



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Office of the Speaker

MARK FORBES

Date: 6/15/06

Time: 8:00 AM

Rec'd by: [Signature]

Print Name: [Signature]

28-0650877

14 JUN 2006

The Honorable Mark Forbes
Speaker
I Mina Bente Ocho Na Liheslaturan Guahan
Twenty-Eighth Guam Legislature
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker,

Hafa Adai! On February 22, 2006, I transmitted to you Executive Order No. 2006-02 relative to Guam Ancestral Land Use and Administration by Approving the Land Use Master Plan for Dos Amantes. In this transmittal, I included the plan also adopted and approved by the Guam Ancestral Lands Commission and the Executive Order and informed you the legislation to approve the plan will be forthcoming. I herewith enclose that legislation.

Enactment of the Land Use Master Plan for Dos Amantes will establish the initial zoning and land use control which is required to comply with the provisions of:

- 21 GCA Section 62102 "...to provide for the orderly growth and harmonious development of the territory; to insure adequate traffic circulation through coordinated, street, road and highway systems; to achieve individual property lots of maximum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage and other health requirements; to permit the conveyance of land by accurate legal description ; and to provide logical procedures for the achievement of this purpose."
- 21 GCA Section 62108 (b) "...every lot about a roadway right-of-way having a minimum width of forty (40) feet..."
- 21 GCA Section 62402 (a) (3) "Form of Final Plans shall show all survey and mathematical information and data necessary to locate all monuments, and to locate and retrace any and all interior and exterior boundary lines appearing thereon including bearing and distances of straight lines, radii, arc and tangent lengths of all curves. The final map shall particularly define, designate and delineate all road and alley right-of-way and easements and other parcels offered for dedication for public use..."

Likewise, and of equal importance, enactment will provide roads, utility easements, and provisions for traffic circulation insures all Ancestral Land lots in this area receive viable access to their property. To their credit, this plan – the first of its kind for Guam Ancestral Lands – was developed entirely by the landowners themselves, who deeply appreciate the need for orderly growth toward the highest and best public benefit use of their lands. This plan also pioneers reuse planning and redevelopment of formal military bases within the meaning of Chapter 28, 12 GCA. Enactment of the Land Use Plan for Dos Amantes will encourage ancestral landowners in other vicinities to follow suit, having been provided an important legislature precedent and process to follow in their efforts to also improve their lands.

The Guam Ancestral Lands program is truly unique, historically, and as a means by which we, as a people, can unite to honor our ancestors by being good stewards of the legacy they endowed us with. I hope you will join me in a major effort to enact this important measure at the earliest time possible.

I wish to reiterate this Master Land Use Plan for Dos Amantes, with the full encouragement of my office and this administration from the outset of their work, was prepared by a group of affected ancestral landowners, at a private initiative, without any public expense at all! Once the draft plan was prepared, it was widely circulated among landowners and claimants in the subject area, then publicly heard by the Guam Ancestral Lands Commission (GALC), which then adopted the plan without opposition, after offering several amendments which were incorporated into the version approved by GALC in September of last year. In January of this year, I endorsed the plan, after full interagency review, on the understanding that landowners who authorized the plan would also draft suitable legislation to implement the measure. I too received no opposition to approval. To the contrary, landowners were very enthusiastic about adoption of this legislation.

The legislation enclosed is the work product of the landowners supported by their private attorneys. Accordingly, with respect for this extraordinary landowners initiative, I am transmitting the legislative package exactly as it was presented to me by petition. I believe this version should be the focus for legislative enactment. The Ancestral Landowners seek four (4) separate, but related pre-development land use actions:

- 1) Adoption of the Land Use Master Plan and the Cadastral Base Map for the Dos Amantes area previously adopted by the GALC and myself. As you are aware, only the Guam Legislature holds initial zoning authority.
- 2) Facilitating and expediting the initial registration of, and the issuance of the initial certificates of title to, all land parcels listed in the Dos Amantes Cadastral Map, including all easements, all rights of way, public parks and all other public land, including the Ancestral Land Bank Trust land. This procedure is to apply only to the lots included in the Dos Amantes Cadastral Base Map and then only to the initial inscription. After initial inscription, the existing provisions of 21 GCA shall apply to future lot registration.

- 3) Resolution of the issues of historic site preservation at Hilaan in order than an additional 440 acres of land can be returned to the Government of Guam for distribution to the original landowners or heirs.
- 4) A real property tax moratorium for 7 years to offset the deeded provision that the landowners cannot sell the return land for a period of 7 years. You will recall some tax relief was enacted during the last session. The landowners seek an additional four (4) years because the deed restrictions prevent the landowners from selling (and possibly mortgaging) any portion of the return land for the purpose of obtaining improvements funds for the remainder of the property, for paying real estate taxes or for any other purpose.

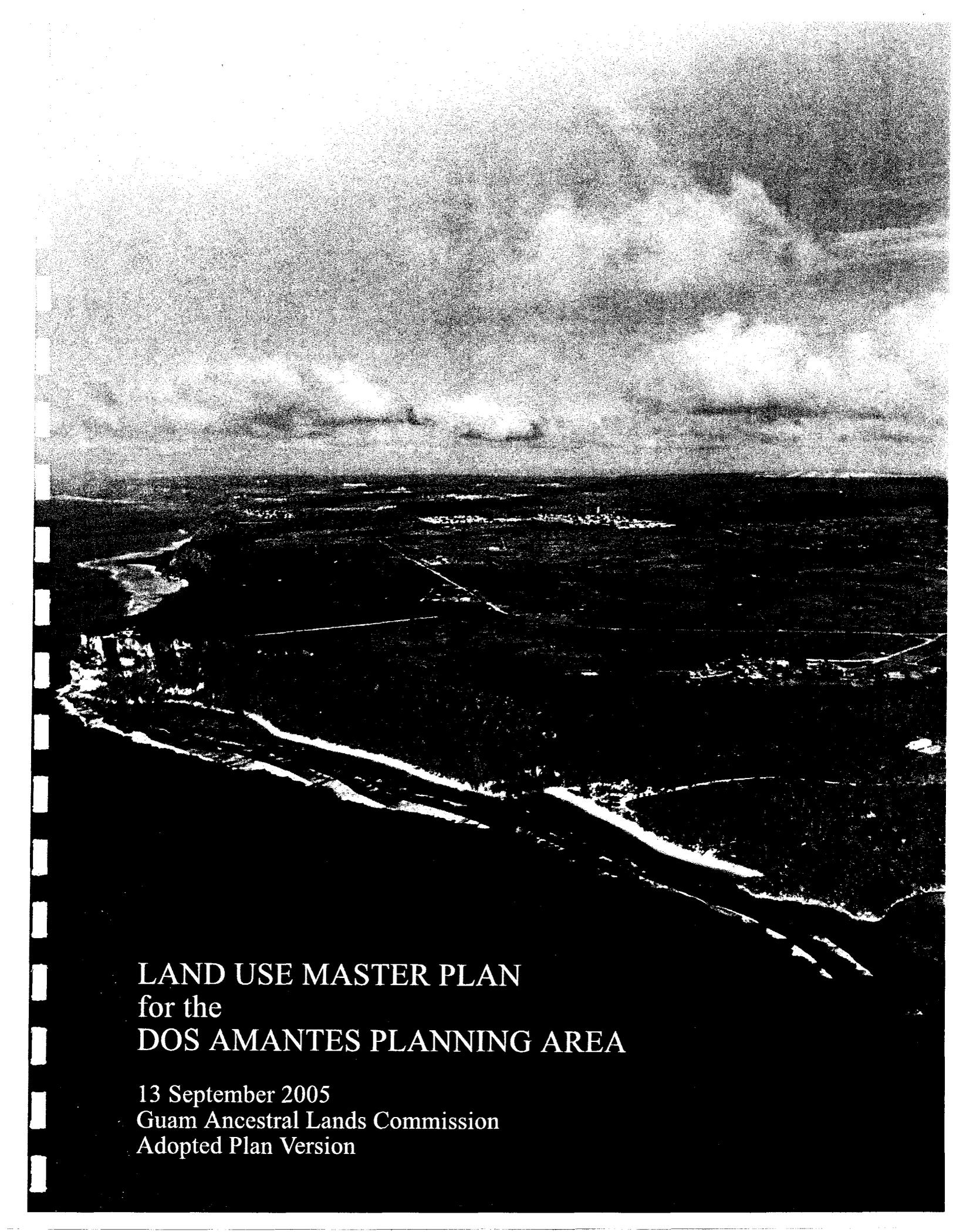
Because Dos Amantes is integral to the future development of Guam's visitor industry, landowners are highly motivated to reuse and redevelop their ancestral lands into highest and best uses. The Dos Amantes Master Plan is a major step forward toward that end and fully coincides with Congressional expectations for their land. I feel very privileged to have been a part of the progress at hand. I am very confident you also take great pride in the accomplishments since enactment GALA of P.L. 25-45 for which you were a main sponsor. I look forward to your favorable consideration and am happy to learn your office will soon hold a public meeting to facilitate enactment of the measure.

Sinseru yan Magâhet,



FELIX P. CAMACHO

I Maga' Lâhen Guâhan
Governor of Guam

An aerial, black and white photograph of a coastal region. A prominent road winds through the landscape, which appears to be a mix of agricultural fields and natural terrain. The coastline is visible on the left, with waves breaking against the shore. The sky is filled with large, dramatic clouds. The overall tone is somber due to the monochrome palette.

LAND USE MASTER PLAN
for the
DOS AMANTES PLANNING AREA

13 September 2005
Guam Ancestral Lands Commission
Adopted Plan Version

TRANSMITTAL LETTERS

Daniel D. Swavely
Consulting Services
Villa Kanton Tasi, #1201
301 Frank H. Cushing Way
Tumon, Guam 96913



August 12, 2005

Honorable Felix P. Camacho
Ufisinan Maga'lahi
P.O. Box 2950
Hagatna, Guam 96932

Subject: Land Use Master Plan for the Dos Amantes Planning Area

Hafa Adai Governor Camacho:

In February 2003 I wrote to you about the impending problems associated with the return of lands to original landowners wherever zoning and viable access are absent. In particular, I highlighted the Harmon Cliffline/Dos Amantes area, where nearly 3,000 acres are in the process of being returned, yet only one property is officially zoned and many are landlocked, without easements for either access or utilities. At that time I offered to undertake, pro bono, preliminary land use master planning that would rectify those pre-development problems at Dos Amantes and establish a process that could also serve as a template for other returned-land areas on Guam which suffer similar constraints. Shortly thereafter, I learned about your acceptance of my offer through your Staff Assistant, Mr. Carlos Camacho.

I am pleased to enclose the results of my work.

During the course of this project, which obviously took much longer than I anticipated, I learned how entrenched many of these land use development problems have become. For example, the basis of any land use master planning lies in the availability of accurate cadastral maps which depict the metes and bounds of properties and easements. Throughout the Dos Amantes area, however, such cadastre is non-existent, except for perimeter boundaries of the land blocks returned by the military. Fortunately, my master planning work attracted the attention of several claimants with large land holdings in the Dos Amantes area, and they concurrently undertook a tabletop, digitized cadastre of the entire area. Together, we were able to produce a tentative subdivision map of the entire area, complete with an efficient network of access and utilities as well as a land use master plan and zones which support the highest and best use of the properties.

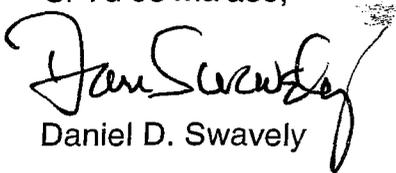
A few weeks ago I presented this report to the Land Bank Subcommittee of the Guam Ancestral Lands Commission. As the largest single landowner within the planning area, I thought it prudent to solicit their review and comment

before making any submittal to you. I am pleased to report that the Committee favorably received my work and asked for a few changes, which I have incorporated into this submittal.

Inasmuch as the Department of Revenue and Taxation has begun real property tax assessments of Ancestral Land lots, there is increased urgency for the establishment of a formal and adopted land use plan. Therefore, I invite your close attention to these work products and look forward to an opportunity for making a short presentation to you.

Of course, this is only the beginning. The final section of the master plan document presents a going-forward strategy of subsequent steps necessary for implementing the land use plan, zoning, and infrastructure development through the formation of an Improvement District, as authorized under P.L. 14-76. I would welcome the opportunity to discuss those steps, as well.

Si Yu'os Ma'ase,



Daniel D. Swavely

Enclosure as stated

cc w/ enclosure: Mr. Ed Benavente, Executive Director, Guam Ancestral Lands Commission

Daniel D. Swavely
Consulting Services
Villa Kanton Tasi, #1201
301 Frank H. Cushing Way
Tumon, Guam 96913

August 12, 2005

Honorable Ed Benavente, Executive Director
Guam Ancestral Lands Commission
Hagatna, Guam USA

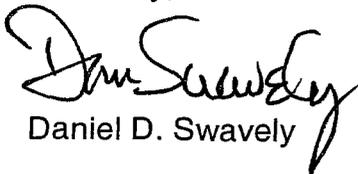
Subject: Final Land Use Master Plan for "Harmon Cliffline – Dos Amantes" Area

Hafa Adai Mr. Benavente:

As you know, on July 19, 2005 I presented the Preliminary Land Use Master Plan for the Dos Amantes Planning Area to the Commission's "Land Bank" Subcommittee. The Subcommittee then asked me to revise land uses for a portion of the planning area and to re-submit the Master Land Use Plan and the Base Cadastral Map with property coordinates. I have made those revisions, and they are enclosed for the Commission's formal adoption.

This concludes my work, and I appreciate the opportunity to have worked with you and your staff on such an important matter. I am confident that the Guam Ancestral Lands Commission will make good use of this Master Plan.

Sincerely,


Daniel D. Swavely

Enclosures as stated

GUAM ANCESTRAL LANDS COMMISSION
Kumision I Tano' Sain-to
Government of Guam
Received by: JLC
Date: 9/29/05 Time: 12:00p

Tel: 649-2227
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**LAND USE MASTER PLAN
for the
DOS AMANTES PLANNING AREA**

LAND USE MASTER PLAN
for the
DOS AMANTES PLANNING AREA

BACKGROUND

The Ancestral Lands Commission and the Chamorro Land Trust currently administer thousands of acres of land, which have existed outside of the island's civilian economy for several decades. A recent inventory indicates that approximately 6,900 acres of former federal excess lands are in the process of being returned to original landowners. Other portions of these lands are being programmed for public uses. The recipients of properties returned through the Ancestral Lands Commission ("ALC") process will receive title to their properties, then initiate probate, survey, mapping and land registration. However, these returned properties cannot be developed in accordance with their highest and best use and contribute to Guam's property tax base until they are zoned¹ and served by viable access and utilities.

Further, the procedure for returning properties to original landowners is non-sequential, thereby creating a gap as long as several years between the release of adjacent properties. All this invites a chaotic development pattern, similar to the blight and dysfunction of Harmon Industrial Park. Without a system of land use control, a circulation plan for traffic, municipal services such as parks, viable and legal access to every parcel, infrastructure, and master planning to promote sound development as well as resource protection, many constraints exist which prevent realization of the full economic advantage of these properties.

These properties occur throughout central and, particularly, north western Guam and offer an opportunity for the Government to facilitate a planning solution which capitalizes on the potential for economic development. Master planning for the entire inventory of ALC and Chamorro Land Trust properties would be highly beneficial to the Island's economy; and a pilot project for the ALC properties surrounding the Dos Amantes area could serve as a template for all other areas. The Dos Amantes area is well suited as a pilot project, because its overall size of approximately 1,200 hectares² (approximately 3,000 acres) offers an unsurpassed opportunity to properly master plan a region of public and private properties in advance of Guam's economic development in the 21st century. Theoretically, this land use planning exercise, which addresses approximately 44% of all ALC lands, can serve as a pilot for other areas throughout Guam being returned and/or retained by ALC.

