency? / / Yes / x / No
- Will the enactment of this Bill require new physical facilities? / / Yes / x / No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / x / Yes / / No  
/ / Requested agency comments not received by due date / / Other: \_\_\_\_\_

Analyst: <u>Evelyn G. Fernandez</u> Evelyn G. Fernandez, BMA III	Date: <u>2/16/12</u>	Director: <u>John A. Rios</u> John A. Rios, Director	Date: <u>2/17/12</u>
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**Footnotes:**

1/ There is potential for additional revenues to the Government of Guam in terms of real property tax, gross receipts and income taxes possibly from the sale and rental of homes upon completion of the construction projects as a result of the passage of the Bill. The overall potential financial impact of the Bill, in its present form, cannot be determined at this time.



## COMMITTEE ON RULES

*I Mina'trentai Unu na Liheslaturan Guåhan* • The 31<sup>st</sup> Guam Legislature

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E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

Senator  
Judith P. Guthertz  
VICE CHAIRPERSON  
ASST. MAJORITY LEADER

**MAJORITY  
MEMBERS:**

Speaker  
Judith T. Won Pat

Vice Speaker  
Benjamin J. F. Cruz

Senator  
Tina Rose Muña Barnes  
LEGISLATIVE SECRETARY  
MAJORITY WHIP

Senator  
Dennis G. Rodriguez, Jr.  
ASST. MAJORITY WHIP

Senator  
Thomas C. Ada

Senator  
Adolpho B. Palacios, Sr.

Senator  
vicente c. pangelinan

**MINORITY  
MEMBERS:**

Senator  
Aline A. Yamashita  
ASST. MINORITY LEADER

Senator  
Christopher M. Duenas

January 31, 2012

**MEMORANDUM**

**To: Pat Santos**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

**From: Senator Rory J. Respicio**

**Subject: Referral of Bill Nos. 414-31(COR) through 416-31 (COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 414-31 (COR) through 416-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

*Si Yu'os Ma'åse!*

(3) Attachment

*I Mina'Trentai Unu Na Liheslaturan Guahan*  
**Bill Log Sheet**

<b>BILL NOS.</b>	<b>SPONSOR</b>	<b>TITLE</b>	<b>DATE INTRODUCED</b>	<b>DATE REFERRED</b>	<b>120 DAY DEADLINE</b>	<b>CMTE REFERRED</b>	<b>PUBLIC HEARING DATE</b>	<b>DATE COMMITTEE REPORT FILED</b>	<b>Status</b>
<b>416-31 (COR)</b>	T. R. Muna Barnes, J. T. Won Pat, Ed.D., B. J.F. Cruz	AN ACT TO APPROVE AND RATIFY THE TRANSFER OF CERTAIN PROPERTY RELATIVE TO THE LADA ESTATES PROJECT BY THE GUAM HOUSING CORPORATION FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING FOR THE PEOPLE OF GUAM.	01/31/12 9:23 a.m.	1/31/2012		Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land			



Lisa Dames <cipo@guamlegislature.org>

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## Public Hearing - FIRST Notice

1 message

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Lisa Dames <cipo@guamlegislature.org>

Fri, Feb 17, 2012 at 1:28 PM

To: phnotice@guamlegislature.org

Hafa Adai,

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land will hold a public hearing on **Friday, February 24, 2012 beginning at 9:00am, 4:00pm and 5:30pm** at the Guam Legislature Public Hearing Room. Please refer to attached letter for further details.

Thank you.

--

Lisa Dames  
Chief of Staff  
Office of Senator ben c. pangelinan  
(671) 473-4236  
[cipo@guamlegislature.org](mailto:cipo@guamlegislature.org)

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 **FIRSTNotice\_022412.pdf**  
139K

**Listserv: [phnotice@guamlegislature.org](mailto:phnotice@guamlegislature.org)**

**As of Feb. 8, 2012**

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I Mina'trentai Unu Na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

February 17, 2012

Memorandum

To: Senators

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing Notice – FIRST NOTICE

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

Vice Chairman  
Committee on Education

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security

Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00am, 4:00pm and 5:30pm** on **Friday, February 24, 2012** at the Guam Legislature's Public Hearing Room. The following is on the agenda:

**9:00 am**

**Bill No 377-31 (COR): An Act to add a New §61217 to Title 21, Guam Code Annotated, Relative to designating all excess land returned by the US Government to the government of Guam, as Agriculture ("A") Zone.**

**Bill No. 378-31 (COR): An Act to Add a New Item (i) to §62108 of Title 21, Guam Code Annotated, Relative to requiring that the Subdivision of any land *Not* result in the land-locking of any other land.**

**Bill No. 411-31 (COR): An Act to authorize *I Maga'låhen Guahan* to transfer abandoned properties located within Tract Number 1113, also known as the Sagan Linahyan Subdivision, from the *Dipattamenton Minanehan Tano'* (Department of Land Management) to the Guam Housing Corporation for the purposes of affordable housing.**

**Bill No. 416-31 (COR): An Act to Approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam.**

**4:00 pm**

**Resolution No. 311: Relative to expressing the sense of *I Liheslaturan Guahan's* expenditure priority of Compact Impact Act funds for Fiscal Year 2012 to *Maga'låhen Guahan* and to the Secretary of Interior to support capital improvement projects**

**Memo to Senators**  
**February 17, 2012**  
**Page 2**

**and operations of various impacted government agencies and departments.**

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**Bill No. 423-31 (LS): An Act to authorize the issuance of bonds for the payment of Income Tax Refunds for calendar year 2011.**

**5:30 pm**

**Bill No. 415-31 (COR): An act to support women and save children, by adding a new Chapter 94 to Title 10 of the Guam Code Annotated, which may be cited as the *Acto Para Ma Sapotte I Fama'lao'an Yan Para Ma Satba I Famagu'on*.**

Yanggen un nisisita espesiât na setbision, put fabot âgang i Ifisinin Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hâlom gi i uepsait i Liheslaturan Guåhan gi [www.guamlegislature.com](http://www.guamlegislature.com). Yanggen para un na'hâlom testigu-mu, chule' para i ifisinin-mâmi gi 324 West Soledad Avenue gi iya Hagåtña, pat guatto gi i Kuatton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi [senbenp@guam.net](mailto:senbenp@guam.net). Este na nutisiu inapâsi nu i fendon gubetnamento.

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Lisa Dames <cipo@guamlegislature.org>

## Public Hearing - FIRST Notice

2 messages

Lisa Dames <cipo@guamlegislature.org>

Fri, Feb 17, 2012 at 1:38 PM

To: news@guampdn.com, news@k57.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, nick@kuam.com, Ken Quintanilla <kenq@kuam.com>, Josh Tyquiengco <jtyquiengco@k57.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, gerry@mvguam.com, Therese Hart <therese.hart.writer@gmail.com>, zita@mvguam.com, Janela <janela@gmail.com>, Mar-vic Cagurangan <marvic.cagurangan@yahoo.com>, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, slimtiaco@guampdn.com, bmkelman@guampdn.com, Erin Thompson <egthompson@guampdn.com>, Oyaol Ngirairikl <odngirairikl@guampdn.com>, "Alladi, Amritha" <aalladi@guam.gannett.com>, "Melyan, Catriona" <cmelyan@guam.gannett.com>

Hafa Adai,

the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land will hold a public hearing on Friday, February 24, 2012 beginning at 9:00am, 4:00pm and 5:30pm the Guam Legislature Public Hearing Room. The following is on the agenda:

### **INEKUNGOK PUPBLEKO**

#### **(PUBLIC HEARING)**

*gi Betnes, gi diha 24 gi Fibreru, 2012*

(Friday, February 24, 2012)

*Kuåtton Inekungok Pupbleko gi I Liheslaturan Guáhan*

(Guam Legislature Public Hearing Room)

*Alas nuebi gi egga'an despues*

(9:00 AM)

**TAREHA**

(AGENDA)

**Priniponi Siha**

**(Bills)**

**Bill No 377-31 (COR):** An Act to add a New §61217 to Title 21, Guam Code Annotated, Relative to designating all excess land returned by the US Government to the government of Guam, as Agriculture (“A”) Zone.

**Bill No. 378-31 (COR):** An Act to Add a New Item (i) to §62108 of Title 21, Guam Code Annotated, Relative to requiring that the Subdivision of any land *Not* result in the land-locking of any other land.

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**Bill No. 416-31 (COR):** An Act to Approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam.

*Alas kuâtro gi despues di talo’âni*

(4:00 PM)

**TAREHA**

**(AGENDA)**

**Resolution No. 311:** Relative to expressing the sense of *I Liheslaturan Guahan’s* expenditure priority of Compact Impact Act funds for Fiscal Year 2012 to *Maga’láhen Guáhan* and to the Secretary of Interior to support capital improvement projects and operations of various impacted government agencies and departments.

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**Media ora para alas sais gi pipuengi****(5:30 PM)****TAREHA****(AGENDA)**

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**Yanggen un nisisita espesiât na setbision put fabot âgang i Ifisinin Senadot ben pangelinan gi 473-** Yanggen un nisisita espesiât na setbision, put fabot âgang i Ifisinin Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hâlom gi i uepsait i Liheslaturan Guâhan gi [www.guamlegislature.com](http://www.guamlegislature.com) Yanggen para un na'hâlom testigu-mu, chule' para i ifisinin-mâmi gi 324 West Soledad Avenue gi iya Hagâtña, pat guatto gi i Kuation Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi [senbenp@guam.net](mailto:senbenp@guam.net). Este na nutisiu inapâsi nu i fendon gubetnamento.

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~  
 Lisa Dames  
 Chief of Staff  
 Office of Senator ben c. pangelinan  
 (671) 473-4236  
[cipo@guamlegislature.org](mailto:cipo@guamlegislature.org)

 **Agenda\_Feb 24.pdf**  
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**Mail Delivery Subsystem** <[mailer-daemon@googlemail.com](mailto:mailer-daemon@googlemail.com)>  
 To: [cipo@guamlegislature.org](mailto:cipo@guamlegislature.org)

**Fri, Feb 17, 2012 at 1:39 PM**

Delivery to the following recipient failed permanently:

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Lisa Dames <cipo@guamlegislature.org>

## Public Hearing - SECOND NOTICE

1 message

Lisa Dames <cipo@guamlegislature.org>

Wed, Feb 22, 2012 at 4:26 PM

To: phnotice@guamlegislature.org

Hafa Adai,

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land will hold a public hearing on **Friday, February 24, 2012 beginning at 9:00am, 4:00pm and 5:30pm** at the Guam Legislature Public Hearing Room. Please refer to attached letter for further details.

--

Lisa Dames  
Chief of Staff  
Office of Senator ben c pangelinan  
(671) 473-4236  
[cipo@guamlegislature.org](mailto:cipo@guamlegislature.org)



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**Listserv: [phnotice@guamlegislature.org](mailto:phnotice@guamlegislature.org)**

**As of Feb. 8, 2012**

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wilcastro671@gmail.com



I Mina'trentai Unu Na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

February 22, 2012

Memorandum

To: Senators

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing Notice – SECOND NOTICE

Chairman  
Committee on Appropriations,  
Taxation, Public Debt, Banking,  
Insurance, Retirement, and  
Land

Vice Chairman  
Committee on Education

Member  
Committee on Rules,  
Federal, Foreign &  
Micronesian Affairs and  
Human & Natural  
Resources

Member  
Committee on  
Municipal Affairs,  
Tourism, Housing, and  
Recreation

Member  
Committee on the Guam  
Military Buildup and  
Homeland Security

Member  
Committee on Health and  
Human Services, Senior  
Citizens, Economic  
Development, and Election  
Reform

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance and Land will conduct a public hearing beginning at **9:00am, 4:00pm and 5:30pm** on **Friday, February 24, 2012** at the Guam Legislature's Public Hearing Room. The following is on the agenda:

**9:00 am**

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**4:00 pm**

**Resolution No. 311: Relative to expressing the sense of *I Liheslaturan Guahan's* expenditure priority of Compact Impact Act funds for Fiscal Year 2012 to *Maga'láhen Guahan* and to the Secretary of Interior to support capital improvement projects**

**Memo to Senators**  
**February 22, 2012**  
**Page 2**

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Lisa Dames <cipo@guamlegislature.org>

## Public Hearing - SECOND NOTICE

1 message

Lisa Dames <cipo@guamlegislature.org>

Wed, Feb 22, 2012 at 4:29 PM

To: news@guampdn.com, news@k57.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, nick@kuam.com, Ken Quintanilla <kenq@kuam.com>, Josh Tyquiengco <jtyquiengco@k57.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, gerry@mvguam.com, Therese Hart <therese.hart.writer@gmail.com>, zita@mvguam.com, Janela <janela@gmail.com>, Mar-vic Cagurangan <marvic.cagurangan@yahoo.com>, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, slimtiaco@guampdn.com, bmkelman@guampdn.com, Oyaol Ngirairikl <odngirairikl@guampdn.com>, "Alladi, Amritha" <aalladi@guam.gannett.com>, tritonscall@gmail.com

Hafa Adai,

The Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land will hold a public hearing on **Friday, February 24, 2012 beginning at 9:00am, 4:00pm and 5:30pm** at the Guam Legislature Public Hearing Room. The agenda is as follows:

### **INEKUNGOK PUPBLEKO**

#### **(PUBLIC HEARING)**

*gi Betnes, gi diha 24 gi Fibreru, 2012*

(Friday, February 24, 2012)

*Kuàtton Inekungok Pupbleko gi I Liheslaturan Guáhan*

(Guam Legislature Public Hearing Room)

*Alas nuebi gi egga'an despues*

(9:00 AM)

**TAREHA**

(AGENDA)

**Priniponi Siha**

**(Bills)**

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(4:00 PM)

**TAREHA**

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Lisa Dames  
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**I Mina'Trenta Na Liheslaturan Guåhan**  
**THIRTY-FIRST GUAM LEGISLATURE**  
Senator Vicente "ben" Cabrera Pangelinan  
Office of the People  
Website: www.senben.com

**INEKUNGOK PUPBLEKO**  
**(PUBLIC HEARING)**

gi Betnes, gi diha 24 gi Fibreru, 2012  
(Friday, February 24, 2012)

Kuåtton Inekungok Pubbleko gi I Liheslaturan Guåhan  
(Guam Legislature Public Hearing Room)  
Alas nuebi gi egga'an despues (9:00 AM)

**TAREHA (AGENDA)**

**Priniponi Siha**

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Alas kuatro gi despues di talo'ani (4:00 PM)

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Media ora para alas seis gi pipuengi (5:30 PM)

**TAREHA (AGENDA)**

**Bill No. 415-31 (COR):** An act to support women and save children, by adding a new Chapter 94 to Title 10 of the Guam Code Annotated, which may be cited as the Acto Para Ma Sapotte I Fama'lao'an Yan Para Ma Satba I Famagu'on.

