


I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

2005 (FIRST) Regular Session

Bill No. 143 (EC)

Introduced by:


Committee on Calendar
by request of *I Maga'lahaen Guåhan*, the
Governor of Guam, in accordance with
the Organic Act of Guam, as amended.

AN ACT TO AMEND 12 GCA CHAPTER 78 DESIGNATING THE GUAM ECONOMIC DEVELOPMENT AND COMMERCE AUTHORITY AS THE LOCAL REDEVELOPMENT AUTHORITY FOR BASE REALIGNMENT AND CLOSURE (BRAC) ACTIVITIES AND TO REQUIRE GEDCA TO DISPOSE OF PROPERTIES OBTAINED UNDER BRAC AS MANDATED UNDER 21 GCA CHAPTER 80 WHICH ESTABLISHES THE GUAM ANCESTRAL LANDS COMMISSION

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. 12 GCA CHAPTER 78 is hereby amended to read:

“Reuse Planning and Redevelopment of Former Military Bases”

- §78101. Legislative Findings and Intent.
- §78102. General Provisions.
- §78103. Activities as the Reuse Planning Committee.
- §78104. Definitions.
- ~~§78105. Delegation of Authority.~~
- §78106. Powers of the Corporation.
- §78107. Negation of Certain Powers.
- §78108. Interim Leases.
- §78109. Assets of the Corporation.
- §78110. Funding.
- §78111. Access Improvements.
- ~~§78112. Approval of Boundaries.~~
- ~~§78113. Marketing Plan.~~
- §78114. Adoption of Reuse Plans.
- §78115. Implementation of Reuse Plans.
- §78116. Military Approval.
- §78101. Legislative Findings and Intent.

I Liheslaturan Guåhan hereby finds and declares: (a) that there is a need to enhance economic activity on Guam by attracting financial, transshipment, telecommunications, manufacturing, assembly, industrial, aviation and other activities conducive to economic development and promotion in order to provide a stronger, more balanced and stable economy, and that in order to ensure greater accountability, and to maintain the checks and balances system that is fundamental to our government, there is a need for legislative oversight and approval of certain critical decisions regarding the military and Federal property being returned; (b) that the economic well-being of the people of Guam and the public and private business resources of Guam provides unique economic opportunities for the redevelopment of ~~the Ship Repair Facility, the Fleet and Industrial Supply Center and other facilities within Naval activities~~ military properties on Guam slated for closure and/or realignment; (c) that public and private partnership is essential for successful redevelopment of these military bases, and thus the need to create a business-management type entity with board members, management and staff experience in financing and property management, and in attracting new business prospects; (d) that ~~an interim reuse and broad-based planning committee is needed, and as such will differ markedly from the establishment of a permanent base reuse organization~~ must be established whose focus must be on developing and managing the 'Real Estate,' attract private sector industrial clients, work with Federal agencies to accelerate the environmental clean-up ~~and permitting process, maintain the roadways and common property,~~ and provide for the business-like operations and financing of a major real estate holding; (e) that planning, re-planning, rehabilitation, redevelopment and other preparation for reuse of military bases and military base property are public and governmental functions that cannot be accomplished through the ordinary operations of private enterprise because of the provisions of Federal law that provide for the expeditious and affordable transfer of military base property to an entity established by local government, and the necessity for requiring the proper use of the land to best serve the interests of Guam and its people; (f) that there is a need to provide financing mechanisms and subsidies essential for successful long term redevelopment; (g) that it is the intent of I Liheslaturan Guåhan to establish a permanent and legal multi-jurisdictional collaborative structure, and to authorize a redevelopment entity capable of developing, implementing and managing reuse strategies, rooted in reality, but focused on opportunities and providing for a consensus outreach and open public planning process that guides and coordinates conversion activities, and promotes economic redevelopment at these military base properties; and (h) that the best instrument, both for completing the plans for the reuse of the former military facilities ~~and properties at Apra Harbor,~~ and for implementing these reuse plans is the Guam Economic Development and Commerce Authority, because it is a public corporation, with its own budget, independent of taxpayers' funds, directed by a board of directors made up of local businessmen and women, and established to assist in the implementation of an integrated program for the economic development of Guam. This public instrumentality is best able to develop an effective reuse strategy that will achieve the objectives of this Article, which are to both create and maintain employment, provide economic opportunities for private businesses, facilitate the continued operation and expansion of seaport facilities, and generally to take maximum advantage of Federal laws and regulations allowing cost-free conveyances of surplus property and facilities for public benefit and economic redevelopment purposes.