¹ One parcel, Lot 5049-2-R1, located southwest of the Routes 1 and 16 intersection, was zoned in 2005 by the Guam Legislature as partial Commercial and partial Light Industrial. A second parcel, located adjacent to the Calvo compound in Maite, was zoned to accommodate family gravesites.

² Note: a hectare equals 10,000 square meters, approximately 2.5 acres.

PURPOSE

Currently, the government of Guam does not have the financial capacity to undertake land use planning for Ancestral Lands. Therefore, in February 2003 Governor Felix Camacho was offered pro bono services to undertake a land use master planning project for the Dos Amantes area properties, in conjunction with the individual landowners (including the Ancestral Lands Commission) and the Department of Land Management.³ That offer was subsequently accepted by the Governor's Office.

This report summarizes that work and presents a preliminary master plan, based upon a cadastral base map, which encompasses options for land uses, access and utility easements, and public uses as well as the necessary subsequent steps for implementation.

THE DOS AMANTES PLANNING AREA

For purposes of this plan, the Dos Amantes area includes those properties lying generally westerly of Routes 1 and 3, between the Gun Beach/Harmon Cliffline on the south and the NCTAMS Finegayan area to the north. These areas are generally referred to as (starting from north to south):

Former FAA Housing (Naval Radio Finegayan - 1) at 276 acres

South Finegayan at 162 hectares (+/-) (maps based on preliminary boundaries; final boundaries unavailable at this time). This parcel was surplus to GSA in 2000 pursuant to U.S. Public Law 103-399 but is yet to be returned, pending action of the Government of Guam regarding a Hilaan Protection Agreement. Assuming the Government of Guam will take the necessary actions in the near future to assure a timely return to the ALC and the heirs of the original landowners, this parcel has been incorporated into this plan.

Andersen Communication Annex No. 1 (AJKD) at 353 hectares

Andersen Family Housing Annex No. 4 (AJKP) at 160 hectares

Andersen VOR Annex (AJKZ) at 125 hectares

Andersen Petroleum Storage Annex No. 2 (AJKV) at 14 hectares

Harmon Air Force Base "A-1" and "A-2" at 8 hectares

NCS Beach at 6 hectares

³ See Enclosure A. letter to Governor Felix P. Camacho from Daniel D. Swavely, dated February 17, 2003.

Abutting public and private properties at 71 hectares, of which the public areas include the Tanguisson Power Plant, Dos Amantes Park, and the Northern District Sewage Treatment Plan.

The total area amounts to approximately 1,200 hectares (all sizes are approximate).

Enclosure B presents the parcels, which comprise the Dos Amantes planning area and the current zoning.

LAND USE MASTER PLANNING PROCESS

Land use master planning must rely on several building blocks, including:

reliable cadastral data regarding property surveys and a traffic circulation plan which provides adequate easements for access and infrastructure;

current economic development master plans; and

current land use master plans.

Property Surveys

Approximately half of the returned lands included in the planning area had never been surveyed by either the landowners or the U.S. Government at the time of condemnation. The other half of the returned lands had been surveyed at the time of condemnation, but are yet to be re-surveyed following land return.

Some claimants who have already had land returned are now undertaking property surveys in order to set the metes and bounds of their parcels. Unfortunately, those surveys have not been coordinated with respect to common reference points and datum; so apparent gaps and encroachments are already surfacing.

Some of the of the larger claimants, such as the Shimizu and the San Nicolas families, have commissioned a digitized base map for the overall planning area in order to reconcile individual parcel boundaries within each of the larger areas of returned lands. That Base Cadastral Map will serve as a master cadastral to coordinate the individual lot surveys and thereby avoid unnecessary expense and disagreement resulting from conflicting field surveys and is, therefore, essential to implementing the Dos Amantes Land Use Master Plan (see Appendix A). The Base Cadastral Map should be used by the Department of Land Management for checking future individual survey maps with respect to boundary, size and location. The Base Cadastral Map is also accompanied by tables showing each

property's area and corner coordinates, greatly facilitating the preparation and recordation of property surveys by original landowners and heirs.

Traffic Circulation Plan

A maze of access and utility easements already exists throughout the planning area, consisting of documented access and utility easements, bull cart trails, and paved roadways not within documented easements. However, the existing circulation pattern neither serves the entire planning area efficiently nor does it offer viable access to every property. See Enclosure C for existing accesses within the planning area, including a highlight of those lots without viable access at this time.

Legal and viable access to every parcel as well as an efficient, overall transportation network are essential to any land use master planning. In the case of the Dos Amantes planning area, such a traffic circulation plan is also necessary to achieve the goal of attaining the best and highest use of the returned lands.

The land return maps include utility and access easements. However, those easements do not serve every returned parcel. Therefore, unless the Government of Guam takes steps to correct this situation, several parcels will remain landlocked.

Access easements retained by the Federal government within the planning area are permanent and cannot be vacated without the permission of the U.S. government. Those easements include:

- Useable paved roads;

- Easements that were never paved or were previously paved but are now unusable due to vegetation overgrowth; and

- Utility easements that are too narrow (usually only 15 to 20 feet) to function as viable access roadways.

Enclosure D, Land Use Plan, presents a traffic circulation plan for the Dos Amantes planning area. This transportation network includes:

- Retention of useable paved roads;

- Retention of easements that were never paved and easements that were previously paved but are now unusable due to vegetation overgrowth;

Utility easements that could be widened to provide viable access to parcels, which would otherwise be landlocked;

Bull cart trails that could be widened to provide legal and viable access to parcels which would otherwise be landlocked; Those bull cart trails no longer necessary can be vacated and consolidated into abutting lots; and

New access easements which are necessary to assure a balanced network of circulation and utilities both to and within the planning area and/or to provide easements to parcels which would otherwise be landlocked. All easements should be set to minimum widths of 50 feet or 100 feet, as necessary to provide the level of service for which they are intended.

These new access easements are described below.

Link between Tumon and Dos Amantes

This corridor connects San Vitores Boulevard, in the vicinity of Okura Hotel, with the Dos Amantes Park Road intersection. Some of this alignment follows an existing bulcart trail. This link will provide for direct commerce and transportation between the Tumon resort district and the Dos Amantes planning area without the use of Marine Corps Drive.

Connector between the Tanguisson Beach Road / NDSS STP intersection and Route 3

This connector provides for a more direct access to Route 3 from the Tanguisson Beach area and generally improves the overall circulation pattern in the central portion of the planning area. Note that additional accesses from the planning area to Route 3 are possible; however, the development of those additional connectors should be postponed until warranted by traffic volume, thereby avoiding unnecessary Route 3 intersections at this time.

Corridor between the Central Portion and the Northern Portion of the Planning Area

This corridor connects the existing circulation pattern in the central portion of the planning area with the northern area, including a northern connector to Route 3, already in place as the access road to the former FAA Housing area. This alignment is predicated on two facts. First, it is a direct line connection between the existing NDSS STP roadway easement and the existing FAA Housing

roadway, which ties into Route 3. Second, this alignment was established as early as 1922 and reflected on a Historic Precedence Map printed in 1922 by the Corps of Engineers (Enclosure E) and again in March 1947 by the U.S. Naval Gov't of Guam, M.I., Land Claims Commission (Enclosure F).

Public Parks Planning

Guam Public Law 22-145 specifically returns Tanguisson Beach Park to the original landowner or heirs. The preliminary Dos Amantes land use master plan envisions this park and an expanded adjacent area becoming the property of the Government of Guam for public use. However, such park planning will require land condemnation, unless the original landowners or heirs are willing to accept the Base Cadastral Map, which relinquishes the park area to GovGuam in return for land elsewhere in the Dos Amantes planning area.

Current Economic Development Planning

The government of Guam does not have a current, comprehensive economic development plan. Nonetheless, policies and budget commitments by both the government of Guam as well as the U.S. federal government indicate the likelihood of increased tourism and Department of Defense investments. Secondly, the telecommunications, financial services and transshipment industries are being pursued. With respect to land use planning, these general objectives for economic development portend future requirements within the Dos Amantes area, which has several large tracts of land, for hotel/resort, commercial and residential development.

Current Land Use Master Planning

Guam has neither a current land use plan for the Island nor any plan whatsoever for the Dos Amantes area; and the current zoning code is somewhat restrictive for land use planning purposes. However, the former I Tano'-ta Zoning Code proposed a series of multi-use "intensity districts," each embodying a series complementary land uses organized around an overall theme of development. Two of those I Tano'-ta intensity districts, #6 and #7, reflect residential, commercial and resort development, the general land uses that match both the natural resources and the location of the Dos Amantes area as well as Guam's overall economic development objectives. Further, recent legislative zoning of Lot 5049-2-R1, located within the planning area, for commercial and light industrial development indicates the Legislature's concurrence with this proposed general scheme of land use. See Enclosure D, Land Use Plan

LAND USES

I Tano'-Ta Intensity District 6 – Urban Center

This District is characterized by high intensity residential, commercial and other central business district functions that provide a full range of commercial activities and urban services.

General Permitted Uses

Dwellings (Multi-family only)
Hotels and Guesthouses (Hotels, Bed & Breakfast, Guesthouses)
Retail Trade (Those providing finished products. No auto services)
Personal Services (Banks, Day Care, Veterinarians, Laundromats, etc.)
Business Services (Office Buildings)
Professional Services (Legal, Accounting, Professional Consultants)
Recreation Facilities (Public and Commercial, including Night Clubs)
Limited Public Facilities (Police/Fire Substations, Libraries, Post Office, Mass Transit)

I Tano'-Ta Intensity District 7 – Hotel And Resort

This District is intended to encompass Guam's primary tourism areas including typical support retail and recreation services and facilities associated with tourism.

General Permitted Uses

Dwellings (Multi-family only)
Hotels and Guesthouses (Resorts, Hotels, Guesthouses)
Retail Trade (Those providing finished products, especially for tourists. No auto services)
Personal Services (Barber Shops/Beauty Salons, Laundromats, Day Care)
Business Services (Advertising, Legal, Finance, Tour Wholesale and Travel)
Recreational Facilities (Public and Commercial, including Night Clubs)
Limited Public Facilities (Police/Fire Substations, Infrastructure Support)

LAND USE MASTER PLAN

Enclosure D, Land Use Plan, presents the preliminary land use plan, utilizing the Intensity Districts 6 and 7 as well as the proposed circulation system and permitted land uses. The rationale behind these land use recommendations follows.

Intensity District 6 - Urban Center

This area is well served by both Route 1 and Route 3 and lies between the major residential districts of Dededo/Yigo and central Guam. As such, it is particularly suitable as an urban area, which includes both multi-family residential as well as intensive development of most commercial services, including offices and shopping.

Intensity District 7 - Hotel and Resort

The coastline and adjacent plateau of the Dos Amantes planning area is a geographic extension of Tumon. As Tumon's development becomes saturated, particularly along the coastline, new venues for hotel and resort development will be needed, particularly lots large enough to provide sufficient land base for resorts. The area designated as Intensity District 7 is designed to accommodate that genre of future growth. Further, this District includes a portion of the ALC land, allowing for ALC to include resort and hotel development within its future inventory of assets. Inasmuch as this is a large area which already encompasses several public facilities (Tanguisson Power Plant, Tanguisson Beach, etc.), the possibility of designating additional public benefit uses for parks and public facilities is likely, as the master planning effort evolves into Public Facilities Master Planning to accommodate future development.

While these two Intensity Districts from the former I Tano'-ta Land Use Plan are well suited for the Dos Amantes planning area, collateral recommendations such as I Tano'-ta's Dimensional and Density Requirements, Performance Standards, Off-street Parking Requirements and similar supporting guidelines are neither conducive to sound development policy nor efficient to administer and, therefore, not recommended for adoption.

Further, those properties within the planning area that have been zoned by the Guam Legislature in advance of the adoption of this Land Use Master Plan should be exempt from the land use designations imposed by this Plan.

Additionally, land owners within the Dos Amantes Planning Area should be allowed to substitute a current Guam land use zone (e.g., R-1 Single Family Residential; R-2 Multi-

family Residential; PDD Planned Development District; etc.) for the Intensity District designated on the Dos Amantes Land Use Master Plan so long as the land owner's proposed zone's permitted or conditional uses generally conform to the land uses allowed for the same property within the Intensity District designated by this Plan.

IMPLEMENTATION

The following steps are required to implement this Dos Amantes Land Use Master Plan.

1. The ALC should review and amend, if necessary, this preliminary Land Use Master Plan and accompanying Base Cadastral Map and then formally adopt both by Resolution.
2. The Department of Land Management should adopt the ALC's Land Use Master Plan and accompanying Base Cadastral Map as the basis for subsequent zoning and property surveys within the Dos Amantes planning area.
3. The Government of Guam should enact enabling legislation regarding the economic improvement and development of GALC lands in general and the Dos Amantes planning area in particular.

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List of Enclosures and Appendix

Preliminary Land Use Master Plan for the Dos Amantes Planning Area July 2005

Enclosure A – Letter to Governor Felix P. Camacho from Daniel D. Swavely, dated February 17, 2003.

Enclosure B – Current Zoning

Enclosure C – Existing Access

Enclosure D – Land Use Plan

Enclosure E – Historic Precedence Map, Corps of Engineers, 1922

Enclosure F – U.S. Naval Gov't of Guam, M.I., Land Claims Commission, March 1947

Appendix A

A1- Cadastral Base Map

A2 - Mapping Project Proposal Letter (May 5, 2005)

A3 - Mapping Project Acceptance Letter (May 28, 2005)

A4 - Mapping Project Transmittal letter (July 12 2005)

ENCLOSURE A

Villa Kanton Tasi, #1201
301 Frank H. Cushing Way
Tumon, GU 96913

February 17, 2003

Honorable Felix G. Camacho, Governor of Guam
Government of Guam
PO Box 2950
Hagatna, Guam 96910

Hafa adai Governor Camacho,

I would like to address a land use planning issue which now faces the recipients of properties returned through both the Ancestral Lands Commission and the BRACC process. Although these original land owners and heirs will receive titles to their properties, there remains much to accomplish before the land can be put to its best and highest use. In this letter I will explain the problem as I see it, argue that the Government of Guam has an obligation to facilitate a solution as well which capitalize on an opportunity for promoting economic development, and offer a strategy to master plan at least one area, at no cost, as a pilot project.

The Problem

Inasmuch as 2,413 acres of ALC properties and 4,484 acres BRACC properties have existed outside of the Island's economy for several decades, they are no longer suited for development according to their best and highest use. For example, these properties are not zoned, many lack viable access (some are landlocked) and others are bisected by paved roads. Further, the docket procedure for returning properties is non-sequential, thereby creating a gap as long as several years between the release of adjacent properties. All this portends a chaotic development pattern. Without zoning, a circulation plan for traffic and infrastructure, and master planning to promote sound development as well as resource protection, I foresee many constraints to realizing the full economic advantage of these properties. Eventually, the recipients will come to the same conclusion.

The Government of Guam's Obligation

I believe that the Government of Guam has a duty, both legal and moral, to facilitate the return of these ALC and BRACC properties so as to achieve their best and highest use. Authority for land use master planning, resource protection, traffic circulation and infrastructure planning is well established within the Executive Branch. In fact, I could argue with merit the obligation to extend such land use master planning to other categories of land on Guam with similar shortcomings, such as Chamorro Land Trust properties and

privately-held "in-fill" properties not presently covered by Guam's zoning plan.