**Yanggen un nisisita espesiãt na setbisio put fabot ågang i ifsinan Senadot ben pangelinan gi 473-** Yanggen un nisisita espesiãt na setbisio, put fabot ågang i ifsinan Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hãlom gi i uepsait i Liheslaturan Guåhan gi [www.guamlegislature.com](http://www.guamlegislature.com) Yanggen para un na'hãlom testigu-mu, chule' para i ifsinan-mãmi gi 324 West Soledad Avenue gi iya Hagatna, pat guatto gi i Kuatton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi [senbenp@guam.net](mailto:senbenp@guam.net). Este na nurtisiu inapãsi nu i fendon gubetnamento.

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324 W. Soledad Ave. Hagatna, Guam 96910

Ph. 473-4236 Fax. 473-4238

Email: [senbenp@guam.net](mailto:senbenp@guam.net)



I Mina Trental Unu Na Liheslaturan Guahan  
THIRTY-FIRST GUAM LEGISLATURE  
Senator Vicente "ben" Cabrera Pangelinan  
Office of the People  
Website: www.senbenp.com

**INEKUNGOK PUPBLEKO  
(PUBLIC HEARING)**

gi Betnes, gi ðña 24 gi Fibreru, 2012  
(Friday, February 24, 2012)

Kuátton Inekungok Pupbleko gi I Liheslaturan Guahan  
(Guam Legislature Public Hearing Room)

Alas nuebl gi egga'an despues  
(9:00 AM)

**TAREHA  
(AGENDA)**

**Priniponi Siha  
(Bills)**

Bill No 377-31 (COR): An Act to add a New §61217 to Title 21, Guam Code Annotated, Relative to designating all excess land returned by the US Government to the government of Guam, as Agriculture ("A") Zone.

Bill No. 378-31 (COR): An Act to Add a New Item (i) to §62108 of Title 21, Guam Code Annotated, Relative to requiring that the Subdivision of any land Not result in the land-locking of any other land.

Bill No. 411-31 (COR): An Act to authorize I Maga'láhen Guahan to transfer abandoned properties located within Tract Number 1113, also known as the Sagan Linahyan Subdivision, from the Dipattamenton Minanehan Tano' (Department of Land Management) to the Guam Housing Corporation for the purposes of affordable housing.

Bill No. 416-31 (COR): An Act to Approve and ratify the transfer of certain property relative to the Lada Estates Project by the Guam Housing Corporation for the purpose of developing affordable housing for the people of Guam.

Alas kuátro gi despues di talo'ani  
(4:00 PM)

**TAREHA  
(AGENDA)**

Resolution No. 311: Relative to expressing the sense of I Liheslaturan Guahan's expenditure priority of Compact Impact Act funds for Fiscal Year 2012 to Maga'láhen Guahan and to the Secretary of Interior to support capital improvement projects and operations of various impacted government agencies and departments.

Bill No. 414-31 (COR): An Act to Amend 5GCA, §1512.3, 11GCA §§24102(a), 24102(f), 24103, 24401, 21GCA, §75112(i), Sections 2(b) and 7 of Public Law 30-37 and Section 7 of Public Law 31-76, to Add Subsection (d) to 5GCA §22704 and Subsection (d) to Section 3 of Public Law 30-37, to Repeal and Re-Enact 5GCA §1515(i)(2)(G) and to Add a New Subsection (W) to 5GCA §1515(i)(2), Relative to authorizing a Series B of Revenue Anticipation Financing Bonds and for other purposes.

Bill No. 423-31 (LS): An Act to authorize the issuance of bonds for the payment of Income Tax Refunds for calendar year 2011.

Media ora para alas sais gi pipuengi  
(5:30 PM)

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**I Mina'Trentai Unu Na  
Lihselaturan Guahan  
THIRTY-FIRST GUAM LEGISLATURE**

**Senator Vicente "ben" Cabrera Pangelinan  
Office of the People**

155 Hesler St., Hagatna, Guam 96910

Ph: 473-4236 Fax: 473-4238

Email: [senbenp@guam.net](mailto:senbenp@guam.net)

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**INEKUNGOK PUPBLEKO  
(PUBLIC HEARING)**

*gi Betnes, gi diha 24 gi Fibreru, 2012  
(Friday, February 24, 2012)*

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***Alas kuátro gi despues di talo'áni***  
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Lots 10120-14 and 10120-16



Bill 41631

*PLW.*

**MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN**  
2012 (SECOND) Regular Session

2012 JUN 21 AM 9:23  
*Muñ*

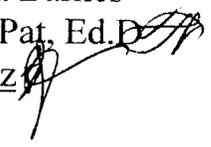
Bill No. 416.31 (Cor)

Introduced by:

T. R Muña Barnes

J. T. Won Pat, Ed.D.

B.J.F. Cruz



**AN ACT TO APPROVE AND RATIFY THE TRANSFER OF CERTAIN PROPERTY RELATIVE TO THE LADA ESTATES PROJECT BY THE GUAM HOUSING CORPORATION FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING FOR THE PEOPLE OF GUAM.**

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that  
3 there is a continuing demand for affordable housing for Guam families and  
4 that this demand has resulted in a critical shortage of affordable housing on  
5 Guam. The Lada Estates Project, an endeavor started 23 years ago by the  
6 Twentieth Guam Legislature with Public Law No. 20-225 (attached as  
7 Exhibit D) and continued by this and past legislatures, is a project to develop  
8 affordable housing that will help address this very important issue.

9 During these past two decades, the property constituting the Lada  
10 Estates which had been transferred to the Guam Housing Corporation for the  
11 purpose of developing affordable housing has been the subject of much  
12 controversy and eventually a lawsuit involving Guam Housing Corporation,  
13 the Government of Guam and Maeda Pacific Corporation (Superior Court of  
14 Guam Civil Case No. CV0135-04). This lawsuit spanning eight years has  
15 now finally been resolved and the settlement of the lawsuit which was

1 approved by the Superior Court of Guam on January 6, 2012 paves the way  
2 for the realization of this long endeavor to provide affordable housing to the  
3 people of Guam.

4 *I Liheslaturan Guåhan* also finds that since the enactment of Public  
5 Law 20-225 (attached as Exhibit D) in 1991, Public Laws 24-81 (attached as  
6 Exhibit E), 25-116 (attached as Exhibit F), and 30-172 (attached as Exhibit  
7 G) have been enacted which amended or otherwise affected the Lada  
8 Estates Project, that the terms and conditions of the Settlement Agreement  
9 and the Grant Deed transferring the subject properties to Maeda Pacific  
10 Corporation are consistent with Guam law and the letter and spirit of these  
11 public laws in particular.

12 *I Liheslaturan Guåhan* further finds that the above referenced statutes  
13 attached hereto as exhibits were authored to build affordable homes or bring  
14 a responsible end to the legal action which has hindered a favorable outcome  
15 for the people of Guam.

16 *I Liheslaturan Guåhan* further seeks to ensure that the eventual  
17 owners of the affordable homes will be able to obtain clear, marketable and  
18 insurable title, by approving and ratifying the transfer of the subject property  
19 and accepting the Lada Estates Settlement Agreement (attached as Exhibit  
20 A), Grant Deed with Continuing Conditions and Restrictions (herein referred  
21 to as “Grant Deed” and attached hereto as Exhibit B), and Decision and  
22 Order (attached as Exhibit C) by and between Guam Housing Corporation  
23 and Maeda Pacific Corporation.

24 It is and has been the intent of *I Liheslaturan Guåhan* that the subject  
25 property be used for the development of affordable housing for either rental  
26 and/or first time home ownership in accordance with Public Law 20-225  
27 (attached as Exhibit D), 24-81 (attached as Exhibit E), 25-116 (attached as

1 Exhibit F), and 30-172 (attached as Exhibit G). Since covenant number 1  
2 under the Grant Deed states in part that “said houses shall be constructed and  
3 sold in accordance with Guahan Law, within six (6) years from the date of  
4 execution of the Deed. . .” and does not mention that the houses may also be  
5 used for affordable rentals as provided by Public Law 30-172 (attached as  
6 Exhibit G), it is hereby clarified that homes constructed on the subject  
7 property shall be sold or rented in accordance with Guahan Law.

8 *I Liheslaturan Guåhan* finds that the Decision and Order (Exhibit C)  
9 of the Superior Court of Guam on January 6, 2012 states:

10 *“It is noteworthy that these proceedings have called attention to the*  
11 *possible problems that GHC may encounter in the performance of the*  
12 *settlement agreement. The Government alleges that GHC cannot convey the*  
13 *Lada Estates property to Maeda without legislative or procurement*  
14 *approval.”*

15 *I Liheslaturan Guåhan* further finds that since there has been a  
16 substantial delay between the date the Grant Deed was executed and the date  
17 the settlement was approved by the Superior Court and the recording of the  
18 Grant Deed and since it was necessary for this Grant Deed to be approved  
19 and ratified by this legislature, the date from which to commence the  
20 running of the six years to construct the affordable homes shall be the date  
21 of the enactment of this public law.

22 **Section 2. Approval of Settlement.** Notwithstanding any provision  
23 of law, the settlement by and between Guam Housing Corporation and  
24 Maeda Pacific Corporation under the terms and conditions found in the  
25 Settlement Agreement approved by the Superior Court of Guam on January  
26 6, 2012, a copy of which is attached hereto as Exhibit A, are hereby  
27 approved and ratified and shall be valid and binding obligations

1 enforceable in accordance with their respective terms, and there shall  
2 be no power to terminate or declare null and void.

3 **Section 3. Transfer of Property.** Notwithstanding any provision of  
4 law, the transfer of the following described parcels of real property by Guam  
5 Housing Corporation to Maeda Pacific Corporation by Grant Deed recorded  
6 at the Department of Land Management on January 10, 2012 under  
7 Document No. 831095 is hereby approved and ratified;

8 (a) Lot No. 10120-14, containing an area of 32,455+ square  
9 meters (8.020 acres), Dededo, Guam, as shown on Land  
10 Management Drawing No. 14-91T395, Map Drawing No.  
11 PRB90-138, recorded under Document No. 450102; and  
12

13 (b) Lot No. 10120-16, containing an area of 154,395±  
14 square meters (38.152 acres), Dededo, Guam, as shown on  
15 Land Management Drawing No. 14-91T395, Map Drawing  
16 No. PRB90-138, recorded under Document No. 450102.

17 **Section 4. Covenant to Build Affordable Homes.** Notwithstanding  
18 any provision of law, homes constructed on the properties referenced in  
19 Section 3 of this Act shall be sold or rented in accordance with Public Law  
20 30-172 (attached as Exhibit G), within 6 years from the date of enactment.