§78102. General provisions. Upon the enactment of this Article, the Guam Economic Development and Commerce Authority ('Corporation') is hereby constituted as ~~the Reuse Planning Committee~~ and as the Local Redevelopment Authority to carry out both planning for the reuse of closed or

realigned military bases, which are made available as a result of ~~the~~ BRAC '95 closures, and to act as the legal authority to implement the reuse plans, and thus shall have the powers set forth herein over any property it shall acquire by lease or deed, ~~or to authorize other public entities to acquire title to the military base property~~, subject to approval by Liheslaturan Guåhan.

§78103. Activities as the ~~Reuse Planning Committee~~ Local Redevelopment Authority.

The Corporation, in its capacity as the ~~Reuse Planning Committee~~ Local Redevelopment Authority shall perform activities that include but are not limited to the following: (a) Creation of a ~~three (3) year economic~~ redevelopment or reuse plan. (b) Creation of an annual business plan. (c) Conducting community outreach activities which shall include public education and information. (d) Applying for and administering grants from any source for activities related to the Corporation's functions. (e) Coordinating the environmental remediation and clean-up mandated by federal and Guam ~~statues~~ statutes. (f) Creation of a set of rules, organizational structure and operating procedures for developing the reuse plans. (g) Creation of subcommittees in order to develop reuse guidance on specific issues, utilizing, as necessary, persons with relevant skills and knowledge. (h) Conduct all meetings ~~of the committee~~ openly, pursuant to the Guam Sunshine Law.

§78104. Definitions. For purposes of this Article,

(a) Military Base means a DOD military Installation in Guam that is scheduled for closing or realignment or is to be completely or partially closed, as a result of ~~the~~ BRAC '95 recommendations.

(b) Military Base Property means real and personal property that is currently or was formerly part of a Military Base and is subject to reuse.

(c) Local Redevelopment Authority (LRA) means ~~that division of the Corporation~~ which is able to receive property under an Economic Development Conveyance from DOD and to enter into interim leases or early transfers of parcels for undertaking early reuses prior to the departure of the military from the closed base.

~~(d) Reuse Planning Committee means that division of the Corporation charged with planning the reuse of military bases and military base property available through the BRAC process. As such, it is eligible to apply and receive planning and organizational grants from the DOD Office of Economic Adjustment.~~

(e) PAG means the Port Authority of Guam

(f) DOD means the U.S Department of Defense.

(g) Base Commander means the military or Naval officer in command of the Military Base being closed or realigned in Guam pursuant to the BRAC process.

(h) BRAC '95 means the U.S. Base Closure and Realignment Commission's final decision ~~announced in 1995~~ as it affects ~~certain~~ Military Bases in Guam.

(i) OEA Project Manager means that person appointed by the Office of Economic Adjustment of DOD who coordinates and guides Guam's adjustment to the Military Base closures and realignments brought about through the BRAC process.

(j) Reuse Plan means the plan prepared by the ~~Reuse Planning Committee~~ or the Local Redevelopment Authority for the reuse or redevelopment of the Military Bases in Guam affected by BRAC '95.

~~(k) Guam Steering Committee means that committee created by Executive Order No. 95-17, executed September 15, 1995, which committee is charged with planning the reuse of Military Bases and Military Base Property available to Guam through the BRAC '95 process.~~

(l) HUD means the U.S. Department of Housing and Urban Development.