A Pilot Project Solution

Admittedly, all this is a large undertaking, and the government does not have financial resources to launch a planning process that comprehensively addresses the issues I've raised. Nonetheless, I believe that we can make meaningful progress by convening a task force of planners, architects and engineers from both GovGuam as well as local private industry to tackle at least one category of properties as a pilot project. If that exercise is successful, and I have no reason to believe otherwise, the process can be repeated. Towards that end, I recommend that Mr. Felix Dungca, former Chief Planner and currently the Director-designate of Land Management, be appointed to Chair this task force. Further, I recommend that we choose the ALC lots in the Harmon Cliffline area for the pilot project, because they are relatively large in size and constitute an alternative tourist destination that is associated with the Island's most visited attraction, Puntan Dos Amantes.

Summary

If you agree with the problem, obligation by the Government of Guam and the proposed solution, I will gladly canvass local A/E firms and others in private industry to assist with this task force effort, allowing final member selection at your discretion. If you wish, I can then work with Mr. Dungca to convene the task force, establish its scope, and proceed with the work at hand.

I do believe that it is wise to be pro-active about establishing zoning for these properties before the owners discover this shortcoming and seek your assistance on a lot-by-lot basis for resolution.

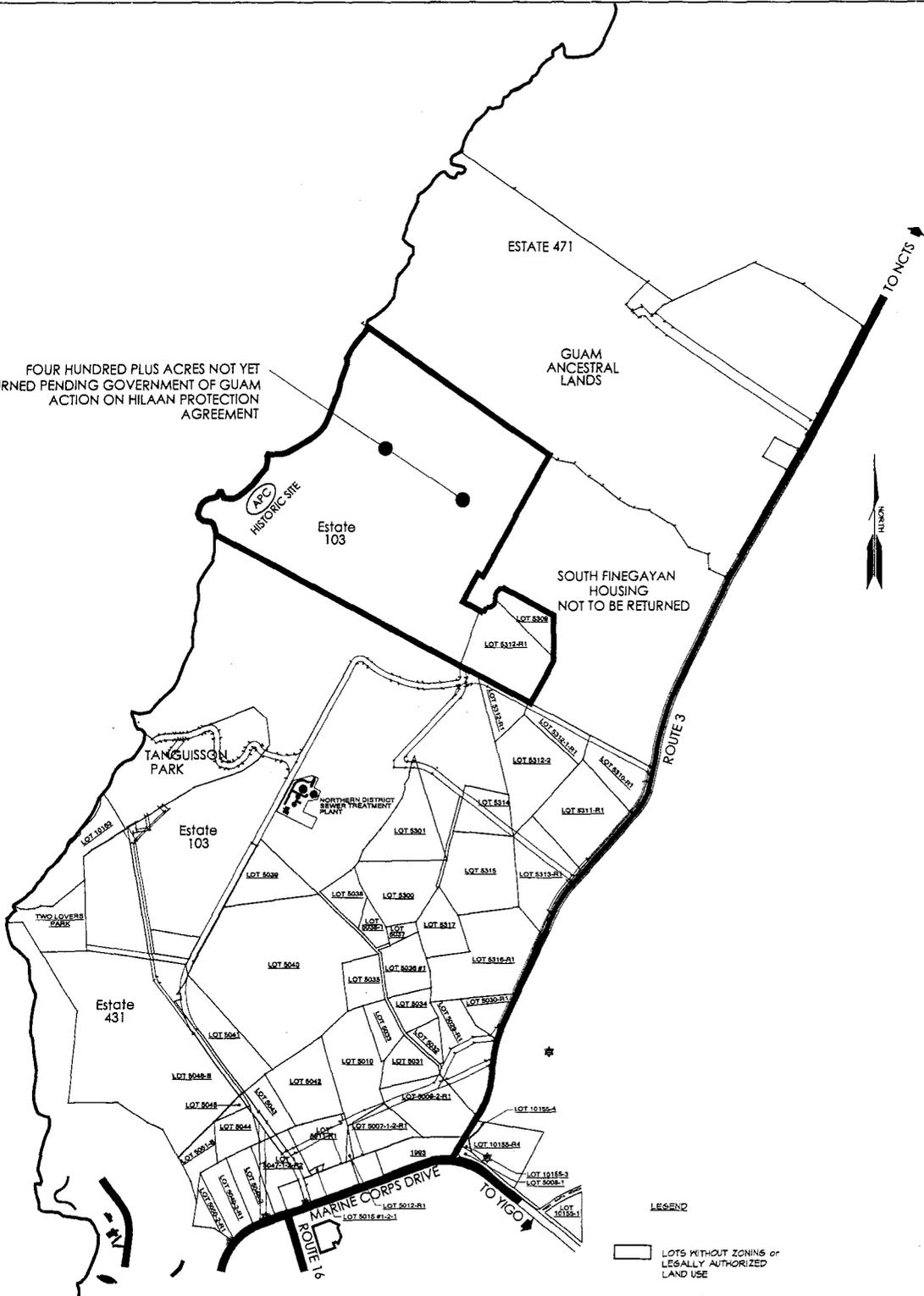
Thank you for your consideration of this proposal. I look forward to working with your Administration.

Sincerely,

Daniel D. Swavely

ENCLOSURE B

FOUR HUNDRED PLUS ACRES NOT YET RETURNED PENDING GOVERNMENT OF GUAM ACTION ON HILAAN PROTECTION AGREEMENT



LEGEND

□ LOTS WITHOUT ZONING or LEGALLY AUTHORIZED LAND USE

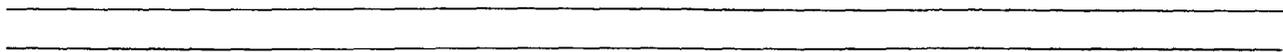
— PROPERTY LINE

LOT 5301 — LOT NUMBER

DOS AMANTES PLANNING AREA
CURRENT ZONING JULY 19 2005

200m 0 200m 400m

TOTAL PLANNING AREA 1,200 HECTARES
ORIGINAL DRAWING SIZE IS 30 x 42
IF DRAWING IS REDUCED USE GRAPHIC SCALE



ENCLOSURE C

FOUR HUNDRED PLUS ACRES NOT YET RETURNED PENDING GOVERNMENT OF GUAM ACTION ON HILAAN PROTECTION AGREEMENT

PHILIPPINE SEA

TANGUISSON POINT

APC HISTORIC SITE

Estate 103

ESTATE 471

GUAM ANCESTRAL LANDS

SOUTH FINEGAYAN HOUSING NOT TO BE RETURNED

TANGUISSON PARK

Estate 103

DOS AMANTES POINT

Estate 431

GUN BEACH

MESO REEF

TUMON BAY

SAN VICENTE

WESLEY

CHERRY PARKWAY

LOT 10155-R4

5051-8

5051-9

5051-10

5051-11

5051-12

5051-13

5051-14

5051-15

5051-16

5051-17

5051-18

5051-19

5051-20

5051-21

5051-22

5051-23

5051-24

5051-25

5051-26

5051-27

5051-28

5051-29

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5051-33

5051-34

5051-35

5051-36

5051-37

5051-38

5051-39

5051-40

5051-41

5051-42

5051-43

5051-44

5051-45

5051-46

5051-47

5051-48

5051-49

5051-50

AGUE POINT

NORTH

TO AGUAS

ROUTE 3

ROUTE 16

MARINE CORPS DRIVE

TO YIGO

LEGEND

LOTS WITHOUT VIABLE ACCESS

EXISTING EASEMENTS

PROPERTY LINE

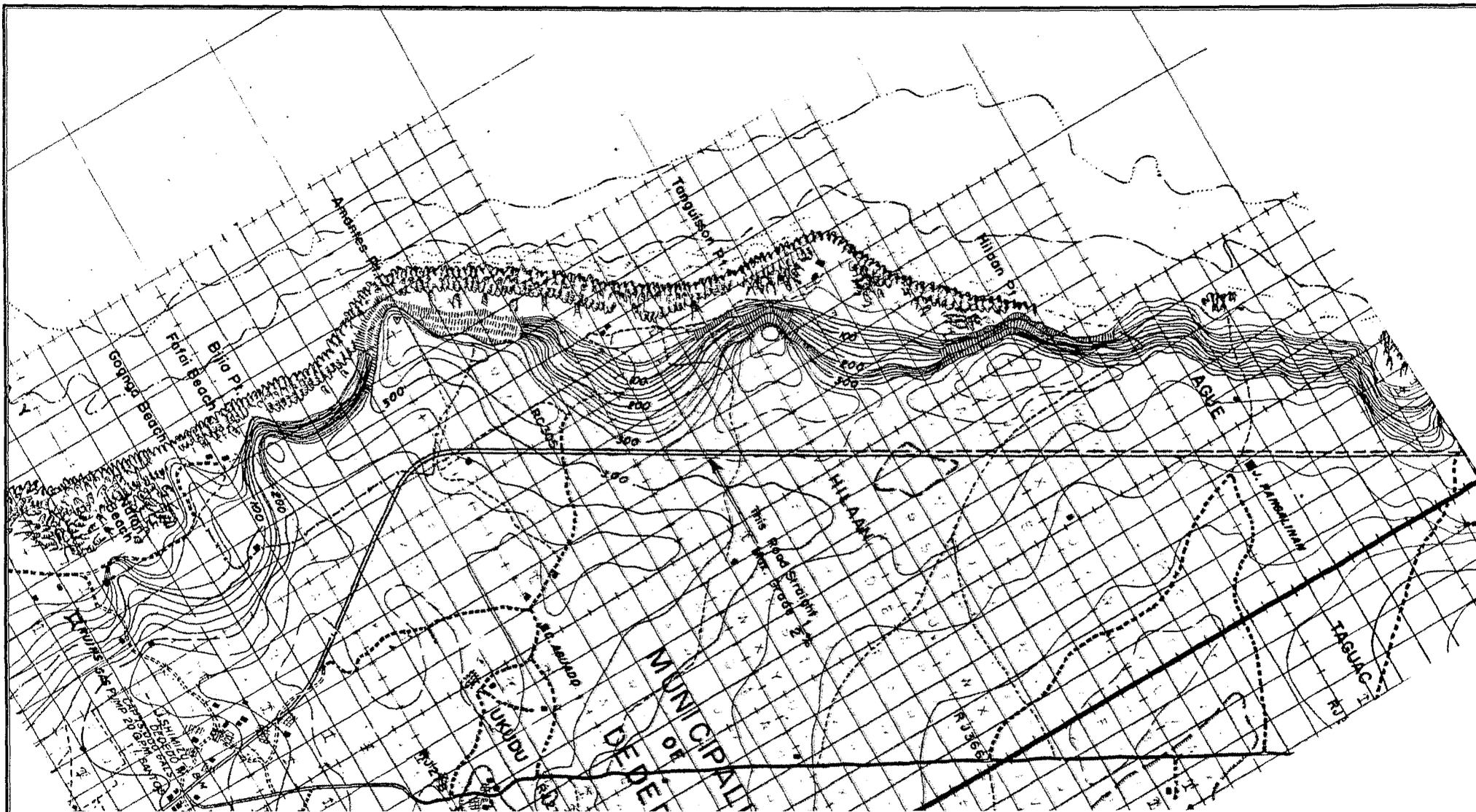
DOS AMANTES PLANNING AREA
EXISTING ACCESS JULY 19 2005

200m 0 200m 400m

TOTAL PLANNING AREA 1,200 HECTARES
ORIGINAL DRAWING SIZE IS 30 x 42
IF DRAWING IS REDUCED USE GRAPHIC SCALE

ENCLOSURE D

ENCLOSURE E

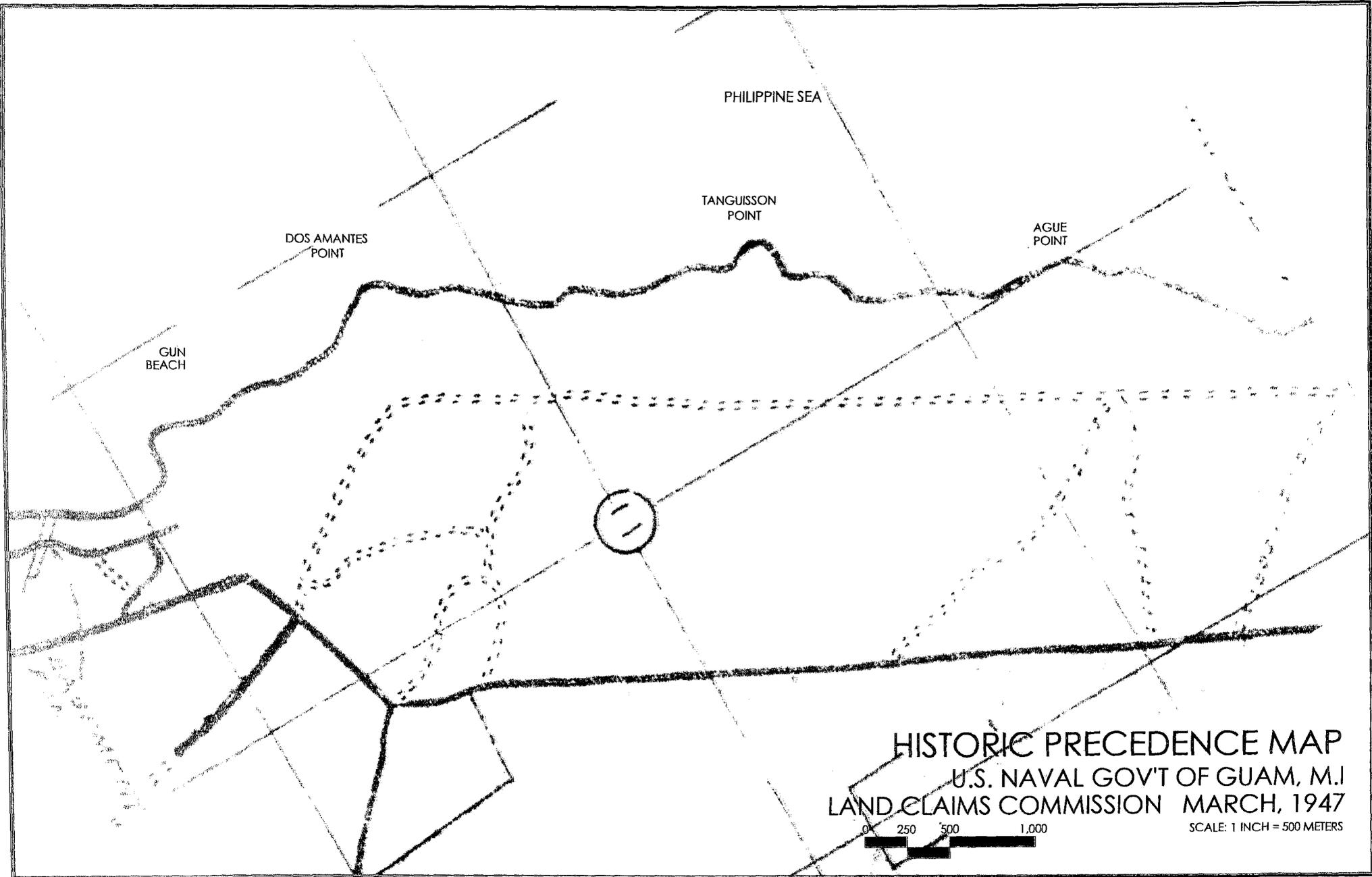


HISTORIC PRECEDENCE MAP
 Corps of Engineers, Tactical Map printed 1922



SCALE: 1 INCH = 500 METERS

ENCLOSURE F



PHILIPPINE SEA

TANGUISSON
POINT

AGUE
POINT

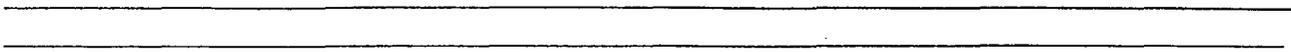
DOS AMANTES
POINT

GUN
BEACH

HISTORIC PRECEDENCE MAP
U.S. NAVAL GOV'T OF GUAM, M.I.
LAND CLAIMS COMMISSION MARCH, 1947

0 250 500 1,000

SCALE: 1 INCH = 500 METERS



APPENDIX A

A-1 – CADASTRAL BASE MAP

FOUR HUNDRED PLUS ACRES NOT YET RETURNED PENDING GOVERNMENT OF GUAM ACTION ON NEAMAN PROTECTION AGREEMENT

PHILIPPINE SEA

SOUTH FINEGAYAN HOUSING NOT TO BE RETURNED



Adopted Pursuant to Following Points of Authority:
 Authority for Master Plan Adoption to Facilitate Ancestral Property Right Claims