21 **Section 5. Effective Date.** This Act shall be effective upon  
22 enactment into law.  
23

**EXHIBIT “A”**

**Settlement Agreement**

## LADA ESTATES SETTLEMENT AGREEMENT

This Agreement is entered into by and between MAEDA PACIFIC CORPORATION, a Guam corporation, whose mailing address is Post Office Box 8110, Tamuning, Guam 96913 ("Maeda") and GUAM HOUSING CORPORATION, an autonomous instrumentality of the government of Guam ("GHC"), and is made with reference to the following:

### RECITALS:

- A. On or about January 11, 1991, the government of Guam passed Public Law No. 20-225, which was later amended by Public Law No. 24-81 and Public Law No. 25-116.
- B. On or about June 24, 1991, GovGuam conveyed the following described parcels of property to GHC pursuant to Public Law No. 20-225 (collectively the "property"):
- Lot No. 10120-14, containing an area of 32,455± square meters (8.020 acres), Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map Drawing No. PRB90-138, recorded under Document No. 450102; and
- Lot No. 10120-16, containing an area of 154,395± square meters (38.152 acres), Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map Drawing No. PRB90-138, recorded under Document No. 450102.
- C. The intent of the legislation was to have a contractor build low-cost houses on the Project site for sale to lower income people in Guam.
- D. On or about August 6, 1997, Maeda entered into a written contract with GHC and GovGuam, which provided that Maeda would furnish the necessary materials and labor for the construction of the *Lada Estates Affordable Subdivision Improvement Project* on the property (the "Project"), which consisted of the on-site and off-site civil works, all for the agreed upon price of Ten Million Four Hundred Sixty Thousand Dollars (\$10,460,000.00), plus Change Order No. 1, of Ninety-Five Thousand Dollars (\$95,000.00), for a total of Ten Million Five Hundred Fifty-Five

ORIGINAL

Thousand Dollars (\$10,555,000.00). The contract is described as Government Contract No. 630-5-1001-L-DED (the "Contract").

B. The project was divided into two phases:

Phase I consisted of construction of the off-site infrastructure at the agreed upon price of Two Million Nine Hundred Fifteen Thousand Dollars (\$2,915,000.00).

Phase II consisted of construction of the on-site infrastructure at the agreed upon price of Seven Million Six Hundred Forty Thousand Dollars (7,640,000.00).

F. Maeda completed all work under Phase I and Phase II of the Contract, the work has been accepted and Maeda therefore became immediately entitled to the full construction cost of Ten Million Five Hundred Fifty-Five Thousand Dollars (\$10,555,000.00), however, payment was not made to Maeda arising out of the completion of Phase I and Phase II work.

G. Accordingly, Maeda filed a lawsuit against GovGuam and GHC in the Superior Court of Guam, styled as Civil Case No. CV0135-04 (the "Lawsuit"), to recover those funds. That case remains pending.

H. As a result of the non-payment to Maeda and other problems with the development of the Project, the work has been stalled on the construction of the homes on the Project site. The Project site is deteriorating in value and has become an eyesore for GovGuam. Practically all the streetlight posts, electrical wirings and tubings and the like have been removed or destroyed by thieves or vandals, and the sewer line is being used as a dump site and the sidewalks and streets have been partially destroyed and are overgrown with weeds and it therefore behooves Maeda, and GHC to find a solution to this problem.

I. In order to resolve the differences between GHC and Maeda, the parties have been meeting in an effort to craft a solution to this predicament so that all parties can benefit, including the

People of Guam, by GHC conveying the property to Maeda and requiring Maeda to build the proposed houses on the Project site.

NOW, THEREFORE, in consideration of the foregoing, and of all the agreements of all the parties set forth herein, the parties agree as follows:

§1. *Conveyance of property.* GHC agrees to convey the subject property to Maeda via a Grant Deed and, in consideration thereof, Maeda agrees to give up its rights and claims to collect the monies due under the Construction Contract, including all penalties and interest assessed and at law, subject to the following conditions.

§2. *Conditions.* The Deed will contain the following conditions and restrictions:

2.1. An agreement by the Grantee (hereinafter "Maeda") that it will build and sell affordable houses on the property within six (6) years from the date of execution of the Deed by the respective parties, all in accordance and compliance with Public Law Nos. 20-225, 24-81 and 25-116, and 30-390, and all other applicable laws consistent herein. Upon determination that the constructed home is to be sold to a prospective homeowner as provided under the Affordable Homes Act herein, Maeda shall convey clear and marketable title to the subsequent owner therein.

2.2. The property shall be subject to covenants in the Deed that will require the homeowners to maintain and keep up their homes.

2.3. An agreement by the Grantee that if it does not fully comply with the conditions of the said Deed, that the property shall automatically revert to GHC six (6) years from the date of execution of the Deed.

2.4. The parties agree that the Grantee will be responsible for marketing the sale of the *Lada Estates* houses, either by doing it in-house, or by designating a real estate broker.

2.5. That there shall be no other extensions as a result of any modifications or change orders to the development and construction of the affordable homes beyond the six (6) year period.

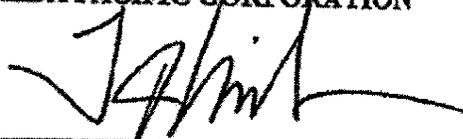
§3. *Approval by Court.* Upon the execution of this Agreement, the Agreement will be submitted to the Superior Court of Guam for approval and upon approval by the Court, the above-mentioned civil action shall be dismissed with prejudice against GHC and the parties shall sign the Mutual Release of claims, a copy of which is attached hereto. Maeda reserves the right to continue on with the lawsuit against only the government of Guam to collect the Two Million Nine Hundred Fifteen Thousand Dollars (\$2,915,000.00) for the off-site improvement.

§4. *Costs and attorneys' fees.* Upon execution and approval of this Agreement by the Court, each party shall bear their own costs, expenses and reasonable attorney fees in this action.

IN WITNESS WHEREOF, the parties have executed this Agreement in Hagåtña, Guam, on the dates set opposite their signatures.

MAEDA PACIFIC CORPORATION

Date: 10/11/10

By   
THOMAS J. NIELSEN, President

GUAM HOUSING CORPORATION

Date: 10/6/10

By   
JEREMY ROJAS, President

LJFes  
PLDGS:MAEDA PACIFIC-LADA ESTATES:017D

**EXHIBIT “B”**

**Grant Deed with Continuing Conditions and  
Restrictions**

Filing with the Registrar )  
of Land Titles pursuant to )  
the Land Title Registration )  
Act requested by Grantor. )  
After filing, deliver copies )  
to the Grantee. The real )  
property affected by this )  
instrument is registered )  
land, and the name of the )  
last registered owner being )  
the Grantor, and the )  
number of the certificate )  
of last registration being )  
No. \_\_\_\_\_ )

**Island of Guam, Government of Guam**  
**Department of Land Management**

File for record is Instrument No. 831095  
For the Year 12, Month 01, Day 10, Time 1:53  
Recording Fee 35 Receipt No. 31817  
Deputy Recorder Juan Hernandez

(Space above this line for Recorder's use only.)

**GRANT DEED**  
**WITH CONTINUING CONDITIONS AND RESTRICTIONS**

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETING:

*Parties, consideration and grant*

KNOW YE, that GUAM HOUSING CORPORATION, an instrumentality of the government of Guam, whose mailing address is Post Office Box 3457, Hagåtña, Guam 96932 (the "Grantor"), does hereby GRANT unto MAEDA PACIFIC CORPORATION, a Guam corporation, whose mailing address is Post Office Box 8110, Tamuning, Guam 96911 (the "Grantee"), and to Grantee's successors and assigns, forever, in fee simple, the following described parcels of property situated in the Municipality of Dededo, Guam (collectively the "Property"):

*Description of Property*

Lot No. 10120-14, containing an area of 32,455+ square meters (8.020 acres), Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map Drawing No. PRB90-138, recorded under Document No. 450102; and

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Lot No. 10120-16, containing an area of 154,395+ square meters (38.152 acres),  
Dededo, Guam, as shown on Land Management Drawing No. 14-91T395, Map  
Drawing No. PRB90-138, recorded under Document No. 450102.

***Grant includes improvements, etc.***

TOGETHER with the improvements, buildings, rights of way ("R/W"), easements, tenements, privileges and appurtenances belonging or in anyway pertaining to the Property, and the reversion or reversions, remainder or remainders, rents, issues and profits of the Property; and, also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law and in equity, of the Grantor, of, in and to the Property and every part and parcel thereof.

***Covenants running with the land***

It is understood and agreed that this conveyance is made and accepted, and the realty is granted, on and subject to the following covenants, conditions, restrictions, and reservations (in addition to any such covenants, conditions, restrictions, and reservations stated elsewhere in this document), which covenants, conditions, restrictions, and reservations shall apply to and run with the conveyed land; all successive future owners and occupants shall have the same right to invoke and enforce the covenants, conditions, restrictions, and reservations applicable to this conveyance as the original parties to this document.

1. ***Build houses.*** In consideration of conveying the within Property to Grantee, the Grantee agrees that it will build and offer for sale houses on the subject Property all in accordance with Public Law Nos. 20-225, 24-81, 25-116, and 30-390, and all other applicable laws consistent herein, and that all of said houses shall be constructed and sold in accordance with Guahan Law, within six (6) years from the date of execution of the Deed, hereof. Upon determination that the

constructed home is to be sold as provided under the Affordable Homes Laws, Maeda shall convey clear and marketable title to the subsequent owner or grantee therein.

2. ***Acceptance of Deed as acceptance of restrictions.*** The acceptance of this Deed by the Grantee shall constitute an acceptance of all the terms, conditions, limitations, restrictions, and uses to which the above-described Property conveyed by this Deed is made. Additionally, any subsequent lien or mortgage on the subject property shall be subject to those conditions, covenants, and restrictions as contained in this Deed, herein.

3. ***Reversion on breach – with notice by Grantor.*** It is further agreed by Grantee that each and all of the restrictions contained in this instrument shall, as between the parties to this instrument, their heirs, successors and assigns, be deemed to be and construed as express conditions subsequent, on each of which the conveyance is made. If Grantee shall neglect or fail to perform and to comply strictly with the several conditions and restrictions on Grantee's part, or any of them, Grantor and Grantor's successors and assigns, may at any time thereafter serve on Grantee a notice in writing specifying the particular or particulars in which default or breach thereof has been made and directing Grantee to remedy such default or breach. Should Grantee thereafter for a period of ninety (90) days fail fully and entirely to remedy such breach or default, then a notice in writing may be served on Grantee by Grantor, notifying Grantee that Grantor elects that the title to the whole of the conveyed premises (excluding subdivided lots that may have been sold to third parties) shall revert to Grantor; and thereupon the title to the whole of such premises shall immediately and without the necessity of any further action on the part of Grantor, revert to and re-vest in Grantor, and Grantee

shall lose and forfeit all of Grantee's rights, title and interest in and to the whole of the conveyed premises and to the improvements and fixtures thereon, and Grantor shall have the right of re-entry to the Property conveyed by this instrument.

4. *Reversion on breach – effect on mortgage.* No reversion or forfeiture shall render invalid or operate in any way against the lien of any mortgage made solely for the purpose of improving the property in compliance with Guahan Law and Public Law Nos. 20-225, 24-91, 25-116, and 30-390, and where the funds are actually used for that purpose given with respect to the conveyed property in good faith, and for value; and on any such reversion or forfeiture Grantor shall take title to the conveyed land subject to any such mortgage or deed of trust. Provided, however, that should any such mortgage or deed of trust be foreclosed, then the title acquired by such foreclosure, and the person or persons who thereby and thereafter become the owner or owners of the conveyed premises, shall be subject to and bound by all the restrictions contained in this instrument; and further provided, that Grantor may enforce any covenants, conditions, and restrictions by any other appropriate action at Grantor's sole option.

5. *Future deeds to contain restrictions.* Grantee agrees that all the covenants, conditions, and restrictions contained in this Deed herein below shall be inserted in full in all future deeds of the above-described Property conveyed by this Deed.

5.1. No noxious, illegal, or offensive use of property shall be carried on on any lot, nor shall anything be done thereon that may be, or become, an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time

conduct or permit to be conducted on any residential lot any trade or business of any description, either commercial or noncommercial, religious or otherwise, including day schools, nurseries, or church schools, nor shall such premises be used for any other purpose whatsoever except for the purpose of providing a private single-family dwelling or residence.

5.2. No trash, garbage, ashes, or other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growths or objects, shall be maintained or allowed on any lot. All fences and buildings shall be kept in a state of repair. All residences, garages, and accessory buildings shall be painted or stained, from time to time, so as to maintain a reasonable state of repair.

5.3. No animals, livestock, or poultry shall be raised, bred, or kept on any lot of the subdivision for commercial purposes.

5.4. All lines or wires for telephone, power, cable television, or otherwise shall be placed underground.

5.5. No outside toilet facilities shall be constructed or maintained on any portion of the above-described Property. Septic tanks, sewage disposal systems, and drinking water facilities shall conform to all requirements established by the Department of Public Health and Social Services in Guam.

#### ***Enforcement of restrictions***

It is expressly understood and agreed that the several restrictive covenants contained in this instrument shall attach to and run with the land, and it shall be lawful not only for Grantor and Grantor's successors and assigns, but also for the owner or owners of any subdivided lots adjoining of

the Property granted by this instrument, deriving title from or through Grantor, to institute and prosecute any proceedings at law or in equity against the person or persons violating or threatening to violate such restrictive covenants and conditions.