~~§78105. Delegation of Authority. The Corporation shall delegate to PAG and/or the Guam Steering Committee all planning and management activities and responsibilities to such Military Bases and Military Base Property as will be leased and/or acquired by PAG. In connection with any such delegation, the Corporation shall assist, coordinate and provide the support necessary, as the case may be, in obtaining grants to carry out such planning and management services.~~

§78106. Powers of the Corporation. The enumerated powers of the Corporation shall include, but not be limited to, those powers delegated by this Article. Such powers shall include the power to:

- (a) investigate, study and survey the area surrounding, and the real property and structures that are part of a military base;
- (b) investigate, study and determine the means by which military base property may be redeveloped and reused by private enterprise to promote economic development, or by local government, to otherwise benefit the welfare of the people of Guam;
- (c) promote the reuse of military base property in the manner that best serves the interests of Guam, subject to approval of I Liheslaturan Guåhan;
- (d) cooperate with departments and agencies of the government of Guam, and with other governmental entities, including the Federal government, in the manner that best serves the purposes of this Article;
- (e) hold, acquire, operate, manage, lease (as lessee or lessor), construct or repair, or dispose of real and personal property in the name of the Corporation, subject to approval of I Liheslaturan Guåhan;
- (f) make and enter into contracts, including, without limitation, contracts with non-profit corporations and contracts with government of Guam and Federal agencies, subject to approval of I Liheslaturan Guahan.
- (g) cooperate with the Federal government in all respects concerning implementation of the final Record of Decision concerning the disposal and reuse of military base property;
- (h) make and enter into contracts with agencies or departments of the Federal government for the provision of caretaker services for all, or a portion of military base property after closure; this power includes the power to make and enter into contracts with third parties for the provision of such services as deemed appropriate by the Corporation, subject to approval of I Liheslaturan Guåhan;
- (i) engage a full-time staff to carry out the work of the Corporation; ~~the initial staff of the Reuse Planning Committee of the Corporation ('Committee') shall consist of an executive director and an administrative assistant, and as more sub-committees are established which need staff support, as the reuse planning process involves more agencies requiring coordination, and as consultants are retained to conduct the reuse planning studies, the Committee may engage additional staff as necessary;~~
- (j) retain qualified consultants to assist in developing reuse plans; in doing so, the Committee Corporation should identify the preliminary scope of work, the technical qualifications and support services of the consultants which will provide the types of information needed by the Committee Corporation to develop reuse plans;
- (k) provide for the furnishing of services, privileges, works, streets, roads, public utilities or educational or other facilities for, or in connection with, a project; to dedicate property acquired or held by it for public works, improvements, facilities, utilities and other purposes; and

to agree, in connection with any of its contracts, to any conditions that it deems reasonable and appropriate, including, but not limited to, conditions attached to Federal financial assistance, and to include in any contract made or let in connection with any project of the Corporation provisions to fulfill such of said conditions as it may deem reasonable and appropriate, subject to approval of I Liheslaturan Guåhan;

(l) fix, maintain and revise fees, rates, rents, security deposits and charges for functions, services or facilities provided by the Corporation;

(m) adopt a master economic redevelopment and reuse plan ~~which shall include a three (3) year plan, which shall be updated prior to the expiration of each three (3) year period,~~ establishing strategies and goals for promoting and marketing redevelopment activities at the military bases, securing development commitments for job creation and such purpose;

(n) accept contributions, grants or loans from any public or private agency, individual or the Federal government, or any department, instrumentality or agency thereof, for the purpose of financing its activities; and

(o) take all actions necessary or appropriate to carry out and implement the provisions of this Chapter.

§78107. Negation of certain powers. In determining what implied powers the ~~Committee Corporation~~ has under §2965 herein, it shall be clearly understood the ~~Committee Corporation~~ shall not have the following powers:

(a) Taxation.

(b) Condemnation or eminent domain.

(c) Creation of general obligation debt.

(d) Zoning or other governmental powers over land use.

(e) Enforcing of building, fire code, public health or safety regulations.

(f) Control and acceptance of public rights of way.

§78108. Interim Leases. The Corporation will enter into interim leases for early transfer of all or a portion of military base properties, parcels or buildings suitable for leasing which can be used for redevelopment purposes, and provide job opportunities prior to the military's departure from a military base, which interim leases may also provide income to help with the maintenance and operational cost of the site, subject to approval of I Liheslaturan Guåhan. In such event any leases or subleases entered into by the Corporation as lessor shall include, at a minimum, substantially the following provisions:

(a) the sublessee shall maintain, at its own cost, comprehensive general liability and property damage insurance on buildings and real property in a reasonable minimum amount as determined by the Corporation. A certificate of insurance naming the Corporation as an additional insured evidencing such insurance shall be delivered to the Corporation contemporaneously with the execution of the sublease agreement.