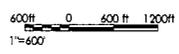
- 1. OR No. 25-145 Land Use Plan for FOGA of 1991, as amended.
- 2. OR No. 25-141 Land Use Plan for SAC Land Use 1991, as amended.
- 3. OR No. 25-142 Chapter 60 of the 21 Guam Code Annotated (GCA), Section 60103, 60104, 60105, 60106, 60107, 60108, 60109, 60110, 60111, 60112, 60113, 60114, 60115, 60116, 60117, 60118, 60119, 60120, 60121, 60122, 60123, 60124, 60125, 60126, 60127, 60128, 60129, 60130, 60131, 60132, 60133, 60134, 60135, 60136, 60137, 60138, 60139, 60140, 60141, 60142, 60143, 60144, 60145, 60146, 60147, 60148, 60149, 60150, 60151, 60152, 60153, 60154, 60155, 60156, 60157, 60158, 60159, 60160, 60161, 60162, 60163, 60164, 60165, 60166, 60167, 60168, 60169, 60170, 60171, 60172, 60173, 60174, 60175, 60176, 60177, 60178, 60179, 60180, 60181, 60182, 60183, 60184, 60185, 60186, 60187, 60188, 60189, 60190, 60191, 60192, 60193, 60194, 60195, 60196, 60197, 60198, 60199, 60200.
- 4. OR No. 25-143 Chapter 61 of the 21 Guam Code Annotated (GCA), Section 61010, 61011, 61012, 61013, 61014, 61015, 61016, 61017, 61018, 61019, 61020, 61021, 61022, 61023, 61024, 61025, 61026, 61027, 61028, 61029, 61030, 61031, 61032, 61033, 61034, 61035, 61036, 61037, 61038, 61039, 61040, 61041, 61042, 61043, 61044, 61045, 61046, 61047, 61048, 61049, 61050, 61051, 61052, 61053, 61054, 61055, 61056, 61057, 61058, 61059, 61060, 61061, 61062, 61063, 61064, 61065, 61066, 61067, 61068, 61069, 61070, 61071, 61072, 61073, 61074, 61075, 61076, 61077, 61078, 61079, 61080, 61081, 61082, 61083, 61084, 61085, 61086, 61087, 61088, 61089, 61090, 61091, 61092, 61093, 61094, 61095, 61096, 61097, 61098, 61099, 61100.
- 5. OR No. 25-144 Chapter 62 of the 21 Guam Code Annotated (GCA), Section 62010, 62011, 62012, 62013, 62014, 62015, 62016, 62017, 62018, 62019, 62020, 62021, 62022, 62023, 62024, 62025, 62026, 62027, 62028, 62029, 62030, 62031, 62032, 62033, 62034, 62035, 62036, 62037, 62038, 62039, 62040, 62041, 62042, 62043, 62044, 62045, 62046, 62047, 62048, 62049, 62050, 62051, 62052, 62053, 62054, 62055, 62056, 62057, 62058, 62059, 62060, 62061, 62062, 62063, 62064, 62065, 62066, 62067, 62068, 62069, 62070, 62071, 62072, 62073, 62074, 62075, 62076, 62077, 62078, 62079, 62080, 62081, 62082, 62083, 62084, 62085, 62086, 62087, 62088, 62089, 62090, 62091, 62092, 62093, 62094, 62095, 62096, 62097, 62098, 62099, 62100.
- 6. OR No. 25-146 Chapter 63 of the 21 Guam Code Annotated (GCA), Section 63010, 63011, 63012, 63013, 63014, 63015, 63016, 63017, 63018, 63019, 63020, 63021, 63022, 63023, 63024, 63025, 63026, 63027, 63028, 63029, 63030, 63031, 63032, 63033, 63034, 63035, 63036, 63037, 63038, 63039, 63040, 63041, 63042, 63043, 63044, 63045, 63046, 63047, 63048, 63049, 63050, 63051, 63052, 63053, 63054, 63055, 63056, 63057, 63058, 63059, 63060, 63061, 63062, 63063, 63064, 63065, 63066, 63067, 63068, 63069, 63070, 63071, 63072, 63073, 63074, 63075, 63076, 63077, 63078, 63079, 63080, 63081, 63082, 63083, 63084, 63085, 63086, 63087, 63088, 63089, 63090, 63091, 63092, 63093, 63094, 63095, 63096, 63097, 63098, 63099, 63100.
- 7. OR No. 25-147 Chapter 64 of the 21 Guam Code Annotated (GCA), Section 64010, 64011, 64012, 64013, 64014, 64015, 64016, 64017, 64018, 64019, 64020, 64021, 64022, 64023, 64024, 64025, 64026, 64027, 64028, 64029, 64030, 64031, 64032, 64033, 64034, 64035, 64036, 64037, 64038, 64039, 64040, 64041, 64042, 64043, 64044, 64045, 64046, 64047, 64048, 64049, 64050, 64051, 64052, 64053, 64054, 64055, 64056, 64057, 64058, 64059, 64060, 64061, 64062, 64063, 64064, 64065, 64066, 64067, 64068, 64069, 64070, 64071, 64072, 64073, 64074, 64075, 64076, 64077, 64078, 64079, 64080, 64081, 64082, 64083, 64084, 64085, 64086, 64087, 64088, 64089, 64090, 64091, 64092, 64093, 64094, 64095, 64096, 64097, 64098, 64099, 64100.
- 8. OR No. 25-148 Chapter 65 of the 21 Guam Code Annotated (GCA), Section 65010, 65011, 65012, 65013, 65014, 65015, 65016, 65017, 65018, 65019, 65020, 65021, 65022, 65023, 65024, 65025, 65026, 65027, 65028, 65029, 65030, 65031, 65032, 65033, 65034, 65035, 65036, 65037, 65038, 65039, 65040, 65041, 65042, 65043, 65044, 65045, 65046, 65047, 65048, 65049, 65050, 65051, 65052, 65053, 65054, 65055, 65056, 65057, 65058, 65059, 65060, 65061, 65062, 65063, 65064, 65065, 65066, 65067, 65068, 65069, 65070, 65071, 65072, 65073, 65074, 65075, 65076, 65077, 65078, 65079, 65080, 65081, 65082, 65083, 65084, 65085, 65086, 65087, 65088, 65089, 65090, 65091, 65092, 65093, 65094, 65095, 65096, 65097, 65098, 65099, 65100.
- 9. OR No. 25-149 Chapter 66 of the 21 Guam Code Annotated (GCA), Section 66010, 66011, 66012, 66013, 66014, 66015, 66016, 66017, 66018, 66019, 66020, 66021, 66022, 66023, 66024, 66025, 66026, 66027, 66028, 66029, 66030, 66031, 66032, 66033, 66034, 66035, 66036, 66037, 66038, 66039, 66040, 66041, 66042, 66043, 66044, 66045, 66046, 66047, 66048, 66049, 66050, 66051, 66052, 66053, 66054, 66055, 66056, 66057, 66058, 66059, 66060, 66061, 66062, 66063, 66064, 66065, 66066, 66067, 66068, 66069, 66070, 66071, 66072, 66073, 66074, 66075, 66076, 66077, 66078, 66079, 66080, 66081, 66082, 66083, 66084, 66085, 66086, 66087, 66088, 66089, 66090, 66091, 66092, 66093, 66094, 66095, 66096, 66097, 66098, 66099, 66100.
- 10. OR No. 25-150 Chapter 67 of the 21 Guam Code Annotated (GCA), Section 67010, 67011, 67012, 67013, 67014, 67015, 67016, 67017, 67018, 67019, 67020, 67021, 67022, 67023, 67024, 67025, 67026, 67027, 67028, 67029, 67030, 67031, 67032, 67033, 67034, 67035, 67036, 67037, 67038, 67039, 67040, 67041, 67042, 67043, 67044, 67045, 67046, 67047, 67048, 67049, 67050, 67051, 67052, 67053, 67054, 67055, 67056, 67057, 67058, 67059, 67060, 67061, 67062, 67063, 67064, 67065, 67066, 67067, 67068, 67069, 67070, 67071, 67072, 67073, 67074, 67075, 67076, 67077, 67078, 67079, 67080, 67081, 67082, 67083, 67084, 67085, 67086, 67087, 67088, 67089, 67090, 67091, 67092, 67093, 67094, 67095, 67096, 67097, 67098, 67099, 67100.

Authorized By: *Champion Torres* Date: Sept. 9, 2005
 Chairman, Trustee
 Guam Ancestral Lands Commission
 Government of Guam

2. *Ronald L. Burns* 9/13/05
 Ratified By: *Champion Torres* Date:
 Chairman, Trustee
 Guam Ancestral Lands Commission
 Government of Guam

Island of Guam, Government of Guam
 Department of Land Management, Office of the Recorder
 File for record is instrument No. 713762
 for the year 2005 Month 09 Day 14 Time 2:25

TUMON BAY



DOS AMANTES PLANNING AREA CADASTRAL BASE MAP JULY 19th 2005	
LEGEND:	
	KNOWN POINT - GUAM GEODESIC TRIANGULATION NET (GGTN) STATION AS NOTED
	PROPERTY LINE OF EASEMENT BOUNDARY
	LOT 5301 LOT NUMBER
	SEE ATTACHED SHEETS FOR INDIVIDUAL LOT SHEETS AND BOUNDARIES
TOTAL PLANNING AREA: 1,200 HECTARES ORIGINAL DRAWING SIZE: 30" x 42" DRAWING IS REDUCED SIZE GRAPHIC SCALE	
SHEET 1 OF 4	

EASEMENTS

Easement 1 LOT E1 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Easement 2 LOT E2 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Easement 3 LOT E3 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Easement 4 LOT E4 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Easement 5 LOT E5 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Easement 6 LOT E6 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Easement 7 LOT E7 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Easement 8 LOT E8 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Easement 9 LOT E9 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Estate 103 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Estate 103 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Estate 103 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Estate 103 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Estate 103 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Estate 103 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

Estate 103 1963 GRID VALUES. Table with columns: COURSE, Deg, Min, Sec, Dist (m), Dist (ft), North, East, Easting, Northing. Includes lot area computation: 80 FT x 27.340 ACRES = 2.1704.

LOT SUMMARY

LOT SUMMARY table listing lots from 9009 to 9038. Columns include Lot No., Lot Area Computation, and Acres. Includes Estate 103 details and various easement references.

DOS AMANTES PLANNING AREA BASE CADASTRAL MAP JULY 19th 2005. Island of Guam, Government of Guam, Department of Land Management, Office of the Recorder. File for record is Instrument No. 713762 for the year 2005 Month 09 Day 14 Time 2:26. TOTAL PLANNING AREA 1,175 HECTARES. ORIGINAL DRAWING SIZE 5.30 x 4.0. SHEET 2 OF 4.

A-2 – MAPPING PROJECT PROPOSAL LETTER

John D. Gilliam

May 5, 2005

Mr. G. Ricardo Salas
P.O. Box 3148
Hagatna, Guam 96932

Subject: Harmon Return Lands

Dear Mr. Salas.

This letter is a follow up to our recent discussion regarding survey problems associated with the lands returned under the Federal Excess Lands Act and BRAC.

Although I am not a surveyor, my understanding is that property surveys are typically based on previous surveys and/or land descriptions. Physical monuments for the parcel in question and/or for abutting/adjacent lots may already exist in the field. The surveyor recovers (finds) such monuments and uses the monuments as a basis for the survey. The Harmon Cliffline return lands apparently have unique problems/disabilities/histories. With respect to the land to be deeded to claimant(s), existing monuments for the parcel in question and/or for abutting/adjacent parcels are unlikely to exist. In addition some of the return parcels had not been surveyed (either by the landowner or by the U.S. Government), at the time of condemnation. Thus, the precise boundaries of these unsurveyed parcels have yet to be determined.

Chaos may ensue if the individual claimants hire individual surveyors to establish the boundaries of individual lots.

- a) Each surveyor must establish controls (GGTN) and tie the individual parcel to the Gov-Guam controls. The results could well be overlapping of parcels due to surveyor error/interpretation, especially in view of an apparent glitch in the Gov-Guam control system that can produce different results by different survey routes for establishing controls.
- b) Some of the claimants may endeavor to enhance their holdings at the expense of their neighbors.
- c) One survey may be approved by DLM, only to be followed by a subsequent survey of abutting land that disputes the boundaries set by the first surveyor.
- d) Some land parcels may be left landlocked. (I understand that some planning work has commenced that makes recommendations for a viable traffic circulation master plan for the Harmon Cliffline area, and that also provides legal and viable access to land parcels that could otherwise be land locked).

As required by U.S. Public Law 103-339, the land parcels returned by the Federal Government have been surveyed, with physical monuments set in the field, and the return deeds (from the GSA to the Government of Guam) are accompanied by certified maps and complete legal descriptions of the land being returned. The Federal Government maps and legal descriptions do not address the individual land parcels that existed at the time of condemnation.

John D. Gilliam
P.O. Box 3637 Hagatna, Guam USA 96932
Tel. (671) 482-8050 * E-Mail: ggi@kuentos.guam.net

JG

I understand the Director of Land Management has prepared a map identifying (by metes and bounds and areas) individual land parcels that had been surveyed at the time of condemnation**.

In view of the above discussion, it appears to me that a viable program that would expedite individual lot surveys and subsequent land registration is to first prepare a table top survey that collates existing survey data as follows:

1. Prepare a Base Map by plotting the boundaries of the land parcels returned to the Government of Guam by the Federal Government using the certified surveys and legal descriptions prepared by local surveyors under contract to the Federal Government (the Federal Government maps do not address the individual lots that were condemned and that comprise the return parcels).
2. Superimpose on the Base Map the boundaries (determined by DLM) of the individual lots that had been surveyed at the time of condemnation.
3. Superimpose on the Base Map the access easements retained by the Federal Government, and add access easements where necessary to ensure a viable traffic circulation master plan and to ensure all land parcels have legal and viable access easements.
4. Based on records and consultation with the claimants of those parcels that were unsurveyed at the time of condemnation, select boundary lines of the land parcels that were unsurveyed at the time of condemnation, considering the requirements for the traffic circulation master plan, legal and viable access easements to all individual land parcels, providing maximum road frontage where feasible and providing for public use areas (Tanguissan Beach Park e.g.).

By using CAD to plot the above data, the precise coordinates of individual land parcels can be determined without the benefit of field surveys, much as the coordinates of individual lots within a sub-division map can be determined without the benefit of field surveys. If accepted by the Director of Land Management as a subdivision map or tentative subdivision map, physical monuments can then be set in the field by using GPS (if acceptable to the Director of Land Management).

Even if the approach discussed above may not be a commonly used approach, it makes a lot of sense as:

- a) I will ensure the coordinates of all land parcels are coordinated and based on a common coordinate system.
- b) It will minimize the chaos that is likely to ensue if each landowner is left to his/her own devices, (creating a nightmare for the DLM in the process).
- c) Will ensure all land parcels have legal and viable access and utility easements.