*Availability of water and power*

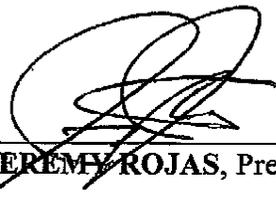
We, the Grantor and the Grantee, AGREE that water and electric power are available on the Property or within one hundred feet (100') thereof, and that the government of Guam is not responsible for water and power hookup thereto.

*Execution*

IN WITNESS WHEREOF, we, the Grantor and the Grantee, have executed this Grant Deed on the dates of notarization as set forth below.

**GRANTOR:**

**GUAM HOUSING CORPORATION**

By  \_\_\_\_\_  
JEREMY ROJAS, President

**GRANTEE:**

**MAEDA PACIFIC CORPORATION**

By  \_\_\_\_\_  
THOMAS J. NIELSEN, President

///

GUAM, U.S.A., )  
( ss.:  
City of Hagåtña. )

On this 6th day of Oct., 2010, before me, a notary public in and for Guam, personally appeared **JEREMY ROJAS**, known to me to be the President who executed the foregoing **GRANT DEED** on behalf of **GUAM HOUSING CORPORATION**, the instrumentality of the government of Guam herein named, and he acknowledged to me that such instrumentality executed the same.

WITNESS my hand and official seal.

)SEAL(

Victoria S. Quichocho-Rojas

VICTORIA S. QUICHOCHO-ROJAS  
NOTARY PUBLIC  
In and for Guam, U.S.A.  
My Commission Expires: April 15, 2014  
P.O. Box 23498 Barrigada, Guam 96921

GUAM, U.S.A., )  
( ss.:  
City of Hagåtña. )

On this 17th day of OCTOBER, 2010, before me, a notary public in and for Guam, personally appeared **THOMAS J. NIELSEN**, known to me to be the President who executed the foregoing **GRANT DEED** on behalf of **MAEDA PACIFIC CORPORATION**, the Guam corporation herein named, and he acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

)SEAL(

Joyleen Sanchez

JOYLEEN SANCHEZ  
NOTARY PUBLIC  
IN AND FOR GUAM, U.S.A.  
MY COMMISSION EXPIRES SEPT 13, 2014  
P. O. BOX 7381 AGAT GUAM 96936

LJT:cs  
PLDGS:MAEDA PACIFIC-LADA ESTATES:028B

## **EXHIBIT “C”**

### **Decision and Order**

Island of Guam, Government of Guam  
Department of Land Management

File for record is Instrument No. 831094

For the Year 12, Month 01, Day 10, Time 1:50

Recording Fee 25 Receipt No. 31817

Deputy Recorder Juan Gonzalez

---

**DECISION AND ORDER**  
**(CIVIL CASE NO. CV0135-04)**

L. Teker

FILED  
SUPERIOR COURT  
OF GUAM

IN THE SUPERIOR COURT OF GUAM

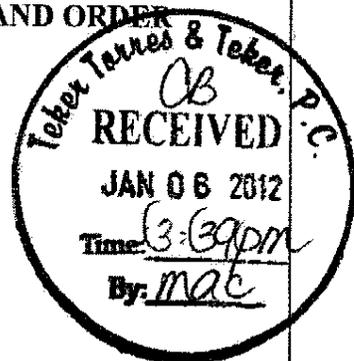
2012 JAN -6 AM 10:55

1 MAEDA PACIFIC CORPORATION, )  
 2 )  
 3 )  
 4 Plaintiff, )  
 5 )  
 6 vs. )  
 7 )  
 8 GOVERNMENT OF GUAM and GUAM )  
 HOUSING CORPORATION, )  
 9 )  
 Defendants. )

CLERK OF COURT

CIVIL CASE NO. CV0135-04 --

DECISION AND ORDER



INTRODUCTION

11  
 12 This matter came before the Honorable Judge Michael J. Bordallo on September 28, 2011  
 13 by reassignment. The Plaintiff filed a motion to approve settlement and the parties stipulated to  
 14 submit the matter on the briefs and without oral argument on July 13, 2011. Attorney Lawrence  
 15 J. Teker represented the Plaintiff, Assistant Attorney General Philip D. Issac appeared on behalf  
 16 of Defendant Government of Guam, and Attorney Cynthia V. Ecube represented Defendant  
 17 Guam Housing Corporation. Having considered the parties' briefs and the applicable law, the  
 18 Court now issues the following Decision and Order granting Plaintiff's motion to approve  
 19 settlement.

BACKGROUND

20  
 21 In this public contract matter, Plaintiff Maeda Pacific Corporation ("Maeda") seeks  
 22 payment for infrastructure construction of the Lada Estates public housing project against  
 23 Defendants Government of Guam ("Government") and Guam Housing Corporation ("GHC"), an  
 24 autonomous agency of the Government.

25 In 1991, the Guam Legislature passed an act to develop and sell the Lada Estates as  
 26 affordable housing. See Guam Pub. L. No. 20-225. Pursuant to the act, the Governor transferred  
 27 approximately forty-six (46) acres of government land to the GHC by grant deed on June 24,  
 28 1991. *Id.* at 2 see also (Plaintiff's Reply Memorandum, Exhibit "1", Jul. 28, 2011.)

1 Maeda won the public bid to construct the Lada Estates' infrastructure and signed a  
2 contract with the Defendants in August of 1997. (Declaration of Jose P. Morcilla Jr., "Exhibit  
3 2", Mar. 5, 2004.) Maeda completed construction of the Lada Estates infrastructure pursuant to  
4 the contract and obtained a certificate of substantial completion from the Department of Public  
5 Works on July 24, 1998. *Id.* at "Exhibit 5". Thereafter, GHC could not find a contractor to build  
6 the Lada Estates homes despite legislative attempts to revive the project. *See e.g.* Public Law  
7 Nos. 24-81:14 and 25-116:5. The Lada Estates project was not finished and Maeda was not paid  
8 for its performance of the infrastructure contract.

9 Maeda filed a government claim in 2002 and the present civil action in 2004. On March  
10 8, 2011, the Court granted summary judgment of Maeda's claims against the Government for the  
11 costs of off-site infrastructure construction. (Decision and Order, Mar. 8, 2011.) On March 21,  
12 2011, Maeda and GHC filed the present motion to settle Maeda's remaining claim against GHC  
13 for the costs of on-site infrastructure construction, alleged to be more than seven (7) million  
14 dollars. The settlement proposes for GHC to convey the Lada Estates property to Maeda via  
15 grant deed with a condition that Maeda build and sell affordable housing units within six (6)  
16 years and pursuant to Public Law Nos. 20-225, 24-81, 25-116 and 30-390 under the penalty of  
17 reverter to GHC. (Motion to Approve Settlement, Exhibit 1, Oct. 11, 2010.) The agreement was  
18 executed with the understanding that it shall be submitted to the Superior Court for approval and  
19 for dismissal with prejudice of the claim against GHC with the parties to bear their own costs  
20 and fees. *Id.*

21 On July 20, 2011, the Government filed an opposition to the motion to approve  
22 settlement for the following reasons: 1) the Court has no jurisdiction to approve this government  
23 land transfer without legislative approval; and 2) the settlement is in violation of procurement  
24 law insofar as it effectively awards the home construction contract to Maeda.

## 25 DISCUSSION

### 26 I. Standing

27 Standing is a threshold jurisdictional matter that must be addressed before the merits of a  
28 dispute. *Guam Imaging Consultants, Inc. v. Guam Mem'l Hosp. Auth.*, 2004 Guam 15, ¶¶ 17,

1 19. Although Guam law does not address the issue of standing to object to a settlement, “the  
2 view of other courts is that a non-settling defendant, in general, lacks standing to object to a  
3 partial settlement.” *Waller v. Financial Corp. of America*, 828 F.2d 579, 582 (9th Cir. 1987)  
4 (citing *In re Viatron Computer Systems Corp. Litigation*, 614 F.2d 11, 14 (1st Cir. 1980); *In re*  
5 *Beef Industry*, 607 F.2d 167, 172 (5th Cir. 1979)). This rule encourages the voluntary settlement  
6 of lawsuits. *Id.* at 583.

7 In this case, Maeda built the Lada Estates infrastructure and filed claims against the  
8 Government and GHC for payment. The claim against the Government for the off-site costs was  
9 successful on summary judgment, and Maeda now seeks to settle its claim against GHC for the  
10 on-site costs. The Government is a non-settling defendant who generally lacks standing to object  
11 to the partial settlement between Maeda and GHC pursuant to the reasoning of the Federal  
12 Circuit Courts of Appeal.

13 However, an exception is made to allow a non-settling defendant to object, “where it can  
14 demonstrate that it will sustain some formal legal prejudice as a result of the settlement.”  
15 *Waller*, 828 F.2d at 583 (citing *Quad/Graphics Inc. v. Fass*, 724 F.2d 1230, 1233 (7th Cir.  
16 1983)). Under this exception, a party suffers plain legal prejudice and has standing to object to  
17 any settlement that strips it of a legal claim or infringes upon a contractual right. *Id.* See also  
18 *Agretti v. ANR Freight System, Inc.*, 982 F.2d 242, 247 (7th Cir. 1992). For example, Guam law  
19 provides that a joint-tortfeasor may be prevented from entering a settlement agreement which  
20 bars claims of contribution by non-settling parties. See 7 GCA §§ 24605 and 24606. A party  
21 does not suffer plain legal prejudice and does not have standing to object to a settlement which  
22 causes factual prejudice, such as the prospect of a second lawsuit. *Quad/Graphics*, 724 F.2d at  
23 1233.

24 In this case, the Government opposes Maeda and GHC’s settlement based upon  
25 assertions that Legislative approval or procurement procedures are necessary. The Government  
26 does not allege that it suffers any legal prejudice by the settlement, and the settlement does not  
27 strip the Government of a cause of action or infringe upon a contractual right of the Government  
28 in this matter. The Government may suffer the prospect of a second lawsuit or proceeding

1 against the performance of the settlement, but this factual prejudice does not confer standing to  
2 object to a settlement agreement. See *Quad/Graphics*, 724 F.2d at 1233. The Government does  
3 not suffer plain legal prejudice and it does not have standing to object to the settlement as a non-  
4 settling party. For this reason, the Court shall not consider the objections of the Government.

## 5 **II. Judicial Approval of Settlement**

6 Guam law does not exact a standard for settlement approval, and a court should not  
7 ordinarily become involved in the settlement of a civil dispute between private parties. See *U.S.*  
8 *v. City of Miami, Fla.*, 614 F.2d 1322, 1330 (8th Cir. 1980). Indeed, the Guam Housing  
9 Corporation has the power, “to settle and adjust claims held...by other persons or parties against  
10 [it],” without judicial approval. 12 GCA § 4104(k). However, where important public interests  
11 are involved, judicial review may be appropriate. See e.g. *City of Miami*, 614 F.2d at 1330  
12 (citing examples in federal law where judicial approval of settlement is required).

13 In this case, Maeda and GHC move the Court to review and approve their settlement  
14 agreement. Assuming *arguendo* that the settlement between Maeda and GHC, as an autonomous  
15 agency of the Government, involves important public interests, the Court shall address the merits  
16 of the motion for approval.

17 Where a court is required to approve a settlement agreement, it must generally determine  
18 whether the agreement is adequate, fair, reasonable or equitable. See *City of Miami*, 614 F.2d at  
19 1330-1331. The judicial review of a settlement agreement is an exceptional situation, and “trial  
20 judges have been told that absent fraud, collusion, or the like they should be hesitant to substitute  
21 their judgment for that of experienced counsel.” *Id. citing Cotton v. Hinton*, 559 F.2d 1326 (5th  
22 Cir. 1977).

23 The parties do not raise allegations of fraud or collusion in this case, and the Court is  
24 inclined to rely upon the allegations of experienced counsel that the agreement is adequate and in  
25 the public interest. Viewing the proposed settlement agreement as a whole, it appears to provide  
26 an adequate, fair and reasonable compromise. The settlement gives Maeda the Lada Estates to  
27 develop and sell, releases GHC from its liability for the costs of on-site infrastructure, and  
28 attempts to provide affordable housing pursuant to public law and within six (6) years under

1 penalty of reverter. The agreement is the result of an arms-length negotiation between  
2 competent and experienced counsels, and it aims to resolve the underlying problem by  
3 completing the Lada Estates affordable housing project. For all of these reasons, the motion to  
4 approve settlement agreement shall be granted.

5 It is noteworthy that these proceedings have called attention to the possible problems that  
6 GHC may encounter in the performance of the settlement agreement. The Government alleges  
7 that GHC cannot convey the Lada Estates property to Maeda without legislative or procurement  
8 approval. The Government does not allege that such approval cannot be obtained, and the Court  
9 does not find that the settlement agreement is impossible to perform. However, Maeda and GHC  
10 have been notified of the quality of their bargain and of the quality of the land title conveyance  
11 which they intend to make.

12 ///  
13 ///  
14 ///

15 **CONCLUSION**

16 Based upon the foregoing, Plaintiff Maeda Pacific Corporation's Motion to Approve  
17 Settlement is hereby GRANTED.

18 **SO ORDERED** this 6 day of January, 2012.