(b) The sublessee shall not assign or transfer its rights under the sublease agreement, or sublet the leased premises without first obtaining written consent from the Corporation.

(c) The sublessee shall use the leased premises in a careful, safe and proper manner, and shall not use or permit the premises to be used for any purpose prohibited by the laws of the United States, or the laws of Guam.

§78109. Assets of the Corporation. The Corporation shall maintain an asset inventory list for any and all real or personal property acquired by the Corporation by lease, purchase, donation or federal conveyance. This list shall designate how the asset was acquired, the date of acquisition, and the date of any sale or other disposition of any asset transferred by the Corporation, together with the amount of consideration received or paid by the Corporation. All military property book lists shall be examined by the Corporation for items marked as surplus.

§78110. Funding. The Corporation shall obtain planning funding from the DOD Office of Economic Adjustment and thereafter shall obtain implementation funding from various sources such as the Economic Development Administration of the U.S. Department of Commerce and other various DOD conversion programs, and various funding programs with the government of Guam.

~~§78111. Access Improvements. The Corporation shall work with the Department of Public Works, the Guam Mass Transit Authority, the Public Utility Agency of Guam Waterworks Authority, Guam Power Authority, Guam Telephone Authority, and PAG, as appropriate, to improve access to a site in order to make it competitively marketable.~~

~~§78112. Approval of Boundaries. The Corporation shall approve proposed new boundaries at Port Authority of Guam and the inner Apra Harbor, respectively, subject to approval of Liheslaturan Guåhan.~~

~~§78113. Marketing Plan. The Corporation shall develop a plan for marketing the site, or sites, in order to attract the desired types of economic activities, using existing marketing structures, including the Guam Chamber of Commerce, subject to approval of Liheslaturan Guåhan.~~

§78114. Adoption of Reuse Plans. The Corporation shall submit to the Governor any reuse plan completed and adopted by the ~~Committee~~ Corporation. Upon approval, the Governor shall transmit the proposed reuse plan to the Legislature for review and approval by statute within 60 calendar days of receipt by the Speaker. If the Legislature does not act upon the proposed plan within such period, the plan shall be deemed approved. After approval, the plan shall be submitted by the Governor to HUD and DOD for approval and subsequently incorporated by the ~~Territorial Planning Commission into the comprehensive master plan for Guam and by the Territorial~~ Guam Land Use Commission into the territorial zoning systems for lands covered by the plan, as zoned by the plan. However, Zoning approval and compliance of the Reuse Plan shall be deferred until such time as the ~~negotiated fair market value purchase price, the economic development conveyance, or the public benefit conveyance is approved by the federal government, including an understanding as to how public infrastructure will be financed for the site property is transferred pursuant to 21 GCA Chapter 80.~~

§78115. Implementation of Reuse Plans. ~~The Corporation shall work with representatives of the Port Authority of Guam ('PAG') to identify military base property which should be acquired by PAG for the further development, improvement, operation and expansion of Guam's civilian sea ports, including property needed to develop sources of revenue to sustain viable industrial and seaport operations and jobs, pursuant to a Public Benefit Transfer or other conveyance authorized by Federal law. In addition, the~~ The Corporation, as the LRA, shall implement the reuse plans for properties under the ~~Guam Land Use Plan, 1994 ('GLUP '94') declared excess to military needs~~

~~under BRAC '95, as it pertains only to Naval Activities properties deemed available for immediate reuse that will enhance and improve vital seaport activities and facilities. All other properties under GLUP '94 declared excess Federal lands that have no relation to the economic development of seaport activities shall be implemented separately from the overall Reuse Plan pursuant to Public Law Number 22-145-25-45, and U.S. Public Law Number 103-339, Chapter 80, 21 GCA which established the Guam Ancestral Lands Commission, wherein the desires and interests of any original landowners shall be considered. Notwithstanding any other provision of law, no agency of the government of Guam, including autonomous agencies, receiving by title or any other conveyance, land formerly owned or controlled by the United States Government, either military or civilian, may use, convey or dispose of said land without approval by I Liheslaturan Guåhan.~~

§78116. Military Approval. The Corporation shall submit to the appropriate military branch each reuse plan approved by the Governor in time to become the "preferred action" for the Base closure environmental impact statement.