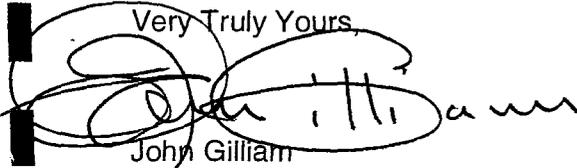
** The Land Management maps do not address the boundaries of those land parcels that were unsurveyed by either the owners or the U.S. at the time of condemnation. The Land Management maps also contain glaring and inexplicable errors with respect to ownership of the unsurveyed parcels, however the Land Management maps appear to accurately depict location and area of those land parcels that had been surveyed at the time of condemnation.

The end result would be an overall cadastral map that precisely defines:

- a) Boundaries of the land parcels deeded by the U.S. to the Government of Guam.
- b) Boundaries of the land parcels already deeded or to be deeded by the ALC to the claimants. (GALC Deeds do not contain precise legal descriptions of lots. This program will provide precise legal descriptions for all affected land parcels).
- c) Boundaries of land parcels to be retained by the Government of Guam for public use.
- d) Boundaries of the land parcel(s) to be deeded by the ALC to its "Land Bank".
- e) Boundaries of the access easements required to ensure each land parcel is afforded legal and viable access and to ensure a viable traffic circulation master plan for the entire area.
- f) The coordinates of all property corners (including the access easements discussed above). Basing the property corner coordinates on the GGTM coordinates and boundary coordinates included in the certified survey maps accompanying the return deeds from the U.S. to the Government of Guam should greatly facilitate individual land parcel surveys, especially if the Director of Land Management will accept the proposed cadastral map and the use of GPS for land surveys.

If this approach appears attractive to you, perhaps the land claimants in the Harmon Cliffline Area would be willing to fund the table top survey. If said table top survey is accepted by the Director of Land Management, the individual land claimants can then fund the cost of setting the property corner monuments for their individual lots. To iterate, this approach would ensure all of the individual land parcels have legal and viable access, may facilitate the surveying and land registration of the individual lots, and in the process, may save the Director of Land Management a world of headaches.

Very Truly Yours,


John Gilliam

OS may'os



A-3 – MAPPING PROJECT ACCEPTANCE LETTER

May 28, 2005

Dear Mr. Gilliam,

You are hereby authorized to proceed with the tabletop survey as outlined in your letter of May 5, 2005 to Mr. G. Ricardo Salas. I understand this is a major undertaking. Please advise me of the approximate cost of the project.

Very Truly Yours,



G. RICARDO SALAS
Attorney-in-fact for the Estate of
Vicente Flores San Nicolas



JACQUES G. BRONZE
Attorney for the Estate of
Vicente Flores San Nicolas and
Guillermo Flores San Nicolas

A-4 – MAPPING PROJECT TRANSMITTAL LETTER

John D. Gilliam

July 12, 2005

Mr. G. Ricardo Salas
P.O. Box 3148
Hagatna, Guam 96932

Subject. Harmon Return Lands

Dear Mr. Salas,

On May 5, 2005, I sent you a letter suggesting the possibility of preparing a table top survey to address survey problems associated with the lands returned under the Federal Excess Lands Act and BRAC. On May 28, 2005, you authorized me to proceed with the project. Attached are the results, labeled Cadastral Base Map, and the following is an explanation of the procedure used in development of the Cadastral Base Map.

GOALS

Mr. Dan Swavely, Professional Land Planner, prepared a Land Use Master Plan that addresses land disabilities that, if not immediately addressed, would constitute serious impediments to the landowners quest (and duty) to use the returned lands to promote economic development and public benefit, and to achieve the highest and best public benefit use of their land as quickly as possible (as referred by P.L. 22-145). Therefore, the attached Cadastral Base Map is in harmony with, and is considered an essential and integral part of, the Land Use Master Plan developed by Mr. Swavely. Areas addressed in Mr. Swavely's Land Use Master Plan include:

- Ensuring that all return lots are afforded legal and viable access.
- A viable traffic circulation plan.
- Ensuring that amenities such as public parks are made available to the public as a whole.

Since the Land Use Master Plan authored by Mr. Swavely cannot be implemented without a viable cadastral map that matches the Land Use Master Plan, a primary focus in the preparation of the Cadastral Base Map has been to:

- Ensure that legal and viable access is extended to all return lots (i.e. to ensure that no return parcels are landlocked).
- Ensure that easements are available to implement the traffic circulation plan envisioned in the Land Use Master Plan.
- Arrange the boundaries of previously unsurveyed land in a manner to facilitate Tanguisson Park (which Guam P.L. 22-145 explicitly returned to the original landowners or heirs), becoming public property for enjoyment by all of the people of Guam as envisioned by the Land Use Master Plan (**Caveat**. This action will require obtaining the approval of the heirs of Estate 103 since Guam P.L. 22-145 explicitly returned this land to the heirs of Estate 103).

John D. Gilliam
P.O. Box 3637 Hagatna, Guam USA 96932
Tel. (671) 482-8050 * E-Mail: ggl@kuentos.guam.net

45

PROCEDURE

The basic procedure employed in the preparation of the Cadastral Base Map is the retrieval and compilation of existing survey data. Existing survey data available include:

1. As required by U.S. Public Law 103-339, the land parcels returned by the Federal Government have been surveyed, with physical monuments set in the field, and the return deeds (from the GSA to the Government of Guam) are accompanied by certified maps and complete legal descriptions of the land being returned. However, the Federal Government maps and legal descriptions do not address the individual land parcels that existed at the time of condemnation; they address only the boundaries of the composite return parcels.
2. The Director of Land Management prepared a series of maps that provide precise descriptions (in the form of metes and bounds) of the majority of the land parcels that had been previously surveyed** at the time of condemnation, and said descriptions are based on the certified maps accompanying the return deeds from the Federal Government to the Government of Guam.

Existing survey data was compiled as follows:

CAD was used to:

1. Plot the boundaries of the land parcels returned to the Government of Guam by the Federal Government in accordance with the certified surveys and legal descriptions prepared by local surveyors under contract to the Federal Government (the Federal Government maps do not address the individual lots that were condemned and that comprise the return parcels).
2. Superimpose on the Base Map the boundaries (determined by DLM) of the individual lots that had been surveyed at the time of condemnation.
3. Plot the easements necessary to ensure legal and viable access to all land parcels and to implement the traffic circulation master plan incorporated into the Land Use Master Plan. These easements include:
 - a. Those access easements retained by the Federal Government that are essential to the traffic circulation plan envisioned by the Land Use Master Plan (access easements retained by the Federal Government not considered to be essential to the traffic circulation plan envisioned by the Land Use Master Plan are not included. The Gov-Guam may seek to vacate these easements).
 - b. The addition of access easements necessary to implement the traffic circulation plan (as envisioned by the Land Use Master Plan).
 - c. The addition of access easements necessary to ensure all land parcels have legal and viable access and utility easements (again, as envisioned by the Land Use Master Plan)**.

** The Land Management maps do not address the boundaries of those land parcels that were unsurveyed by either the owners or the U.S. at the time of condemnation.

The Land Management maps also contain glaring and inexplicable errors with respect to ownership of the previously unsurveyed parcels, however the Land Management maps appear to accurately depict location and area of those land parcels that had been surveyed at the time of condemnation.

The enclosed Cadastral Base Map envisions combining and relocating approximately 12,000 feet of old bull cart trails (which are no longer needed) into wider access and utility easements to serve those lots that would otherwise be landlocked.

- d. The Land Management maps also do not address landlocked parcels, whereas the attached Cadastral Base Map, in harmony with the Land Use Master Plan, provides legal and viable access to all individual land parcels.
4. Based on records (land records and deeds granted by the GALC e.g.), and consultation with the claimants of those parcels that were unsurveyed at the time of condemnation, boundary lines of these particular land parcels were set to match the intent of the Land Use Master Plan, i.e:
 - a. Incorporating the traffic circulation master plan land requirements.
 - b. Incorporating land requirements necessary to ensure legal and viable access easements to all individual land parcels.
 - c. Provide maximum road frontage where feasible.
 - d. Providing for public use areas (Tanguisson Beach Park e.g.).

By using CAD to plot the above data, the precise coordinates of individual land parcels were determined without the benefit of costly and time consuming field surveys, much as the coordinates of individual lots within a sub-division map can be determined without the benefit of field surveys. If accepted by the Director of Land Management as a subdivision map or tentative subdivision map, physical monuments can be set in the field by using GPS (if the use of GPS is acceptable to the Director of Land Management).

In summary, the Cadastral Base Map precisely defines:

- a) Boundaries of the land parcels deeded by the Federal Government to the Government of Guam**
- b) Boundaries of the land parcels already deeded, or to be deeded, by the GALC to the claimants.
- c) Boundaries of land parcels to be retained by the Government of Guam for public use (as envisioned by the Land Use Master Plan).
- d) Boundaries of the land parcel(s) to be administered by GALC's LandBank Trust.
- e) Boundaries of the access/utility easements required to ensure each land parcel is afforded legal and viable access and to allow implementation of the traffic circulation master plan envisioned by the Land Use Master Plan.
- f) The coordinates of all property corners (including the access easements discussed above). Basing the property corner coordinates on the GGTN coordinates and boundary coordinates referenced in the certified survey maps accompanying the return deeds from the Federal Government to the Government of Guam could greatly facilitate individual land parcel surveys, especially if the Director of Land Management will accept the Cadastral Base Map and the use of GPS for land surveys.

The Cadastral Base Map may also be acceptable as a plan plat to describe property subject to land registration proceedings.

**** CAVEAT!**

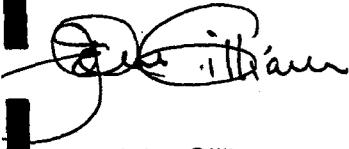
As noted on the Land Use Master Plan, the return of a land parcel exceeding 400 acres in area, has yet to be finalized, pending action on the part of Gov-Guam. Survey maps of this land parcel are not presently available and the boundaries used in preparation of the attached Cadastral Base Map are assumed. When survey maps of this particular land parcel are made available, some adjustments to the Cadastral Base Map may be necessary.

July 12, 2005

As discussed and/or implied in my letter of May 5, 2005, utter chaos may ensue if a Cadastral Base Map is not adopted for use by land surveyors. If the individual land claimants hire individual surveyors to establish the boundaries of individual lots without the benefit of a Cadastral Base Map.

- a) Each surveyor must establish controls (GGTN) and tie the individual parcel to the Gov-Guam controls. The results could well be overlapping of parcels due to surveyor error/interpretation, especially in view of an apparent glitch in the Gov-Guam control system that can produce different results by different survey routes for establishing controls.
- b) Some of the claimants may endeavor to enhance their holdings at the expense of their neighbors.
- c) One survey may be approved by DLM, only to be followed by a subsequent survey of abutting land that disputes the boundaries set by the first surveyor.
- d) Some land parcels may be left landlocked.
- e) The traffic circulation for the Dos Amantes would leave much to be desired.
- f) Haggling between competing surveyors and land claimants could produce a nightmare for the landowners, for the courts and for the DLM.

Very Truly Yours

A handwritten signature in black ink, appearing to read "John Gilliam", written over a circular stamp or mark.

John Gilliam

**Adopted Resolution
No. 2005-0001**

8 September 2005

**Guam Ancestral Lands
LandBank Trust**

**Guam Ancestral Lands Commission
LandBank Trust**

Resolution No. 2005-0001

8 September 05
(date)

Relative to Ancestral Land Use and Administration

Whereas: Federal excess lands have been returned to the Government of Guam by operation of U.S. Public Law(s) requiring returned lands be reused for redevelopment and public benefit uses, to wit: (see: U.S. Public Law (USPL) No. 103-339; U.S. Base Closure and Redevelopment Act(s) – BRAC); and

Whereas: Federal excess land acts required Government of Guam to formally plan for the use of returned lands as a precondition to turn-over of surplus, doing so through various measures including public land laws, directives, land use plans and protective land grants, to wit: (see Guam Public Law (GPL) No.'s. 16-111; 17-52; 20-222; 22-145 (as amended); 23-141; 23-23; 25-45; 25-178; 25-180; 26-36; Governor's Executive Order No. 2002-19; Grant Deed, Assignment and Trust Agreement of 18 February 2004 recorded 23 February 2004 as Document / Instrument No. 688615, Office of the Recorder, Department of Land Management, Government of Guam); and

Whereas: The Organic Act of Guam, Section 3 (48 U.S.C. § 1421a) provides for a three (3) branch system of government for Guam, consisting of an Executive, Legislative and Judicial Branch and specifies that GovGuam shall have the powers set forth in the Act.

Pursuant to the setting forth of powers, Section 28 (b) (48 U.S.C. § 1421f), of the Organic Act provides as follows:

- (b) All other property, real and personal, owned by the United States within ninety days after the date of this Act [Organic Act], is hereby placed under the control of the Government of Guam, to be administered for the benefit of the people of Guam, and the Legislature shall have the authority, subject to such limitation as may be imposed upon this Act by this [Organic Act] or subsequent acts of Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable. (Emphasis added)

Thus, the legislative branch of GovGuam is empowered by the Organic Act to be the controlling branch of GovGuam concerning the use and disposition of the real and personal property of GovGuam acquired pursuant to Section 28 (b), which includes the real property presently held by GovGuam and federal excess lands returned, or to be returned, to GovGuam in the future.

A close reading of the powers granted by the Organic Act discloses no such concomitant power being granted to the executive or judicial branches by the Organic Act. Further in Bordallo v. Camacho, 475 F.2d 712 (1973), the Court held that the Guam Legislature is part of the Government of Guam, within the meaning of the Organic Act of 1950 and, as such, can put appropriate lawful conditions on any request by the Governor to sell, lease or otherwise dispose of land transferred by the United States to Guam. Sections 3 and 28 of the Organic Act were the authority relied upon by the court in reaching this decision.