19  
20 Original Signed By  
21 **HON. MICHAEL J. BORDALLO**

22  
23 **HONORABLE MICHAEL J. BORDALLO**  
24 **Judge, Superior Court of Guam**

25 I do hereby certify that the foregoing  
26 is a full and correct copy of the  
27 original as the same was filed of the  
28 clerk of the Superior Court of Guam  
Dated at Hagåtña, Guam

JAN 06 2012



**EXHIBIT “D”**

**Public Law 20-225**

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

Bill No. 44  
Substituted by the Committee on  
Housing and Community Development  
and as further substituted by the  
Committee on Rules.

Introduced by:

P. C. Lujan  
T. S. Nelson  
J. T. San Agustin  
G. Mailloux  
J. P. Aguon  
E. P. Arriola  
J. G. Bamba  
M. Z. Bordallo  
D. F. Brooks  
H. D. Dierking  
E. R. Duenas  
E. M. Espaldon  
C. T. C. Gutierrez  
M. D. A. Manibusan  
D. Parkinson  
F. J. A. Quitugua  
E. D. Reyes  
M. C. Ruth  
F. R. Santos  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT AUTHORIZING THE GOVERNOR OF GUAM TO  
TRANSFER CERTAIN PROPERTY IN DEDEDO TO THE  
GUAM HOUSING CORPORATION TO DEVELOP  
AFFORDABLE HOUSING FOR SALE TO FIRST TIME  
HOMEOWNERS.

1           **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**  
2           **Section 1. Legislative findings. The Legislature finds that there is a**  
3 **critical shortage of affordable housing on Guam and further finds that**

1 significant savings can also be realized if the government of Guam uses its  
2 negotiating leverage to build housing units at less than market prices on  
3 government land for sale to low and middle income families. The  
4 Legislature further finds that it is nearly impossible for most low or  
5 middle income families on Guam to purchase homes at market prices.

6 Section 2. Authorization. The Governor of Guam is authorized to  
7 transfer Lot No. 10120-14, consisting of eight (8) acres, and Lot No. 10120-  
8 16, consisting of thirty-eight (38) acres, both of Dededo, to the Guam  
9 Housing Corporation (the "Corporation") to develop affordable housing  
10 units for sale to first time homeowners who are U. S. citizens or permanent  
11 resident aliens and who have been domiciled in Guam for a five (5)  
12 consecutive year period immediately preceding the date of sale of the unit.

13 Section 3. Registration. The conveyance of said lots shall take effect  
14 upon completion of the land registration of Basic Lot No. 10120 by the  
15 government of Guam.

16 Section 4. Definition of first time homeowners. "First time  
17 homeowners" are defined as families (married persons or single persons  
18 with dependents) who have not had any ownership interest in residential  
19 real property within the three (3) year period immediately preceding the  
20 date of sale of a unit developed under this Act. Divorced persons or  
21 individuals having an ownership interest in the property of the parents do  
22 qualify as first time homeowners; provided, that any interest in residential  
23 real property is terminated prior to the purchase of a unit developed  
24 under this Act.

25 Section 5. Allocation. The units shall be allocated to families on the  
26 following basis: Thirty percent (30%) to families whose incomes are up to  
27 one hundred percent (100%) of the median income for Guam established  
28 by the U. S. Department of Housing and Urban Development ("HUD"); fifty  
29 percent (50%) to families whose incomes are between one hundred percent  
30 (100%) and one hundred thirty percent (130%) of such HUD-established  
31 median income; and twenty percent (20%) to families whose incomes are  
32 between one hundred thirty (130%) and one hundred fifty percent (150%)  
33 of such HUD-established median income. The homes may be sold to  
34 families in the next lower or higher category in the event that there are  
35 insufficient qualified applicants in a given class.

1           Section 6. Prices. The units shall be sold at cost plus two percent  
2 (2%), and Three Dollars (\$3) per square meter for the house lot, and for a  
3 first time owner, no down payment shall be required. Costs shall include  
4 but are not limited to all costs associated with the design, on-site  
5 infrastructure, construction, financing, sale and project management of the  
6 development. The two percent (2%) in excess of the costs shall be retained  
7 by the Corporation for the payment of expenses it will incur during the  
8 construction and monitoring of the project. The cost of off-site  
9 infrastructure and off-site access roads shall be the responsibility of the  
10 government of Guam. On-site infrastructure is defined as all infrastructure  
11 improvements inside the lots described in Section 2 of this Act. The  
12 proceeds from the sale of the lots shall be retained by the Corporation. Of  
13 these proceeds, Two Hundred Thousand Dollars (\$200,000) shall be used to  
14 prepare a comprehensive housing study on homeownership for Guam and  
15 the balance shall be used for costs associated with future affordable  
16 housing projects. The Corporation shall establish a fund for the proceeds of  
17 the land sales that is separate from its other accounts and shall report to  
18 the Legislature each year on the status of this fund.

19           Section 7. Equity to Corporation. The equity between the selling  
20 price of each unit and the initial appraised value of each unit at the time of  
21 sale shall remain the property of the Corporation for a period of not less  
22 than twenty-five (25) years following the sale of the property. The  
23 Corporation shall be given the right of first refusal on all homes sold by the  
24 initial owners and subsequent owners who purchase a home constructed  
25 under this Act from the Corporation in the event the homes are sold within  
26 twenty-five (25) years of the date of purchase. The right of first refusal  
27 price on sale of the home shall be the original selling price plus any equity  
28 beyond the initial appraisal not to exceed five percent (5%) per year. In  
29 the event the homes are purchased by the Corporation, they shall be sold  
30 at cost to first time homeowners who shall be subject to the equity sharing  
31 provisions of this section. The owners shall not mortgage or attach or  
32 cause to attach any liens for equity which is not considered to be theirs  
33 under this section. Homes purchased under the Corporation's right of first  
34 refusal shall be sold at cost plus ten percent (10%). The Corporation shall  
35 share in the equity on all homes sold that were acquired by the right of

**EXHIBIT “E”**

**Public Law 24-81**

**TWENTY- FOURTH GUAM LEGISLATURE  
1997 (FIRST) Regular Session**

**Bill No. 149 (COR)**

As substituted by the Committee on Finance  
and Taxation and as amended on the Floor.

Introduced by:

Committee on Rules,  
Government Reform and  
Federal Affairs

---

by request of the Governor in  
accordance with the Organic  
Act of Guam.

Mark Forbes  
A. C. Blaz  
A. C. Lamorena, V  
T. C. Ada  
F. B. Aguon, Jr.  
E. Barrett-Anderson  
J. M.S. Brown  
Felix P. Camacho  
Francisco P. Camacho  
M. C. Charfauros  
E.J. Cruz  
W. B.S.M. Flores  
L. F. Kasperbauer  
C. A. Leon Guerrero  
L. Leon Guerrero  
V. C. Pangelinan  
J. C. Salas  
A. L.G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

**AN ACT TO AMEND §4101, §4104(a), §4104(m),  
§4105, §4106 AND §4214, TO ADD A NEW §4103.5  
AND §4106.1, AND ADD A NEW ARTICLE 6 TO**

**CHAPTER 4, ALL TO TITLE 12 OF THE GUAM  
CODE ANNOTATED, AND TO APPROVE THE  
TERMS AND CONDITIONS OF THE ISSUANCE  
OF UP TO \$50,000,000 OF REVENUE BONDS OF  
THE GUAM HOUSING CORPORATION, AND TO  
AMEND §§ 4, 6, 7, 8, 10 AND 13 OF P. L. NO. 20-225,  
RELATIVE TO THE LADA ESTATES AFFORDABLE  
HOUSING PROJECT.**

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

2           **Section 1. Legislative Finding.** Section 4103 of Title 12, Guam Code  
3 Annotated, authorizes the Guam Housing Corporation ("GHC") to encourage  
4 and engage in low and moderate income housing activities, including the  
5 development and financing of homes. Amendments are needed for the  
6 following purposes:

7           (a) to facilitate the issuance by GHC of its revenue bonds for the  
8 purpose of financing mortgage loans for the purchase of homes by low  
9 and moderate income residents of Guam;

10           (b) to provide GHC with perpetual succession and to permit  
11 GHC to utilize amounts originally appropriated to the Foreclosure  
12 Protection Fund of GHC to pay its mortgage insurance risk sharing  
13 obligations; and

14           (c) to amend P. L. No. 20-225, to allow GHC to utilize a portion  
15 of the proceeds of any bond issuance for the benefit of the Lada Estates  
16 Affordable Housing Project.

17           Subsection (k) of §2103 of Title 12, Guam Code Annotated, provides that  
18 agencies and instrumentalities of the government of Guam shall issue  
19 obligations only by means of and through the agency of the Guam Economic  
20 Development Authority ("GEDA"). This Subsection further provides that

1 GEDA shall not sell any obligation without the approval of the Guam  
2 Legislature of the terms and conditions of the issuance of the obligations. The  
3 Guam Legislature has been provided a proposed form of indenture, as  
4 evidence by the attached "Exhibit A" made part of this Act, pursuant to which  
5 GHC proposes to issue revenue bonds for the purchase of homes by low and  
6 moderate income residents of Guam.

7 **Section 2. Recognizing that the GHC's Purpose is to Improve Housing**  
8 **Supply and Affordability, as well as Housing Standards.** Section 4101 of  
9 Title 12 of the Guam Code Annotated is hereby amended to read as follows:

10 "Section 4101. **Creation of Corporation: Name.** In order to  
11 promote the general welfare of the inhabitants of the Territory of Guam  
12 through the improvement of housing standards, housing supply and  
13 housing affordability in Guam, there is created a body corporate to be  
14 known as the Guam Housing Corporation, hereinafter referred to as the  
15 "Housing Corporation." The Housing Corporation shall be deemed to  
16 be exercising essential government functions and shall be subject to the  
17 general direction of the Governor of Guam."

18 **Section 3. Addition of Definition of "Bonds."** A new §4103.5 is hereby  
19 added to Title 12 of the Guam Code Annotated to read as follows:

20 "Section 4103.5. **Definition of 'Bonds.'** For purposes of this  
21 Chapter the term 'bonds' shall mean any bonds, notes or other evidences  
22 of indebtedness of the Housing Corporation issued pursuant to this  
23 Chapter."

24 **Section 4. Providing for Perpetual Succession for the Guam Housing**  
25 **Corporation.** Section 4104(a) of Title 12 of the Guam Code Annotated is  
26 hereby amended to read as follows:

1           “(a) To have perpetual succession.”

2           **Section 5. Providing Authority for Guam Housing Corporation to**  
3 **Obtain Financing for Certain Purposes.** Section 4104(m) of Title 12 of the  
4 Guam Code Annotated is hereby amended to read as follows:

5           “(m) To borrow funds required to finance or refinance its revenue  
6 producing projects or to finance or refinancing a home financing  
7 program under §4602 by the issuance, from time to time, of bonds under  
8 such terms and conditions as the Housing Corporation may prescribe,  
9 and to pledge and assign specified revenues and other property of the  
10 Housing Corporation to the repayment of such bonds.”

11           **Section 6. Clarifying that Guam Housing Corporation Bonds are**  
12 **Special Obligations of Guam Housing Corporation.** Section 4105 of Title 12  
13 of the Guam Code Annotated is hereby amended to read as follows:

14           “**Section 4105. Bonds as Special Obligations.** Every Bond issued  
15 by the Housing Corporation pursuant to this Chapter shall be a special  
16 obligation of the Housing Corporation payable solely from the revenues  
17 and other property specified in the indenture or resolution providing for  
18 the issuance of such bond. Every bond shall recite that it is not public  
19 indebtedness of the Territory of Guam as that term is used in §11 of the  
20 Organic Act.”

21           **Section 7. Providing for Various Terms and Conditions of the**  
22 **Issuance of Bonds.** Section 4106 of Title 12 of the Guam Code Annotated is  
23 hereby amended to read as follows:

24           “**Section 4106. Appointment of Trustee: Provision of Indenture**  
25 **or Resolution.** (a) The Housing Corporation may appoint a bank or  
26 trust company to act as trustee for the Board and the holders of the

1 bonds issued hereunder, and the Board may authorize the trustee to act  
2 on behalf of the holders of the bonds, or a stated percentage thereof, and  
3 to exercise and prosecute on behalf of the holders of the bonds such  
4 rights and remedies as may be available to the holders.

5 (b) The indenture or resolution pursuant to which any bonds are  
6 issued may provide for (i) the deposit of all revenues with the trustee  
7 and for the holding thereof by the trustee in one or more separate funds  
8 or accounts, and (ii) the transfer to such trustee of such portions of  
9 revenues as are provided as security for the bonds and for the holding  
10 thereof by such trustee in one (1) or more separate funds or accounts.  
11 All money in each such fund or account shall be disbursed only as  
12 provided in the indenture or resolution pursuant to which the bonds are  
13 issued.

14 (c) Any indenture or resolution pursuant to which bonds of the  
15 Housing Corporation are issued may provide for any or all of the  
16 following:

17 (i) the payment of the principal and interest of the bonds  
18 at one (1) or more places in the Territory or in the United States  
19 and in any specified coin or currency of the United States;

20 (ii) the pledge and assignment of all or any portion of the  
21 revenues or other property of the Housing Corporation, including,  
22 without limitation, mortgage loans and mortgage-backed  
23 securities, to secure the payment of the bonds, subject to existing  
24 agreements with holders;

25 (iii) reserves or sinking funds in the hands of trustees,  
26 paying agents and other depositories and the regulation and

1 disposition thereof;

2 (iv) limitations on the purpose to which the proceeds of  
3 sale of bonds may be applied;

4 (v) limitations on the issuance of additional bonds, the  
5 terms upon which additional bonds may be issued and secured  
6 and the refunding of outstanding bonds;

7 (vi) the procedure, if any, by which the terms of any  
8 contract with the holders of bonds may be amended or abrogated,  
9 the amount of bonds the holders of which must consent thereto,  
10 and the manner in which such consent may be given;

11 (vii) vesting in a trustee property, rights, powers and duties  
12 in trust as the Housing Corporation determines;

13 (viii) the specification of the acts or omissions to act which  
14 shall constitute a default in the obligations and duties of the  
15 Housing Corporation to the holders of the bonds and providing  
16 for the rights and remedies of the holders, and any limitations on  
17 such rights and remedies, in the event of such default; and

18 (ix) any other matters of like or different character which in  
19 any way affect the security or protection of the holders of the  
20 bonds or the rights of the Housing Corporation.

21 (d) Bonds of the Housing Corporation issued pursuant to this  
22 Chapter shall: (i) bear such date, (ii) mature at such times, (iii) bear  
23 interest at such fixed or variable rates, (iv) be sold at public or private  
24 sale at such prices above or below par, (v) be in such denominations, (vi)  
25 be in such form, (vii) carry such registration privileges, (viii) be executed  
26 in such manner and (ix) be subject to such terms of redemption as

1 provided in the indenture or resolution authorizing their issuance."

2 **Section 8. Establishing Validity of Pledge by Guam Housing**  
3 **Corporation from Time Pledge is Made, Without Need for Further**  
4 **Documentation.** A new §4106.1 is hereby added to Title 12 of the Guam Code  
5 Annotated to read as follows:

6 "Section 4106.1. **Validity of Pledge.** Any pledge made by the  
7 Housing Corporation shall be valid and binding from the time the  
8 pledge is made. The revenues or other property pledged and thereafter  
9 received by the Housing Corporation shall immediately be subject to  
10 the lien of the pledge without any physical delivery thereof or further  
11 act. The lien of any pledge shall be valid and binding against all parties  
12 having claims of any kind in tort, contract, or otherwise against the  
13 Housing Corporation, irrespective of whether such parties have notice  
14 thereof. Neither the resolution, the indenture nor any other instrument  
15 by which a pledge is created need be recorded."

16 **Section 9. Providing Authority for the Guam Housing Corporation to**  
17 **Use the Foreclosure Protection Fund to Repay Bonds as well as to Pay Off**  
18 **the First Mortgage on Foreclosure.** Section 4214 of Title 12 of the Guam Code  
19 Annotated is hereby amended to read as follows:

20 "Section 4214. **Foreclosure Protection Fund.** There is hereby  
21 created the Foreclosure Protection Fund (the 'Fund'). The Fund shall be  
22 used by GHC to protect the interest of the Trust as the second mortgagee  
23 and shall be used for the purpose of paying off the first mortgage on  
24 foreclosure and may also be used to pay any obligation of the  
25 Corporation pursuant to any risk sharing arrangement entered into  
26 pursuant to §4602."



1           **'Lending institution'** means any public or private entity or  
2 governmental agency approved by the Housing Corporation and  
3 authorized by law to make or participate in making residential loans in  
4 Guam.

5           **'Mortgage'** means a mortgage, deed of trust or other security  
6 instrument which shall constitute a lien on real property in fee simple or  
7 on a leasehold under a lease having a remaining term of a duration  
8 necessary to protect the interest of the mortgagee thereunder, as  
9 determined by the Housing Corporation.

10           **'Mortgage-backed security'** means any security, whether  
11 guaranteed or not, backed by one (1) or more home mortgages or pools  
12 consisting of home mortgages.

13           **Section 4602. Authorization of Home Financing Program.** In  
14 addition to the powers of the Housing Corporation set forth elsewhere,  
15 in this Chapter, and notwithstanding any restrictions, requirements or  
16 limitations set forth in Articles 1, 2, 3, 4 and 5 of this Chapter, the  
17 Housing Corporation shall have the power to make, purchase, make  
18 commitments to purchase, and take assignments from lending  
19 institutions, of home mortgages and mortgage-backed securities, under  
20 terms and conditions specified by the Housing Corporation. The  
21 Housing Corporation may obtain or require mortgagors to obtain  
22 mortgage insurance on home mortgages, and may enter into risk-sharing  
23 agreements with the providers of the mortgage insurance upon terms  
24 and conditions determined by the Housing Corporation. Any  
25 obligations of the Housing Corporation to a mortgage insurer under a  
26 risk-sharing agreement shall be payable only out of the assets of the

1 Housing Corporation that are not pledged to secure other obligations of  
2 the Housing Corporation."

3 **Section 11. Approval of Terms and Conditions to Guam Housing**  
4 **Corporation Bonds.** The Guam Legislature, pursuant to Subsection (k) of  
5 §2103 of Title 12, Guam Code Annotated, approves the terms and conditions  
6 of the issuance by Guam Housing Corporation of revenue bonds in one (1) or  
7 more issues or series in an aggregate principal amount not to exceed Fifty  
8 Million Dollars (\$50,000,000), with a final maturity not exceeding forty (40)  
9 years and bearing interest at fixed or variable rates not exceeding nine percent  
10 (9.0%) per annum if interest on such bonds is intended to be excludable from  
11 gross income for Federal income tax purposes, and twelve percent (12.0%) per  
12 annum of interest on such bonds if not intended to be excludable from gross  
13 income for Federal income tax purposes. The bonds shall be issued in one (1)  
14 or more issues or series, pursuant to §4104 of Title 12, Guam Code Annotated,  
15 and one (1) or more indentures in substantially the form of the indenture  
16 presented to this Legislature, as evidenced by the attached "Exhibit A" made  
17 part of this Act.

18 **Section 12. Local Sale of Bonds.** Guam Housing Corporation and  
19 Guam Economic Development Authority shall undertake their best efforts to  
20 cause a portion of any bonds issued pursuant to this Act to be offered for sale  
21 in Guam, as well as in other jurisdictions, if and to the extent that such offer  
22 and any sales resulting from such offer do not increase the cost to the Guam  
23 Housing Corporation or government of Guam of issuing and repaying such  
24 bonds.

25 **Section 13. Clarifying the Definition of First Time Homeowners for**  
26 **Purposes of Public Law No. 20-225.** Section 4 of P. L. No. 20-225 is hereby

1 amended to read as follows:

2           **"Section 4. Definition of First Time Homeowners.** 'First time  
3 homeowners' are defined as persons who have not had any ownership  
4 interest in residential real property within the three (3) year period  
5 immediately preceding the date of application for purchase of a unit  
6 developed under this Act. Divorced persons having an ownership  
7 interest in a joint property or individuals having an ownership interest  
8 in the property of the parents do qualify as first time homeowners;  
9 provided, that any interest in residential real property is terminated  
10 prior to the date of application for the purchase of a unit developed  
11 under this Act."

12           **Section 14. Amendment to Section 6 of Public Law No. 20-225 to**  
13 **permit Corporation to Pay for Off-site Infrastructure.** Section 6 of P. L. No.  
14 20-225 is hereby amended to read as follows:

15           **"Section 6. Prices.** The unit shall be sold at cost plus two percent  
16 (2%), and Three Dollars (\$3.00) per square meter for the house lot, and  
17 for a first time owner, no down payment shall be required. Costs shall  
18 include, but are not limited to, all costs associated with the design, on-  
19 site infrastructure, off-site infrastructure, construction, financing, sale  
20 and project management of the development. The two percent (2%) in  
21 excess of the costs shall be retained by the Corporation for the payment  
22 of expenses it will incur during the construction and monitoring of the  
23 project. The proceeds from the sale of the lots shall be retained by the  
24 Corporation. Of these proceeds, Two Hundred Thousand Dollars  
25 (\$200,000.00) shall be used to prepare a comprehensive housing study on  
26 homeownership for Guam and the balance shall be used for costs

1 associated with future affordable housing projects. The Corporation  
2 shall establish a fund for the proceeds of the land sales that is separate  
3 from its other accounts and shall report to the Guam Legislature each  
4 year on the status of this fund."

5 **Section 15. Repealing and Re-enacting Section 7 of Public Law No. 20-**  
6 **225 to Define a Second Mortgage for Equity in Favor of the Guam Housing**  
7 **Corporation.** Section 7 of P. L. No. 20-225 is hereby repealed and re-enacted to  
8 read as follows:

9 "Section 7. **Second Mortgage for Equity.** The difference between  
10 (a) the initial selling price of each unit, and (b) the lesser of the initial  
11 appraised value of each unit at the time of sale or the maximum  
12 purchase price permitted under §143 of the Internal Revenue Code, if  
13 applicable, shall be treated as a shared-appreciation second mortgage  
14 loan from the Corporation to the purchaser. The term of the loan shall  
15 be twenty-five (25) years, the loan shall be subject to prepayment at any  
16 time by the borrower and at maturity the loan shall be forgiven in its  
17 entirety. The Corporation's share of appreciation (contingent, deferred  
18 interest) shall be a percentage less than or equal to one-half (1/2) of the  
19 ratio of the loan principal amount to the initial purchase price. The  
20 Corporation may also charge deferred interest at a fixed rate not greater  
21 than five percent (5%) per annum.

22 The Corporation shall also have for twenty-five (25) years a right  
23 to first refusal upon any sale of the unit by the borrower or upon any  
24 first mortgage default for which a notice of public auction is given. For  
25 the first four (4) years from the date of purchase of the unit by the  
26 borrower, the option price shall be the lesser of (i) the fair market value

1 of the unit at the time of sale, or (ii) the initial appraised value increased  
2 in proportion to the increase in the consumer price index for Guam for  
3 the period from the date of initial purchase of the unit to the date of sale.

4 After the first four (4) years, the option price shall be the fair market  
5 value of the unit to the date of sale.

6 Any units purchased by the Corporation shall, if possible, be  
7 resold to the first time homeowners under agreements with the same  
8 general terms as the agreements with the original purchasers.

9 Any money received by the Corporation from the payment of any  
10 loan authorized by this Section shall be deposited to the fund created  
11 under Section 6 of Public Law No. 20-225. Amounts in the fund are also  
12 authorized to be used to pay the purchase price of units purchased by  
13 the Corporation pursuant to the option to purchase described in this  
14 Section."

15 **Section 16. Guam Housing Corporation to Exercise Option Under**  
16 **Second Mortgage for Equity in the Event of a First Mortgage Default.**

17 Section 8 of P. L. No. 20-225 is hereby amended to read as follows:

18 "Section 8. Default. In the event of a first mortgage default, with  
19 respect to a unit the Corporation may exercise its option under Section 7  
20 of Public Law No. 20-225 to purchase the unit or may bid for the unit at  
21 the public auction."

22 **Section 17. Application of §143 of Internal Revenue Code to Any**  
23 **Transferee of Bond-Financed First Mortgage.** Section 10 of P. L. No. 20-225 is  
24 hereby amended to read as follows:

25 "Section 10. Gifts. The homeowner may without consideration  
26 transfer by means of a gift, the home purchased under this Act to any

1 member of the homeowner's immediate family. For purposes of this  
2 Act, 'immediate family' is defined as the homeowner's spouse, parents,  
3 and children by birth or by legal adoption. In cases of authorized family  
4 transfer, the same restrictions that applied to the previous homeowner  
5 apply to the new homeowner. The assumption by the transferee of any  
6 bond-financed first mortgage shall be subject to the requirements of  
7 Section 143 of the Internal Revenue Code."

8 **Section 18. Clarification that Mortgages Financed by Guam Housing**  
9 **Corporation Bonds do Not Disqualify a Person from Government of Guam**  
10 **Mortgage Subsidy Programs.** Section 13 of P.L. No. 20-225 is hereby  
11 amended to read as follows:

12 "Section 13. **No Subsidy Mortgages.** Persons who purchase a  
13 home under this Act are not eligible for government of Guam mortgage  
14 subsidy programs. For this purpose, mortgages financed by qualified  
15 mortgage bonds issued by the Corporation shall not be treated as  
16 financed by a mortgage subsidy program."

**EXHIBIT “F”**

**Public Law 25-116**

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN  
2000 (SECOND) Regular Session**

**Bill No. 377 (COR)**

As substituted by the Committee on  
Housing, General Government Services  
and Foreign Affairs.