Thus, the Legislature, by the Organic Act, as sustained by Bordallo, supra, is the proper branch of GovGuam to authorize the disposition of the real property of GovGuam. The ultimate legality of any transfer of real property must be based upon legislation passed by the Legislature pursuant to Section 19 of the Organic Act (48 U.S.C. 1423(i)); and

Whereas: The Guam Legislature, pursuant to the powers granted by the Organic Act, has authorized land use by passage of zoning law, (see: Title 21 “Real Property”, Chapter 61 GCA, “Zoning Law” with applications to establishing zones, boundaries and [land] use regulations eg: §61210. Tumon Bay H Resort – Hotel Zone; §61211. Artero Urunao Property Zone H (with precise property description by lot number(s) metes-bounds, and reference to official maps); §61207. Tumon Commercial Zone et al) has described property for purpose of zoning administration, has enacted land use law by reference to cadastral base map(s) (ie: 1963 Drawing 10995 described in §61211 Title 21 GCA) and has enacted law prescribing the same type of master plan elements identified for the “Dos Amantes” Planning Area (see: Title 21 “Use and Development of Government and Other Land” Chapter 68, Article 6 “Southern Development Master Plan” Sections 68601 / 68610 pursuant to Guam Public Law No’s. 19-38 / 20-90); and

Whereas: The Office of the Attorney General provides Opinion by Memorandum to assist with interpretation of statutes applicable to Guam, offering three (3) pertinent opinions attached herewith, incorporated herein as Attachment No’s. 1, 2 and 3 (respectively, dtd. 5 December 1983, 14 October 2004 and February 5, 1990); and

Whereas: Supplementing the aforementioned and described United States and Guam Public Land Laws, directives and the like are numerous, successive federal and local government land transfer agreements, including deeds, prescribing detailed terms and conditions further governing specific returned land parcels / lots, whether held for protective use as Ancestral Public Domain by this LandBank Trust or

returned by and under supervision of the Guam Ancestral Lands Commission into private ownership for authorized reuse, redevelopment and / or public benefit use as the U.S. Congress and Guam Legislature have authorized; and

Whereas: Ancestral Land lot owners located within the vicinity of “Dos Amantes” Point have voluntarily organized in association with professional land use master planning professionals led by Daniel D. Swavelly to provide a Land Use Master Plan on a pro bono (no fee) basis designed to address property problems inherent in lands returned to them by operation of the laws and transfer agreements described above, and have petitioned this LandBank Trust for adoption of the proposed “Preliminary Plan” as a Final Plan for governance of future improvement and economic development in this area which includes a large undeveloped, unimproved and unsurveyed portion of LandBank Trust Land – corpus (aka “Crown Land”), which proposed plan is provided in its entirety herewith and incorporated herein as Attachment No. 4; and

Whereas: To determine location, area and boundaries of returned lands and an equitable means for Real Property tax assessment, a uniform method for determining precise geographic information (such as property corners unified in accordance with the GGTN) is required. Accordingly, this LandBank Trust’s adopted geographic information system (GIS) is provided herewith as mapped and computed upon Cadastral Base Map dtd 19 July 2005 attached herewith (Sheets 1-4), incorporated herein and adopted hereby as Attachment No. 5; and

Whereas: To provide utility service easements, rights of way and to resolve access problems with landlocked lots which were returned without access or viable access (see Attachment No. 4) this LandBank Trust’s Access and Traffic Circulation Plan is hereby provided herein as mapped and computed upon Cadastral Base Map dtd. 19 July 2005 attached herewith (Sheets 1-4), incorporated herein and adopted hereby as Attachment No. 5; and

Whereas: To provide initial land use guidelines for returned lands consistent with vicinity land use requirements and to guide property improvement and appraisal of property for fiscal purposes this LandBank Trust’s “Land Use Master Plan – Land Use Control System” is provided herein as mapped, computed and attached herewith as Attachment No. 4 with accompanied narrative also provided in Attachment No. 4, detailing Plan Administration and additional Proposed Implementation Initiatives, all incorporated herein and adopted hereby; and

Whereas: Federal deed restrictions on sale and / or lease of returned lands have been applied to certain returned land parcels, to wit: (excerpt from pages 8-10 Island of Guam, Government of Guam, Department of Land Management, Office of the Recorder, Instrument No. 638645 of June 6, 2001)

- a. GRANTEE’s use of the PROPERTY is limited to the uses authorized in this instrument as well as subparagraph c (Environmental Provisions) of that

certain Quitclaim Deed between the UNITED STATES and the GUAM ECONOMIC DEVELOPMENT AUTHORITY dated April 18, 2001 (attached as Attachment 1), Navy Identification No. N6274201RP00001, Instrument Number 636645, recorded at the Department of Land Management on April 25, 2001, and incorporated by reference.

b. Seven Year Restriction on Sale or Lease

1. The GRANTEE hereby covenants and agrees that the proceeds from any sale or lease of the PROPERTY (or any portion thereof) received by the GRANTEE during the first seven (7) years after the date of conveyance under that certain Quitclaim Deed between the UNITED STATES and the GUAM ECONOMIC DEVELOPMENT AUTHORITY dated April 18, 2001 (attached as Attachment 1) Navy Identification No. N6274201RP00001, Instrument Number 636645, recorded at the Department of Land Management on April 25, 2001, and incorporated by reference, shall be used to support the economic redevelopment of, or related to, the PROPERTY.
2. For Purposes of b. (1) above, the use of the proceeds from a sale or lease described in such subparagraph to pay for, or offset the cost of, public investment on or related to the PROPERTY for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the PROPERTY:
 - (i.) Road Construction.
 - (ii.) Transportation management facilities.
 - (iii.) Storm and sanitary sewer construction.
 - (iv.) Police and fire protection facilities and other public facilities.
 - (v.) Utility construction.
 - (vi.) Building rehabilitation.
 - (vii.) Pollution prevention equipment or facilities.
 - (viii.) Demolition.
 - (ix.) Disposal of hazardous materials generated by demolition.
 - (x.) Landscaping, grading, and other site or public improvements.
 - (xi.) Planning for or the marketing of the development and reuse of the PROPERTY.
3. The UNITED STATES may recoup from the GRANTEE such portion of the proceeds from a sale or lease described in b. (1) above as the Secretary of the Navy determines appropriate if the GRANTEE does not use the proceeds to support economic development of, or related to, the PROPERTY for the period specified in b. (1) above. Such proceeds from a sale or lease described in b. (1) may be used for offsite investment and redevelopment related to the economic development of the PROPERTY, as approved by the NAVY; such approval shall not be unreasonably withheld; and

Whereas: Government of Guam, Department of Land Management, Land Survey Division Drawing[s] Number 033FY98 / 14-98T646 by title "Guam Ancestral Lands – Municipalities of Dededo and Tamuning: Land Square 11, Sections 1, 2, 3 and 4" have not been approved by the Guam Ancestral Lands Commission as previously proposed by Department of Land Management; and

Whereas: Guam Ancestral Lands Commission (GALC) pursuant to federal property deed restrictions and reversionary provisions ("reservations, covenants, limitations, reversions, exceptions, restrictions and conditions") has instituted a seven (7) year "Prohibition of Sale" applicable by explicit GALC deed condition to returned lots of Ancestral Land to wit:

"The Grantee(s) hereby covenants and agrees that during the first seven (7) years after the date of conveyance under this deed, there shall be no selling of the property unless being sold only between the legitimate heir(s) or descendant(s)."

and

Whereas: The Attorney General of Guam Memorandum (Opinion) of February 5, 1990 (Ref: BOP90-0064) Attachment 3 herewith determines lands previously held by the federal government are not automatically zoned agricultural upon their transfer to the Government of Guam. Excerpt: "[zoning] would need the approval of the Governor and the Legislature before these properties would receive their proper zoning status" (page 2 Attachment 3 underscoring added); now, therefore:

Be It Resolved: That the Guam Ancestral LandBank Trust does hereby approve and adopt the attached "Land Use Master Plan for "Dos Amantes" Planning Area" dated 19 July 2005 Attachment No. 4, and does hereby approve and adopt the attached Cadastral Base Map for the Dos Amantes Planning Area (Sheets 1-4) also dated 19 July 2005 Attachment No. 5; and

Be It Hereby Further Resolved: That the hereby approved "Land Use Master Plan for "Dos Amantes" Planning Area" dated 19 July 2005 Attachment No. 4, and the attached Cadastral Base Map for the Dos Amantes Planning Area (Sheets 1-4) also dated 19 July 2005 Attachment No. 5, attached herewith, are incorporated herein and adopted hereby; and

Be It Hereby Further Resolved: Trustees of the Guam Ancestral Lands Commission LandBank Trust do hereby unite to urge the Guam Economic Development and Commerce Authority (GEDCA) Board of Directors to also adopt the "Land Use Master Plan for "Dos Amantes" Planning Area" and Cadastral Base Map (Sheets 1-4) also dated 19 July 2005 as the Government of Guam's Reuse and Redevelopment Plan for former U.S. military installations previously located in the Harmon Cliffline / Finegayan aka "Dos Amantes" Point vicinity; and

Be It Hereby Further Resolved: Trustees of the Guam Ancestral Lands Commission do also urge the 28th Guam Legislature and the Hon. Felix P. Camacho, Governor of Guam, to likewise approve the “Land Use Master Plan for “Dos Amantes” Planning Area” and Cadastral Base Map (Sheets 1-4) dated 19 July 2005 as the “Approved Land Use Maser Plan and Cadastral Base Map (Sheets 1-4) of 19 July 2005 for the “Dos Amantes” Planning Area”; and

Be It Hereby Further Resolved: Trustees of this LandBank Trust do hereby respectfully recommend the Guam Ancestral Lands Commission substitute the Cadastral Base Map dated 19 July 2005 attached herewith as Attachment No. 5 in-lieu-of draft, unapproved Department of Land Management, Land Survey Division Drawing Number 033FY98 / 14-98T646 Sheets 1-14 in its entirety; and

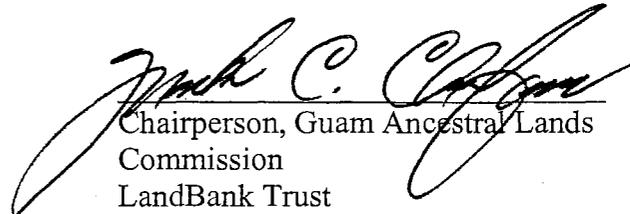
Be It Hereby Further Resolved: Pursuant to §24801 and 24803 Chapter 24, Title 11 GCA Notice of Delinquent Real Property Tax has been given to owners of recently returned Guam Ancestral Land lots. In consideration of the fact that federal government deeds restrict sale or lease of certain returned lands for a period of seven (7) years and this seven (7) year restriction also effectively precludes the landowners from using the proceeds of sale or lease for any purpose other than improvement of the land, and most Guam Ancestral land lots remain unzoned, in probate subject to survey, or, if surveyed but subject to Director of Land Management Moratorium on Recordation of Survey Maps platted for lots in the “Dos Amantes” Planning Area (effective September 2004 – ongoing) therefore of undetermined area and possibly uncertain access, the Trustees of this LandBank do hereby respectfully request the Real Property Tax Collector, Governor of Guam and 28th Guam Legislature defer Real Property Tax Assessment on Guam Ancestral Land lots for seven (7) years from the effective date of legislation enacting land-use controls for subject lots upon which an equitable basis for Real Property Tax Assessment may be made. LandBank Trustees hereby offer “Dos Amantes” Master Plan and Cadastral Base Map (Sheets 1-4) of 19 July 2005 as a suitable and commendable example of a master plan successfully addressing and resolving the significant land use issues, which are prerequisite to equitable Real Property Tax Assessment; and

Be It Hereby Further Resolved: Trustees of the Guam Ancestral Lands Commission LandBank Trust do hereby commend those Ancestral Land lot owners in the “Dos Amantes” area and their master land use planning consultants who have voluntarily joined in a commendable and exemplary grass roots planning effort all at their own expense to master plan the “Dos Amantes” area’s Ancestral Lands such that it may be accessed, improved, redeveloped and prepared for equitable tax assessment as well as highest and best reuse.

Be It Hereby Finally Resolved: Trustees of the Guam Ancestral Lands Commission LandBank Trust do hereby unite to urge the Director of Public Works to adopt the “Land Use Master Plan for “Dos Amantes” Planning Area” and Cadastral Base

Map (Sheets 1-4) dated 19 July 2005 as the Government of Guam's official street and highway plan for inclusion in the Department's "Guam 2020 Highway Master Plan".

Presented for Public Hearing 19 July 2005 as required by law.


Chairperson, Guam Ancestral Lands
Commission
LandBank Trust

(date)


Trustee, LandBank Trust

25 Aug 2005
(date)


Trustee, LandBank Trust

Aug. 25, 2005
(date)

Anderson V. J. [Signature] ^{25 AUG} ₂₀₀₅
Trustee, LandBank Trust

25 AUG 2005
(date)

[Signature]
Trustee, LandBank Trust

8/25/05
(date)

Sydia M. Syner
Trustee, LandBank Trust

9/07/05
(date)

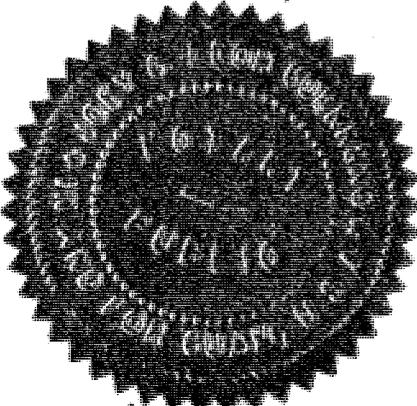
Trustee, LandBank Trust

(date)

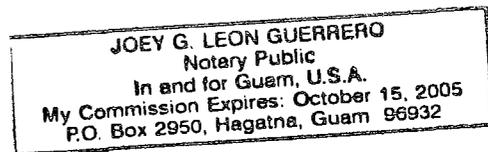
HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Mark C. Charfauros, Chairperson of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



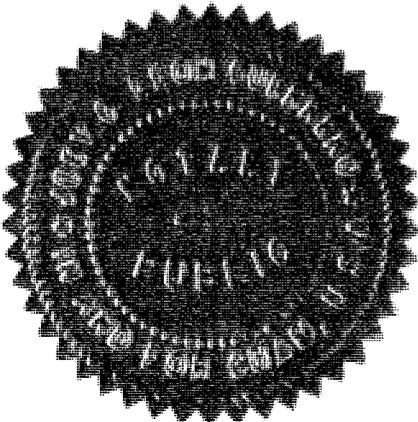
NOTARY PUBLIC



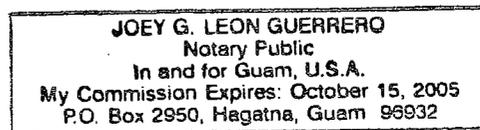
HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Antonio A. Sablan, Vice Chairperson of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



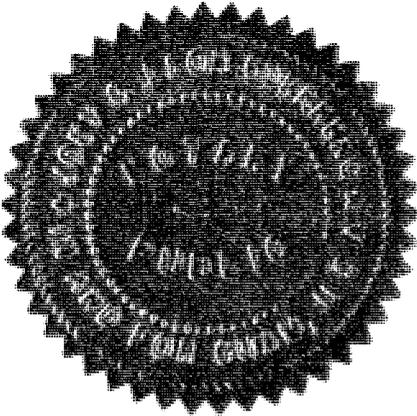
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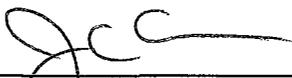


HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Peter A. San Nicolas, Trustee of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



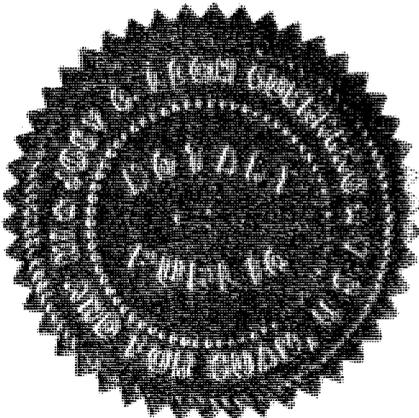

NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Anthony J. Ada, Trustee of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



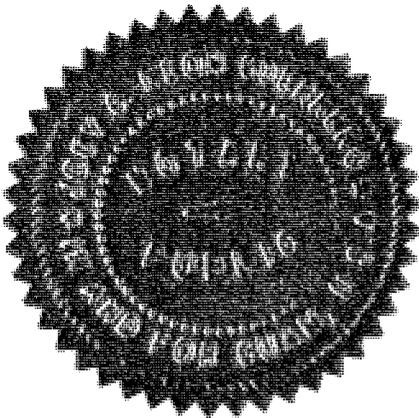

NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Ronald F. Eclavea, Trustee of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





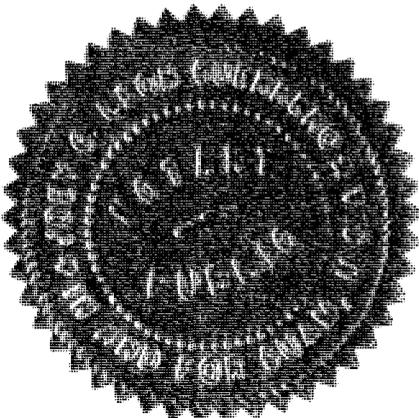
NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Lydia M. Tyner, Trustee of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

Ratified Hereby By: Guam Ancestral Lands Commission, pursuant to Guam Public Law 25-45; 25-178; 25-180; 26-36; Governor's Executive Order No. 200219; and Grant Deed, Assignment and Trust Agreement of 18 February 2004 recorded as Document Instrument No. 688615, Office of the Recorder, Department of Land Management, Government of Guam.