Introduced by:

K. S. Moylan  
J. C. Salas  
A. C. Lamorena, V  
A. R. Unpingco  
V. C. Pangelinan  
M. G. Camacho  
F. B. Aguon, Jr.  
E. C. Bermudes  
A. C. Blaz  
J. M.S. Brown  
E. B. Calvo  
Mark Forbes  
L. F. Kasperbauer  
C. A. Leon Guerrero  
S. A. Sanchez, II

**AN ACT TO ADD ARTICLE 7 TO CHAPTER 4 OF  
TITLE 12 OF THE GUAM CODE ANNOTATED;  
AND TO ADD §§5.1, 7.1 AND 17, TO AMEND §6  
AND TO REPEAL AND REENACT §12, ALL TO P.L.  
NO. 20-225, RELATIVE TO ESTABLISHING A  
LEASE-TO-OWN HOUSING PROGRAM FOR  
QUALIFIED APPLICANTS AND FIRST TIME  
HOMEBUYERS, AND TO CITE THE ACT AS "THE  
LEASE-TO-OWN HOUSING PROGRAM ACT OF  
2000".**



1           **Section 4702. Legislative Findings.** *I Liheslaturan Guåhan*  
2 finds that in 1997, Guam Housing Corporation announced a bid for the  
3 design, building and financing of infrastructure requirements for Lada  
4 Estates. As a result, Maeda Pacific Corporation ('Maeda') the selected  
5 bidder, was granted a contract to design, build and finance the project.  
6 The Guam Housing Corporation and Maeda executed a contract in the  
7 amount over Ten Million Dollars to fulfill the project's scope of work.

8           Furthermore, *I Liheslaturan Guåhan* finds that Maeda agreed to the  
9 terms such that payment would be due from a developer who would  
10 finance both the outstanding contract with Maeda and the development  
11 of the units at Lada Estates. To date, Guam Housing Corporation has  
12 entertained several bids, but is unable to secure any contract with a  
13 developer. Also, *I Liheslaturan Guåhan* finds that the infrastructure  
14 project was due and payable on or before November 1998.

15           *I Liheslaturan Guåhan* also finds that while there have been several  
16 bid announcements, initiated by the Guam Housing Corporation, for  
17 the construction of the Lada Estates project which have been advertised  
18 in conformance with the procurement laws of Guam. Unfortunately, no  
19 bidder has been able to meet the required terms of the contract due to  
20 the provisions requiring substantial up front financial reimbursement to  
21 Maeda. As a result of this hindrance, Maeda has agreed to renegotiate  
22 some of the terms to allow for easier repayment criteria.

23           More importantly, *I Liheslaturan Guåhan* in discussions with the  
24 Guam Housing Corporation and the mortgage community, identified  
25 the key problems that adversely affected the eligibility of customers and

1 clients to participate in purchasing of not only the Lada Estates  
2 residential project, but also various single family housing development  
3 projects on Guam. Some of the problems are identified as:

4 (i) most prospective clients have high debt to income  
5 ratios five (5) year short term debts;

6 (ii) most prospective clients are unable to meet the  
7 required closing cost and down payment for their first-time home;  
8 *and*

9 (iii) most prospective first-time homebuyers may need the  
10 lease-to-own housing program so that they may utilize the lease  
11 term to re-establish their credit and thus qualify for a typical  
12 residential loan at the time of escrow closing of the purchase.

13 **Section 4703. Legislative Policy.** *I Liheslaturan Guåhan* in  
14 its continuing effort to promote affordable housing programs for the  
15 people finds that for many individuals and families the primary  
16 obstacle to homeownership is their inability to save money for the initial  
17 cost of buying a home, such as down payment and closing costs. To  
18 effectuate additional housing programs, *I Liheslaturan Guåhan* in its  
19 wisdom wishes to hereby establish a '*Lease-to-Own Housing Program*'.  
20 Said Program shall afford opportunities for the private and government  
21 sector to invest in affordable housing developments, particularly those  
22 that offer lease to own provisions with options to exercise purchase  
23 within three (3) to five (5) years. This would encourage public and  
24 private collaboration in the search for the suitable financing mechanism  
25 or mechanisms which could benefit the families who can afford to

1 purchase homes given financial assistance for closing costs and down  
2 payment.

3 *I Liheslaturan Guåhan* wishes to encourage the participation of the  
4 private sector working through the authority vested in the Guam  
5 Housing Corporation through this Act. Furthermore, *I Liheslaturan*  
6 *Guåhan* recognizes the opportunity for certain lending institutions and  
7 lenders of capital to assist families in purchasing or building their first  
8 home on their lot or purchasing homes available in the market. *I*  
9 *Liheslaturan Guåhan* also wishes to recognize that the programs  
10 contained herein are Community Reinvestment Act qualified, and in  
11 conformance with various housing programs administered by the  
12 Guam Housing Corporation, particularly those which can accommodate  
13 the concept of 'lease-to-own' residential units of various sorts.

14 *I Liheslaturan Guåhan* also encourages the granting of any Guam  
15 Economic Development Authority qualifying certificate benefits to the  
16 developers involved in the Lada Estates project, as well as other similar  
17 housing projects. In the case where a government entity is the  
18 developer, such benefits may be passed on to the participating  
19 contractors provided that such incentive would decrease the overall unit  
20 cost of housing in the respective project.

21 **Section 4704. Definitions.** For purposes of this Act,  
22 the following words and phrases are defined to mean:

23 (a) '*Affordable housing unit*' shall mean a single family  
24 dwelling unit inclusive of land, built in accordance with the  
25 Uniform Building Code and in consonance with the Guam zoning

1 and subdivision laws whose selling price meets the criteria set  
2 forth in the Guam Economic Development Authority Rules and  
3 Regulations pertaining to 'affordable housing' adopted pursuant  
4 to Public Law Number 24-266.

5 (b) 'Corporation' shall mean the Guam Housing  
6 Corporation created pursuant to §4101 of Title 12 of the Guam  
7 Code Annotated.

8 (c) 'Residence' shall mean a single family home, a  
9 condominium housing unit or a housing unit owned by a  
10 cooperative housing cooperation.

11 (d) 'Seller' shall mean the party to the lease-to-own  
12 contract who is the seller of the residence.

13 (e) 'Tenant-Purchaser' shall mean the prospective person  
14 who is a party to the lease-to-own contract.

15 **Section 4705. Lease-to-Own Program; Establishment;**  
16 **Authorization to Participate.** The Guam Housing  
17 Corporation ('Corporation') is hereby authorized to participate in lease-  
18 to-own programs described in this Act. The purpose of a lease-to-own  
19 program is to provide mortgage financing for a residence occupied as a  
20 primary residence by a prospective mortgagor pursuant to a lease-to-  
21 own contract with the owner of such property. The lease-to-own  
22 contract shall provide for the eventual purchase by the resident of the  
23 residence and an interim lease of the residence *prior to* the closing of the  
24 purchase thereof.

25 **Section 4706. Authorization to Acquire Mortgage Loans.**

1 The Corporation may contract to acquire and may acquire a mortgage  
2 loan or loans made by a bank, or other financial institution, to a seller  
3 who has entered a lease-to-own contract with an eligible Tenant-  
4 Purchaser for the property which is the subject of and security for such  
5 mortgage loan.

6 **Section 4707. Lease-to-Own Contract.** The  
7 Corporation is empowered to purchase or build, as well as incur debt to  
8 achieve same, residences which the Corporation would own and lease  
9 under the Program established herein.

10 (a) The lease-to-own contract shall contain:

11 (1) a lease of the residence, or in the case of  
12 cooperative housing units a sublease, for a term *not* to  
13 exceed five (5) years;

14 (2) provision for a rental payment *not less than* the  
15 sum of:

16 (i) an amount sufficient to pay the estimated  
17 property taxes and insurance on the residence, or in  
18 the case of a cooperative unit, the maintenance  
19 charges;

20 (ii) the cost of routine maintenance of the  
21 residence, *unless* the lease-to-own contract requires the  
22 Tenant-Purchaser to perform such maintenance at his  
23 own expense;

24 (iii) an amount sufficient to pay interest on the  
25 mortgage loan held by the Corporation on the

1 residence, less the estimated earnings on the escrow  
2 fund provided in §4708 of this Act which is allocable  
3 to such mortgage held by the Corporation;

4 (iv) an amount to be held in escrow, referred to  
5 as the 'Tenant-Purchaser escrow,' which, when  
6 accumulated over the period of the lease-to-own  
7 contract or no more than five (5) years, will amount to  
8 a sum sufficient to pay the Tenant-Purchaser's  
9 required down payment under the lease-to-own  
10 contract, plus the estimated closing costs of purchase  
11 which will be allocable to the Tenant-Purchaser,  
12 including the seller's closing cost at the initial closing  
13 of the mortgage to the seller; *and*

14 (v) in the case of a condominium unit,  
15 common charges;

16 (3) provisions obligating the Tenant-Purchaser to  
17 buy and the seller to sell the residence at the end of the lease  
18 term, which shall *not* exceed five (5) years;

19 (i) if Tenant Purchaser seeks to utilize any  
20 HUD grants for down payment and closing cost  
21 assistance, then Tenant Purchaser shall exercise the  
22 purchase option on or before three (3) years;

23 (4) a provision that the default by the Tenant-  
24 Purchaser under the provision of the lease-to-own contract  
25 shall result in the forfeiture to the seller of all amount in the

1 Tenant-Purchaser escrow; furthermore, the various escrow  
2 funds funded under the Program should be residence  
3 specific, such that a default or other failure of the tenant to  
4 purchase the unit within the five (5) years allowed would  
5 result in the escrow being forfeited to the successor Tenant-  
6 Purchaser, *and not* the Corporation;

7 (5) a provision that the Tenant-Purchaser shall have  
8 the option upon reasonable notice to the seller and the  
9 Corporation to elect to close the purchase of the residence  
10 *not* earlier than one (1) year from the date of execution of the  
11 lease-to-own contract;

12 (6) a provision that the rent shall be adjusted under  
13 the lease-to-own contract periodically to take account of  
14 changes in taxes, insurance, escrow earning, mortgage  
15 interest and other variables intended to be covered by the  
16 tenant's rental payments; *and*

17 (7) a provision governing the consequences of  
18 default by each of the parties.

19 (b) The provisions of this Act shall *not* apply to the  
20 tenancy of the Tenant-Purchaser under the lease-to-own contract  
21 from and after the purchase by the Corporation of the mortgage  
22 loan on the residence so long as the Corporation holds the  
23 mortgage loan. The Corporation shall *not* sell the mortgage loan  
24 *prior to* the closing of the transfer of title to the Tenant-Purchaser

1 or default by the Tenant-Purchaser under the lease-to-own  
2 contract.

3 (c) The Corporation shall adopt procedures to ensure that  
4 the payments contemplated by §4707(a)(2) of this Section are in  
5 fact applied to those purposes.

6 **Section 4708. Tenant-Purchaser Escrow Account.**

7 (a) The mortgage loan documents, with respect to a  
8 mortgage loan(s) in effect *prior to* the Tenant-Purchaser's purchase  
9 of their respective units, shall provide there shall be retained over  
10 the Tenant-Purchaser's lease term an amount held as additional  
11 security for such loan(s) called the Tenant-Purchaser Escrow  
12 Account. The Tenant-Purchaser Escrow Account will receive a  
13 predetermined portion of the Tenant-Purchaser's monthly rental  
14 amount as provided for in §4707(a)(2)(iv) of this Act, such portion  
15 to be determined at commencement of the Tenant-Purchaser's  
16 lease. The total amount contributed to the Tenant-Purchaser  
17 Escrow Account by the Tenant-Purchaser over the lease term  
18 should *not* be less than ten percent (10%) of the Tenant-  
19 Purchaser's anticipated purchase price. Such Tenant-Purchaser  
20 Escrow Account shall be held by a Trustee for the benefit of the  
21 Corporation and the first mortgagee(s). The Corporation will  
22 approve such Trustee. At the time of the Tenant-Purchaser's  
23 purchase of the respective unit, the Trustee shall release and  
24 disperse the Tenant-Purchaser Escrow Account to the unit Seller  
25 to meet the Tenant-Purchaser's down payment requirement.

1           The escrow amounts pertaining to various lease-to-own  
2 loans may be commingled for investment purposes. Trustees shall  
3 keep separate records showing the amount in each Tenant-  
4 Purchaser Escrow Account. Investment earnings on the Tenant-  
5 Purchaser Escrow Account shall accrue to the benefit of the  
6 Tenant-Purchaser.

7           (b) The Trustee shall periodically advise both the  
8 Corporation and the Seller as to the amount and earnings in each  
9 Tenant-Purchaser Escrow Account.

10           (c) In the event a default by the Tenant-Purchaser occurs,  
11 as provided for in §4707(a)(5), the Trustee shall release only that  
12 portion of the respective Tenant-Purchaser Escrow Account that is  
13 needed to meet the following funding requirements:

14           (i) any costs incurred by the Corporation related to  
15 deferred maintenance of the Tenant-Purchaser's respective  
16 housing unit;

17           (ii) any costs to the Corporation due to re-  
18 advertising, administrative financial fees and other liabilities  
19 that may be a result of the Tenant-Purchaser caused default;  
20 and

21           (iii) all funds remaining in the unit specific Tenant-  
22 Purchaser Escrow Account will be retained by the Trustee  
23 for the benefit of the next prospective Tenant-Purchaser to  
24 occupy the defaulted unit, as is intended by and provided  
25 for in §4704(a)(5) of this Act.

1           **Section 4709. Closing of Transfer of Title. (a) Disbursement**  
2           **of Escrow Account.** At the closing of the transfer of title to the  
3           residence to the Tenant-Purchaser to the lease-to-own contract, the  
4           Corporation shall disburse the escrow amount to or for the  
5           account of the Tenant-Purchaser.

6           (b) **Insurance.** At such closing the Corporation may  
7           require the Tenant-Purchaser to furnish private mortgage  
8           insurance if such insurance is required in the case of other  
9           mortgage loans under this Title. *If* such insurance is *not*  
10          obtainable in the private market at the time of such closing, the  
11          Corporation is authorized to issue such insurance.

12          **Section 4710. Rules, Regulations and Restrictions.** The  
13          Corporation shall establish such requirements with regard to lease-to-  
14          own contracts, lease-to-own residence, the qualifications of Tenant-  
15          Purchaser and the Corporation's participation in any lease-to-own  
16          program, as may be deemed appropriate by the Corporation to achieve  
17          the objectives of this Act. The Corporation's requirements, including,  
18          but not limited to income limit applicable to the Tenant-Purchaser and  
19          the purchase price of the residence, must be satisfied at or before the  
20          time the mortgage loan is purchased, and the Tenant-Purchaser must be  
21          deemed qualified by the Corporation at that time.

22          **Section 4711. Severability.** *If* any provision of this Law or  
23          its application to any person or circumstance is found to be invalid or  
24          contrary to law, such invalidity shall *not* affect other provisions or  
25          applications of this Law which can be given effect without the invalid

1 provisions or application, and to this end the provisions of this Law are  
2 severable."

3 **Section 3. Legislative Statement.** *I Liheslaturan Guåhan* finds that  
4 Public Law Number 20-225, as amended by Public Law Number 24-81,  
5 created an affordable housing program to be developed by the Guam  
6 Housing Corporation ("Corporation") on Lot Numbers 10120-14 and 10120-16  
7 in the municipality of Dededo, Guam. Furthermore, the property has been  
8 conveyed to the Corporation and the Corporation has issued a request for  
9 proposals for development of three hundred ninety-nine (399) residential  
10 units, and is currently negotiating with qualified offers to design, finance and  
11 construct the affordable housing units. Also, the Corporation has caused the  
12 necessary infrastructure to be developed.

13 More importantly, the Corporation has requested *I Liheslaturan Guåhan*  
14 to amend certain provisions of Public Law Number 20-225 in order to  
15 facilitate the financing, design and construction of the units in order to render  
16 the entire project viable. Moreover, *I Liheslaturan Guåhan* finds that the certain  
17 amendments to Public Law Number 20-225 are necessary in order to comply  
18 with Guam Law and allow the Corporation to fully develop and market the  
19 affordable housing units.

20 **Section 4.** Section 5.1 is hereby *added* to Public Law Number 20-225 to  
21 read as follows:

22 **"Section 5.1.** In the event that there are insufficient qualified  
23 applicants of all classes ready, willing and able to purchase all of the  
24 homes and lots upon their completion, the Corporation is authorized to  
25 lease unsold homes and lots to qualified purchasers with or without

1 provisions to such leases providing for options or obligations to  
2 purchase the homes and lots, and to assign the proceeds of such leases  
3 to finance payment of the initial design, finance and construction of the  
4 homes. In the event that the Corporation is unable to locate a sufficient  
5 number of qualified purchasers to purchase or lease the homes and lots  
6 as provided herein, the Corporation is authorized to lease the homes  
7 and lots for terms *not* in excess of one (1) year, which lease shall be  
8 renewable annually at the option of the Corporation. The proceeds of  
9 the sales of such homes and lots, and the leases of such homes and lots,  
10 may be assigned by the Corporation to the developer chosen by the  
11 Corporation to the design, finance and construct the housing units in  
12 order to finance payment of the initial design, finance and construction  
13 of the homes and infrastructure improvements. As soon as qualified  
14 purchasers become available, the homes and lots shall then be sold to  
15 such qualified purchasers as provided in this Act.”

16 **Section 5.** Section 6 of Public Law Number 20-225, as amended by  
17 Public Law Number 24-81, is hereby further *amended* to read as follows:

18 **"Section 6. Prices.** The unit shall be sold at cost plus two  
19 percent (2%), and Three Dollars (\$3.00) per square meter for the house  
20 lot, and for a first time owner, no down payment shall be required.  
21 Costs shall include, but are not limited to, all costs associated with the  
22 design, on-site infrastructure, construction, financing, sale and project  
23 management of the development. The two percent (2%) in excess of the  
24 costs shall be retained by the Corporation for the payment of expenses it  
25 will incur during the construction and monitoring of the project. The

1 proceeds from the sale of the lots shall be retained by the Corporation.  
2 The costs of off-site infrastructure and off-site access roads shall be the  
3 responsibility of the government of Guam. On-site infrastructure is  
4 defined as all infrastructure improvements inside the lots described in  
5 §2 of this Act. The proceeds from the sale of the lots shall be retained by  
6 the Corporation. Of these proceeds, Two Hundred Thousand Dollars  
7 (\$200,000.00) shall be used to prepare a comprehensive housing study  
8 on homeownership for Guam and the balance shall be used for costs  
9 associated with future affordable housing projects. The Corporation  
10 shall establish a fund for the proceeds of the land sales that is separate  
11 from its other accounts and shall report to *I Liheslaturan Guahan* each  
12 year on the status of this fund.”

13 **Section 6.** Section 7.1 is hereby *added* to §7 of Public Law Number 20-  
14 225, as further amended by Public Law Number 24-81, to read as follows:

15 **“Section 7.1. Equity Interest Recapture.** The difference  
16 between the selling price of each unit and the initial appraised value of  
17 each unit at the time of the sale is considered equity and shall be  
18 available to the purchaser for down payment assistance and closing  
19 costs. This equity shall *not* be used for debt consolidation. Participating  
20 banks and financial institutions are encouraged to access this equity for  
21 the purposes stated herein. *If* a homeowner uses any portion of this  
22 equity for any purpose listed herein, and the homeowner decides to sell  
23 the home before five (5) years have transpired from the date of original  
24 purchase, then the homeowner shall be obligated to pay to Guam

1 Housing Corporation five percent (5%) interest per year on the amount  
2 of equity used.

3 Guam Housing Corporation shall insert a provision in the  
4 warranty deed for the property title 'Equity Interest Recapture Clause'.  
5 The purpose of this provision is to establish a vehicle to recapture five  
6 percent (5%) interest per year on the equity used by the homeowners in  
7 the event the homeowners decide to resell the property in the first five  
8 (5) years. This interest must be paid to the Corporation at the close of  
9 escrow. *If the homeowner sells the home after five (5) years, then the*  
10 *recapture clause shall have expired and the homeowner shall not be*  
11 *required to pay the interest."*

12 **Section 7.** Section 12 of Public Law Number 20-225 is hereby *repealed*  
13 *and reenacted* to read as follows:

14 **"Section 12. Zoning.** Upon conveyance of the  
15 property described in §2 of this Act to the Corporation, such property  
16 shall thereupon be zoned as a 'Multi-residential (R2)'. Any variance  
17 required from Subdivision laws of Guam which would allow the Guam  
18 Housing Corporation to maximize the marketability of the housing  
19 units and lots of the Lada Estate Project is hereby granted so long as the  
20 waiving or granting of such variance does *not* cause or result in danger  
21 to the health, safety or livelihood of the residents of Lada and the  
22 general public, and that such variance would *not* result in economic loss  
23 to the Guam Housing Corporation and the homeowners of Lada  
24 Estates".

1       **Section 8.** Section 17 is hereby *added* to Public Law Number 20-225 to  
2 read as follows:

3               **“Section 17.               Exemption.               Sales of homes of**  
4       lots to qualified purchasers pursuant to this Act are hereby exempt from  
5       the provisions of §60112 of Article 1 of Title 21 of the Guam Code  
6       Annotated and §2107 of Chapter 2 of Title 2 of the Guam Code  
7       Annotated. For purposes of this Act, the Lada Estates Project shall be  
8       exempted from the provisions of Public Law Number 18-15.”

9       **Section 9. Severability.** *If* any provision of this Law or its  
10 application to any person or circumstance is found to be invalid or contrary to  
11 law, such invalidity shall *not* affect other provisions or applications of this  
12 Law which can be given effect without the invalid provisions or application,  
13 and to this end the provisions of this Law are severable.

**EXHIBIT “G”**

**Public Law 30-172**

***I MINA'TRENTA NA LIHESLATURAN GUÅHAN***  
**2010 (SECOND) Regular Session**

**Bill No. 390-30 (COR)**

As amended on the Floor.

Introduced by:

T. R. Muña Barnes  
Judith T. Won Pat, Ed.D.  
T. C. Ada  
V. Anthony Ada  
F. B. Aguon Jr.  
F. F. Blas, Jr.  
E. J.B. Calvo  
B. J.F. Cruz  
J. V. Espaldon  
Judith P. Guthertz, DPA  
Adolpho B. Palacios, Sr.  
v. c. pangelinan  
R. J. Respicio  
Telo Taitague  
Ray Tenorio

**AN ACT TO *AMEND* SUBSECTION (d) OF SECTION 38,  
CHAPTER VI OF PUBLIC LAW 29-113, RELATIVE TO  
THE *LADA* ESTATES PROJECT AND ENSURING  
ACCESS TO AFFORDABLE HOUSING FOR THE  
PEOPLE OF GUAM.**

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

2           **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the  
3 demand for affordable housing for Guam families is rising exponentially each  
4 month as the military expansion and concurrent increase in economic activities  
5 progress. The shortage of affordable housing for Guam families and residents

1 requires immediate action to facilitate access to equitable homeownership  
2 programs.

3 *I Liheslaturan Guåhan* also finds that legislation providing access to, and  
4 existing laws governing, the “*Lada Estates Affordable Housing Project*”, as  
5 enacted by P.L. 20-225 and further amended by P.L. 24-81, P.L. 25-116, and by  
6 Section 38 of P.L. 29-113, need to be amended further in order to facilitate and  
7 make more feasible the participation by local developers in creating more  
8 affordable-homes stock for Guam’s working families and access to  
9 homeownership programs.

10 **Section 2.** Subsection (d) of Section 38 of Chapter VI of Public Law 29-  
11 113, is hereby *amended* to read as follows:

12 “(d) A new Section 6.1 is hereby *added* to P.L. 20-225 to read as  
13 follows:

14 “Section 6.1. **Prices for Rental Development.** The Property  
15 *shall* be sold to a private, non-profit organization for the same price as  
16 reflected in Section 6 of P.L. 20-225, as amended. Rental developments  
17 *shall* be developed for families whose income *do not* exceed up to one  
18 hundred fifty percent (150%) of the median income for Guam households as  
19 established by the U.S. Department of Housing and Urban Development  
20 (HUD). When the property is sold to a private, non-profit organization to  
21 develop affordable rental development the transfer of sale *shall* have a deed  
22 restriction to ensure the following:

23 (a) In the event the private, non-profit organization sells the  
24 Property after the rental period, the Property *shall only* be sold to a  
25 first time homeowner. First time homeowner, as it relates to this Act,  
26 *shall* be an eligible buyer as stated on Section 5 of P.L. 20-225, as  
27 amended by Section 38 of P.L. 29-113.

1 (b) In the event the private, non-profit organization sells the  
2 Property after the rental period, the Property *shall only* be sold to a  
3 first time homeowner at the same value the private, non-profit  
4 organization purchased the Property and as stipulated on Section 6 of  
5 P.L. 20-225, as amended.

6 (c) When the private, non-profit organization sells the house  
7 and lot after the rental period it will recover any cost of the vertical  
8 construction, rehabilitation cost, administrative fee, and the allowable  
9 developer fee allowed by HUD. The developer fee can be *only*  
10 applied to the cost of the vertical unit and *not* the land. As stated in  
11 Subsection (b) of this legislation, the land will be sold to the first-time  
12 homeowner with the same value the private, non-profit organization  
13 bought the property as stated in Section 6 of P.L. 20-225.

14 (d) The private, non-profit organization purchaser of the  
15 “*Lada Estates Affordable Housing Project*” *shall* assume all current  
16 and future liabilities associated with all claims and liens filed against  
17 the property including property taxes.

18 (e) The Guam Housing Corporation *shall* have the first right  
19 of refusal to all mortgages for property sold by the private, non-profit  
20 organization purchaser, pursuant to Section 6 of Public Law 20-225.”

21 **Section 3. Superceding.** *If* any provisions of any laws of Guam conflict  
22 with any Sections of this Law, then the provisions of this Law *shall* supersede any  
23 such provisions.