By virtue of this Ratification, Guam Ancestral Lands Commission does hereby, upon recommendation of Trustees of this Commission's LandBank Trust, approve and adopt by Ratification the "Land Use Master Plan for "Dos Amantes" Planning Area" dated 19 July 2005 Attachment No. 4, and does hereby approve and adopt the attached Cadastral Base Map for the "Dos Amantes" Planning Area also dated 19 July 2005 Attachment No. 5 attached herewith, incorporated herein and Ratified hereby, in-lieu-of and in substitution for unapproved draft sheets 1-14 of Department of Land Management Land Survey Division Drawing[s] Number 033FY98 / 14-98T646 titled "Ancestral Lands Municipalities of Dededo and Tamuning, Land Square 11, Sections 1, 2, 3 and 4".

The Executive Director, Guam Ancestral Lands Commission, is hereby directed to transmit certified copies of this Ratified Resolution inclusive of all Attachments (1-5) to the Governor of Guam for the Government of Guam Executive Branch; to the Speaker of the 28th Guam Legislature, for members of the Government of Guam Legislative Branch; to the Chairman, Guam Economic Development and Commerce Authority, for officers and members of the Board and Administrators and staff of the Authority; to the Director of Public Works for the Highway Planning Authorities; and to forthwith prominently post a complete copy of the approved Cadastral Base Map dated 19 July 2005 (Sheets 1-4) in the public area of the Administrative offices of the Commission for public use and information; and to forthwith maintain, to be provided upon request from the public, a complete copy of the approved "Master Plan for the "Dos Amantes" Planning Area" dated 19 July 2005 inclusive of all narrative, maps, attachments and this Ratified Resolution all for the public's future use as reference, information or for reproduction at page copy cost at requester's personal expense, to be fully paid by the public member requesting copies of documents or drawing reproductions.

The Executive Director, Guam Ancestral Lands Commission, is hereby further directed to notify in writing by certified mail with return receipt, each Estate Administrator or Authorized Representative of returned land within the Planning Area addressed by this Ratified Resolution (see Cadastral Base Map, Attachment 5 to the Land Use Master Plan for the "Dos Amantes" Planning Area, dated 19 July 2005) that complete copies of this Resolution and Attachments are available at the Office of the Guam Ancestral Lands Commission for review of, and / or reproduction of, these documents during normal working hours of the Guam Ancestral Lands Commission.

Ronald T. Leguina

Chairperson, Guam Ancestral Lands
Commission (GALC)

9/8/05

(date)

Paul C. [Signature]

Member (GALC)

(date)

[Signature]

Member (GALC)

(date)

Sydia M. Syner

Member (GALC)

9/07/05

(date)

Maria G. Co
Member (GALC)

9/7/05
(date)

A. Matman
Member (GALC)

9/8/05
(date)

Member (GALC)

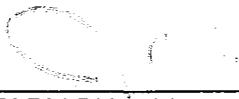
(date)

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Ronald T. Laguana**, Acting Chairperson of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





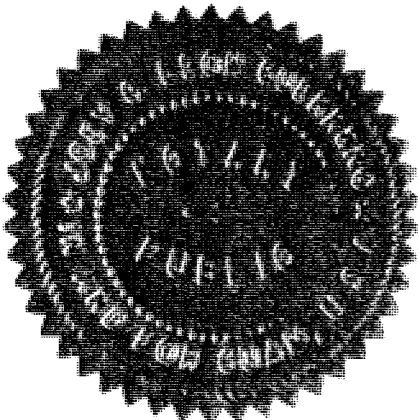
NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Mark C. Charfauros**, Acting Vice Chairperson of the Board of Commissioners of the Guam Ancestral Lands Commission known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





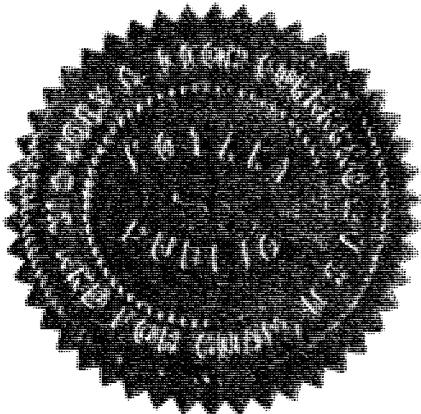
NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

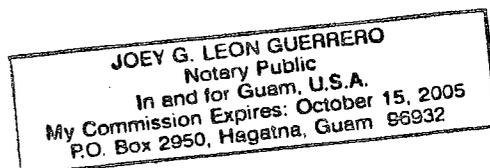
On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Ronald F. Eclavea**, Member of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





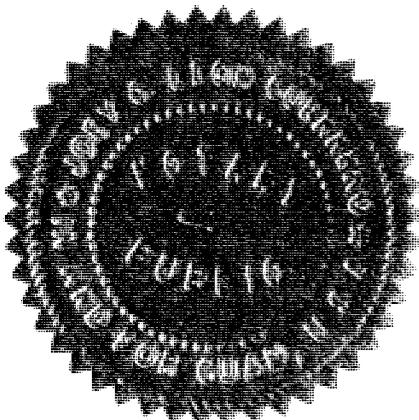
NOTARY PUBLIC



HAGÁTÑA, GUAM) ss:

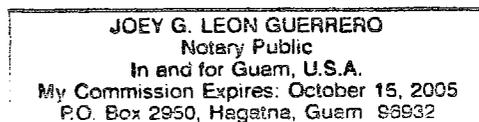
On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Lydia M. Tyner**, Member of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





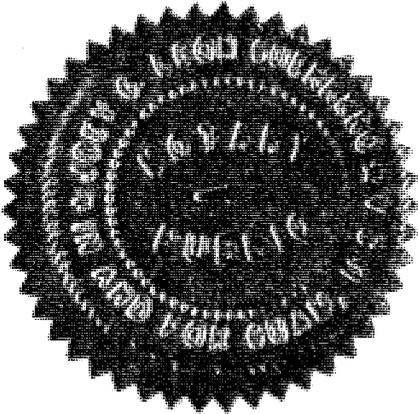
NOTARY PUBLIC



HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Maria G. Cruz**, Secretary of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **James C. Matanane**, Member of the Board of Commissioners of the Guam Ancestral Lands Commission known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

ATTACHMENT No. 1



OFFICE OF THE ATTORNEY GENERAL

Government of Guam
7th Floor, Pacific News Building
238 O'Hara St.
Agana, Guam 96910
Tel.: 472-6841/6844

RICHARD G. OPPER
Attorney General

To	Initial	Date
AAG	AB	12/5/83
DAG	Re	12-5
FILES		

December 5, 1983

The Honorable Pilar C. Lujan
Chairperson, Committee on Economic
Development, Housing and Com-
munity Development
Seventeenth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Re: Authority of the Legislature to Concur on Land
Sale Applications
LEG 83-0029

Dear Chairperson:

This office is in receipt of your letter of September 28, 1983 in which you requested information on the following:

REQUEST: Does the Legislature have the power to subsequently concur or reject the Governor's transfer of land made pursuant to specific legislative authority?

ANSWER: Once the Legislature has granted the Governor authority by legislation to sell, lease or otherwise transfer government land, the Legislature has no further authority to concur with the transfers.

1. BACKGROUND

The Organic Act of Guam, Section 3(48 U.S.C. § 1421a) provides for a three branch system of government for Guam, consisting of an Executive, Legislative, and Judicial Branch and specifies that GovGuam shall have the powers set forth in the Act.

Pursuant to the setting forth of powers, section 28(b) (48 U.S.C. § 1421f), of the Organic Act provides as follows:

- (b) All other property, real and personal, owned by the United States within ninety days after the date of this Act [Organic Act], is hereby placed under the control of the Government of Guam, to be administered for the benefit of the people of Guam, and the Legislature shall have the

authority, subject to such limitation as may be imposed upon this Act by this [Organic Act] or subsequent acts of Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable. (Emphasis added)

Thus, the legislative branch of GovGuam is empowered by the Organic Act to be the controlling branch of GovGuam concerning the use and disposition of the real and personal property of GovGuam acquired pursuant to section 28(b), which includes the real property presently held by GovGuam.

A close reading of the powers granted by the Organic Act discloses no such concomitant power being granted to the executive or judicial branches by the Organic Act. Further in Bordallo v. Camacho, 475 F.2d 712 (1973), the Court held that the Guam Legislature is part of the Government of Guam, within the meaning of the Organic Act of 1950 and, as such, can put appropriate lawful conditions on any request by the Governor to sell, lease or otherwise dispose of land transferred by the United States to Guam. Sections 3 and 28 of the Organic Act were the authority relied upon by the court in reaching this decision.

Thus, the Legislature, by the Organic Act, as sustained by Bordallo, supra, is the proper branch of GovGuam to authorize the disposition of the real property of GovGuam. The ultimate legality of any transfer of real property must be based upon legislation passed by the Legislature pursuant to section 19 of the Organic Act (48 U.S.C. 1423(i)).

Pursuant to this power and responsibility, the first Guam Legislature in 1952 enacted P.L. 1-88, which in its pertinent part, provided a statutory system for the leasing and sale of GovGuam real property. This was formally chapter VI, Title XIV of the Government Code of Guam. This statutory system delegated to the executive branch the authority to lease or sell GovGuam real property pursuant to the procedural requirements specified in chapter VI.

In November 1973, P.L. 12-61 was passed by the Guam Legislature overriding the Governor's veto. Section 3 of P.L. 12-61 provides in part that: "Notwithstanding any other law to the contrary, the Land Transfer Board, the Governor of Guam, and the Director, Department of Land Management, shall not sell, lease or exchange government-owned property without the prior approval of the legislature". The legislature, by the enactment of this section, was either expressing its desire to more closely supervise the leasing, selling and exchanging of land owned by GovGuam by requiring a second legislative approval of land transfers and exchanges or the Legislature was simply restating its right and responsibility to legislate with respect to such real property pursuant to section 28(b) of the Organic Act. The former interpretation of section 3 of P.L. 12-61 has been followed by the government since its passage.

On January 1, 1975, section 1 of P.L. 12-226, commonly known as the Chamorro Land Trust Act, took effect. Section 1 of the Act repealed Chapters VI, leases and sales; VII, land use permits; VIII, agricultural leases; and XI, land development, of Title XIV (Land Management) of the Government Code of Guam.

Section 2 of P.L. 12-226 was enacted to replace Chapter VI which was repealed by section 1. However, section 2 was to take effect on the date of the first meeting of the Chamorro Land Trust Commission. There is no record of any meeting of the Chamorro Land Trust Commission. Therefore, the effect of P.L. 12-226 was to repeal the above enumerated sections of Title XIV. Consequently, GovGuam land can presently only be sold, leased or exchanged pursuant to other legislation. There are several enabling acts passed by the Legislature authorizing the executive branch to sell specific tracts of government owned land and acts to lease GovGuam land for commercial and agricultural purposes. The following legislation serves as authority given by the Legislature to the executive branch to sell, lease or exchange government land.

P.L. 10-195 and 11-91. P.L. 10-195 authorized the Governor to sell land in Pagat Pagacho, Agat. P.L. 11-91 authorized the Governor to sell land in the subdivisions of Pigua, Merizo. Both of these laws were repealed by P.L. 15-127. However, P.L. 15-127 also states that any lots which were unsold and upon which contracts were signed and executed at the time of the passage of the act could be sold in those subdivisions.

P.L. 11-127. Section 1 authorizes the Director of Land Management, with the approval of the Governor, to sell or lease the subdivision of Chalan Canton Tasi, Umatac. Section 4 sets up a priority system for the sale of these lots. Section 5 provides that the lots shall be sold or leased at less than fair market value under certain circumstances.

P.L. 15-131. Section 1 authorizes the Governor to subdivide into residential lots and sell certain government land in Umatac. The lots must be between 5,400 and 10,000 square feet in size. Section 2 restricts potential buyers to those who currently own no land in Guam and who are tenants of any part of the property to be sold. Lots are to be sold at less than fair market value, but in no case may the price exceed \$2,500.00. The buyer cannot sell any of the conveyed property within five years after the date of execution by the Governor.

P.L. 16-92. Section 3 authorizes the Governor to convey land where the government of Guam has, prior to May 10, 1982, entered into agreements to sell land without existing legislative authority. Essentially, this act provides remedial authorization for land transactions that took place in the past. Section 3 states, in part:

Notwithstanding any other provision of law with respect to the sale of government land including but not

limited to the Chamorro Land Trust Act and laws requiring the concurrence of the legislature in the sale of government land, the Governor shall sell government real property or exchange government real property with any person, partnership or corporation in accordance with the terms of any agreement entered prior to May 10, 1982 if such transaction was approved by a resolution of the Guam Legislature duly and regularly adopted prior to May 10, 1982.

P.L. 16-97. Section 1 authorizes the Governor to subdivide into lots and sell any unsold land in the government subdivision at Malojloj. The lots shall be sold at less than fair market value but for no more than \$2,500.00. Section 2 sets up by priority system for the sale of the lots. Section 3 provides that a covenant be included in the contract and deed stating that the buyer shall erect a residence on the lot in conformity with the building code.

P.L. 16-118. Section 1 provides that the Governor may convey the remaining unsold lots in the Talofofu subdivision to qualified purchasers at less than fair market value of the lot and at less than that expended by the government in developing and improving the lots. The selling price of the lot shall be \$2,500.00. Preferences for sale are then indicated. A restriction will be placed in the deed prohibiting alienation or sale of the real property for a period of ten years after the deed is executed with the exception that the title may pass under the laws of succession.

P.L. 15-6:4. This law provides general statutory authority for long term leases of government-owned land for agricultural purposes. Section (e) of the act specifically provides for legislative approval of each lease pursuant to P.L. 12-61:3 [as amended by P.L. 15-133:2]. Section (c) states that all leases shall be executed by the Governor, attested by the Lieutenant Governor and be approved as to form by the Attorney General. Section (b) requires written consent by the Governor and approval as to form by the Attorney General for any sublease.

P.L. 15-18. This law authorizes long term agricultural leases of government-owned land whereby the lessee pays no rent for the first five years of the lease.

Section 7 of P.L. 15-18 provides for the form of the lease.

Upon approval of the application [the Department of Agriculture] and approval of the legislature as required by P.L. 12-61 [as amended by P.L. 15-133:2] the Governor shall execute a lease with the applicant in a form approved by the Attorney General which, among other lease provisions, shall include the following:

1. A maximum term shall be fifty (50) years, to be divided into ten (10) year increments renewable at the option of the lessee.
2. No rent shall be collected for the first five (5) years operation under the lease and thereafter, rent will be due on an annual basis at the end of the sixth year and those years following.

P.L. 15-6:3. This law provides general statutory authority for long term leases of government land for commercial purposes. The leases are to be executed by the Governor, attested by the Lieutenant Governor and approved as to form by the Attorney General. Leases are to be approved by the Legislature as provided in Section 3 of P.L. 12-61 [as amended by 15-133:2]. Subleases require the consent of the Governor, approved as to form by the Attorney General and approved by the Legislature pursuant to P.L. 12-61:3 as amended.

DISCUSSION:

P.L. 15-133 section 2 amends section 3 of P.L. 12-61 and reads as follows:

Section 3. Notwithstanding any other provision or law to the contrary the Land Transfer Board, the Governor of Guam and the Director of the Department of Land Management shall not sell, lease or exchange government-owned property without the prior approval of the legislature. This section shall not apply to land use permits issued pursuant to chapter VII of the Government Code of Guam.

As mentioned above, this section could be interpreted as a reaffirmation of the legislative authority pursuant to section 28(b) of the Organic Act, such that the Legislature shall have authority subject to such limitations as may be imposed upon its acts by the Organic Act or subsequent acts of Congress to legislate with respect to property real and personal belonging to GovGuam in such manner as it may deem desirable. However, the interpretation of P.L. 15-133 section 2 has been such that the Legislature has approved the sale and lease of GovGuam land by resolution after selection of the individual buyers and lessees prior to the Attorney General's approval and the approval by the Governor of Guam. This second approval by the Legislature amounts to special legislation and is prohibited by 48 U.S.C. section 1471 (act of July 30, 1866, CH. 818, section 1, 24 stat.170). This section creates an absolute bar against special

-
1. (Chapter VII, Title XIV of GCG was repealed in its entirety by P.L. 12-226. No legislation for land use permits presently exists. The land Transfer Board was also repealed by P.L. 12-226.)

legislation in any of 24 enumerated cases, among these, the "[g]ranting to any ... individual [of] any special or exclusive privilege ... whatever". This section further provides: "In all other cases where a general law can be made applicable, no special law shall be enacted in any of the Territories of the United States by the Territorial legislatures thereof."

As applied to the subdivision laws described above, the legislature cannot pass special legislation by law. Currently, this is attempted by resolution. Resolutions are not provided for in the Organic Act. Pursuant to section 19 of the Organic Act (48 U.S.C. section 1421i): "Every bill passed by the legislature shall, before it becomes law, be entered upon the journal and presented to the Governor." Since resolutions are not presented to the Governor for his approval, they do not carry the weight of law and are merely advisory. It is axiomatic that the Legislature cannot authorize by resolution (which does not carry the weight of law) what it cannot authorize by the passage of a law. Thus, the requirement of a second legislative approval for the sale of government land to specified individuals is invalid.

The provisions for agricultural leases in P.L. 15-6:4 and P.L. 15-18 and commercial leases in P.L. 15-6:3 require legislative approval of leases pursuant to P.L. 12-61, as amended by P.L. 15-133:2. This again is a requirement for special legislation and is invalid. Declaring the provision for prior approval of the Legislature to be invalid does not affect the validity of the laws it purports to effect. "[W]hen the general object of the act can be achieved without the invalid part, the act will be upheld" (Sutherland, Statutory Construction, § 44.07 Volume 2, Fourth edition, 1972). The invalid requirement for approval of specific leases can be separated out of the existing laws without invalidating the laws in their entirety. "A provision is ... presumed severable if what remains after severance is fully operative as a law." (I.N.S. v. Chadha, 103 S.Ct. 2764, 2775 (June 23, 1983); Champlin Refining Co. v. Corporation Commission, 28 U.S. 210, 234, 52 S.Ct. 559, 565, 76 L. Ed. 1062 (1932)). Additionally, the provisions are prohibited by 48 U.S.C. section 1471 which prohibits the enactment of a special law "where a general law can be made applicable". The commercial and agricultural lease laws are of general application for all government land. The Legislature cannot require its approval of specific leases by enacting special laws or resolutions. Absent the invalid provisions, the general object of the acts, i.e. commercial and agricultural leases of government land, can be achieved.

48 U.S.C. section 1471 was applied to the passage of special legislation regarding a territorial land sale in Smith v. Government of Virgin Islands, 375 F.2d 714 (1967), which specifically found that a legislative act transferring property to a specified individual was a special law and was invalid.

CONCLUSION:

P.L. 12-61 as amended by P.L. 15-133:2 requires the Legislature to pass special legislation and is invalid pursuant to 48 U.S.C. section 1471. Therefore, the procedure for the sale and lease of government land is as follows:

1. The Legislature delegates to the executive department the authority to sell, lease or exchange government land. This may be accomplished by legislation identifying specific land to be alienated, as in the case of the subdivisions, or by general statutory law, as in the case of agricultural and commercial leases. This is the delegation of authority by the Legislature to the Executive Department to sell, lease, exchange, alienate or otherwise encumber government land pursuant to Section 28(b) of the Organic Act.
2. The executive branch then selects the individuals to whom government land is to be sold, leased or otherwise transferred according to the laws and regulations effecting the transfer through the applicable agency, i.e. the Department of Land Management or, in the case of agricultural leases, the Department of Agriculture. The agency then submits the lease or deed agreement to the Attorney General for legal approval and then to the Governor for final approval and execution. The document is then returned to Department of Land Management for recording.

As this opinion has reached the conclusion that a second approval by the Legislature of specific sales and leases is invalid on the above grounds, a discussion of the doctrine of separation of powers is not required. See generally, I.N.S. v. Chadha, 103 S.Ct. 2764 (June 23, 1983).

This memorandum supercedes prior memoranda by the Attorney General when inconsistent with their conclusions as to land sale and lease procedures. Specifically, but not limited to the following:

- A. Prior Approval of Legislature for Lease of Government-owned Housing, February 23, 1983.
- B. Current Law and Procedure for Sale or Lease of Government-owned Land by the Department of Land Management, January 4, 1983.
- C. Current Law and Procedure for Sale or Lease of Government-owned Land by the Department of Land Management, August 24, 1982 (Ref: AG82-0621).

Letter to the Honorable Pilar C. Lujan
December 5, 1983
Page 8

- D. Legislative Concurrence, June 29, 1981 (Ref: DLM81-0497).
- E. Sale of Fee Simple Interests of Government of Guam Land, March 10, 1980.

When making further inquiry regarding this memorandum or to the same subject matter, please make reference to the above file number. In an effort to expedite your inquiry, those requests referencing the file number will be given preferential consideration.

OFFICE OF THE ATTORNEY GENERAL

el
LEE M. CONOVER
Acting Attorney General



Seventeenth Guam Legislature

P. O. BOX CB-1
AGANA, TERRITORY OF GUAM
U.S.A. 96910

RECEIVED
OCT 1 1983
ATTORNEY GENERAL'S OFFICE

COMMITTEE ON ECONOMIC DEVELOPMENT,
HOUSING AND COMMUNITY DEVELOPMENT

0023

September 28, 1983

MEMORANDUM:

TO: Attorney General of Guam
FROM: Chairwoman, Committee on Economic Development,
Housing and Community Development
SUBJECT: Inquiry on Land Sale by the Government

The Committee on Economic Development, Housing and Community Development has been receiving referrals of land transactions requiring legislative concurrence on land sale and public hearings have been conducted on some of these requests.

The authority of the Governor and the Legislature to concur on the land sale application has been challenged.

Please advise the committee on the authority of both the Governor and Legislature.

Thank you for your assistance.

PILAR C. LUJAN
Chairwoman

Chairwoman
PILAR C. LUJAN
Senator

Vice Chairman
Senator John Quan

Members

Senator John P. Aguon
Senator Franklin Gutierrez
Senator Don Parkinson
Senator Joseph F. Ada
Senator James Underwood II

ATTACHMENT No. 2



Office of the Attorney General

Douglas B. Moylan

Attorney General of Guam
Suite 2-200E, Judicial Center Bldg.
120 West O'Brien Drive
Hagåtña, Guam 96910

(671) 475-3324 (671) 472-2493 (fax)

law@mail.justice.gov.gu www.guamattorneygeneral.com

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OCT 14 2004

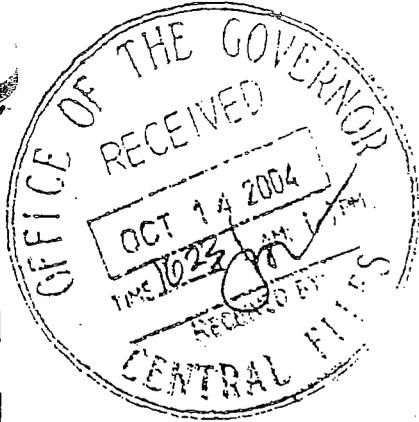
SUPREME COURT
OF GUAM

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RECEIVED

October 14, 2004

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MEMORANDUM (Opinion)

REF: GALC04-1021

To: Chairman, Guam Ancestral Lands Commission Land Bank Subcommittee

From: Attorney General

Subject: GALC Land Bank Program

LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By A. Malan
Time 4:10 p
Date 10/14/04

You have asked three questions for which you wish our Opinion.

First, you have hinted that the Public Law (26-36:6(f) [not Section 3] may mean that the GALC lacks authority to establish the Land Bank if it were not established by the end of FY 2004. Apparently it has not yet been established and we now are into FY 2005. In our opinion to Senator Carmen Fernandez on August 19, 2004, we determined that, unless consequences were attached to a failure to do something by a legislatively stated date, then the power did not expire. (LEG.04-0785) Since the circumstances are the same here, there is no expiration of your authority to create the land bank.

Secondly, you ask if the present rules and regulations are sufficient to permit you to solicit an RFP or issuance of annual land use licenses to further the process of the land bank program. First, you need to answer a few questions of ours. Has the land for the land bank been conveyed to the GALC? For what would be the Request for Proposals? To whom would you grant the annual land use licenses? You need policies to determine just what you can do with this land. Are there restrictions in the deeds granting the land to Guam? What are the consequences of violating these restrictions?

It seems to me that it is necessary to establish the Land Bank first, with its policies in place, before you can begin to license users for the land who are not already on it (such as government agencies). Before we can finally answer your question, please send us an outline of the status of the Land Bank program, the lands in it, and the purpose for which the land licensed will be used. Once we get a good idea of your program, we can answer your questions. There is nothing in the regulations passed by P.L. 25-178 which deals with the establishment of the Land Bank, the determination of what lands are to be in it, and the criteria for use of the funds generated by it. The seems to be intentional as the Land Bank is to be set up by the Commission as a separate entity. The rules as passed deal with how the claimants are to be

chosen, lands conveyed to them and the former claims extinguished.

The present rules do authorize, and the legislature has demanded, that you establish a land bank. You do have this power. In fact, 21 GCA §80104(e) specifically authorizes you to act as developer of the lands in the land bank. That subsection states:

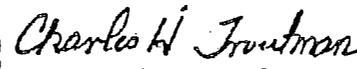
(e) Land Bank. The Commission shall take title, as Trustees, of former Spanish Crown Lands and other non-ancestral lands that are conveyed by the Federal government to the government of Guam after the effective date of this Act, on behalf of ancestral landowners who, by virtue of continued government or public benefit use cannot regain possession or title to their ancestral lands.

The Commission shall establish a Guam-based trust to administer all assets and revenues of the land bank of the aforementioned lands and manage the lands, and act as the developer of the lands, if necessary, to the highest and best use. The Commission shall establish rules and regulations pursuant to the Administration Adjudication Law for the Guam-based trust. The resulting income shall be used to provide just compensation for those dispossessed ancestral landowners.

Nevertheless, this section requires that the Commission act in their role as trustees of the Land Bank, not as the Ancestral Lands Commission alone. Therefore, you must exercise the your authority to issue the RFP only under the authority of the trust.

we cannot determine from your request if this is being done. The existing rules authorize you to establish the trust, and get the government to convey the designated lands to the trust. Once this has been accomplished, you will have the power to seek the RFP, but under the trust only. So, the Rules are not sufficient since they make no mention of an existing trust within which you are to operate. What they do is authorize you to create the trust.

As to your second question, we cannot find that the GALC is required to work with any other agency. However, you must work with Land Management to determine th lands to be in the trust, with the Governor and Legislature to get the lands conveyed to the Trust (conveyance of government lands requires the concurrence of the Legislature), and with the TLUC and the other agencies to see to it that zoning is pin place for whatever you want to do with the land. In other words, the Trust, as landowner, is not exempted from the various rules governing land development.


CHARLES H. TROUTMAN
Deputy Attorney General

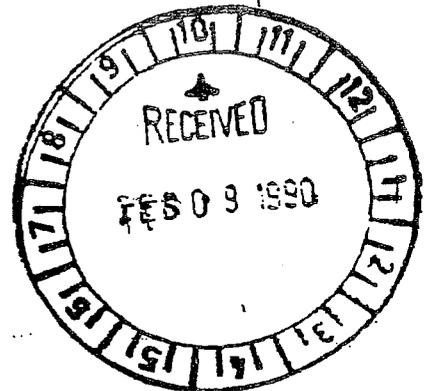

DOUGLAS B. MOYLAN
Attorney General.

ATTACHMENT No. 3



GOVERNMENT OF GUAM
AGANA GUAM 96910

February 5, 1990



Memorandum (Opinion) Ref: BOP 90-0064

To: Director, Bureau of Planning

From: Attorney General *EJO*

Subject: Zoning of Federal Lands

We are in receipt of your memorandum dated January 22, 1990 in which you requested the following:

REQUEST: Are lands currently held by the federal government automatically zoned agricultural upon their transfer to the government of Guam?

ANSWER: No.

STATEMENT OF FACTS:

The federal government has indicated a willingness to transfer portions of real property they currently hold to the government of Guam. The Director of the Bureau of Planning is inquiring whether these properties are automatically zoned agricultural upon their transfer to the government of Guam.

DISCUSSION:

The portion of Guam law most relevant to discovering the nature of lands transferred to the government of Guam is found in Government Code Section 13500, et. seq. Section 13503 of the Government Code provides:

§13503. Certain government lands designated "available lands". (a) All government lands excluding (1) lands held under agricultural lease, land use permit, or right of purchase lease, (2) all lands dedicated to a specific public use by law, and (3) all lands reserved in accordance with §13004 of this Code which reservations are submitted to and concurred in by the Legislature within ninety (90) days of the enactment of this Chapter, are hereby designated as available lands. (b) Any land acquired by the government by whatever means after the effective date of this Chapter shall acquire the status of available lands unless reserved in accordance with §13004 of this Code within sixty (60) days after its acquisition.

This section is contained in the Chamorro Land Trust Act (Public Law 12-226).

On January 1, 1975, Section 1 in its entirety and portions of Section 2 (Government Code Sections 13501 and 13503(b)) of P. L. 12-226, (commonly known as the Chamorro Land Trust Act), took effect. Section 1 of the Act repealed Chapters VI, leases and sales; VII, land use permits; VIII, agricultural leases; and XI, land development, of Title XIV (Land Management) of the Government Code of Guam.

However, the remaining portions of Section 2 were to take effect on the date of the first meeting of the Chamorro Land Trust Commission. There is no record of any meeting of the Chamorro Land Trust Commission. Therefore, the effect of P. L. 12-226 was to repeal the above enumerated sections of Title XIV.

Since, Section 13503(b) of the Government Code is in effect, and Public Law 12-226 has repealed previous sections which dealt with the authority of the Department of Land Management to determine the classification of government property, any land acquired by the government after January 1, 1975 is to be considered "available lands". However, while newly acquired government properties are to be considered available lands, these properties are not automatically zoned by any previously determined zoning status. A review of the existing statutes fails to indicate that upon the acquisition by the government of Guam that property acquires a particular zoning status.

Rather, it appears from the duties and functions of the Central Planning Council (Government Code Sections 62010 et seq.) that the Central Planning Council* would have the authority to make an initial determination of the proper zoning of these properties and then present its determination to the Territorial Planning Commission. Once approved there, it would need the approval of the Governor and the Legislature before these properties would receive their proper zoning status. See Government Code Section 62010, et seq.

This memorandum is issued as an opinion of the Attorney General. For a faster response to any inquiry about this memorandum, please use the reference number shown.

OFFICE OF THE ATTORNEY GENERAL

* Note: Zoning process described herein was subsequently changed. Currently, only the Guam Legislature has the authority to set original land use zones.

By: *Robert H. Kono*
ROBERT H. KONO
Assistant Attorney General