

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) REGULAR SESSION

Bill No. 43 (EC)

Introduced by:

Edward J.B. Calvo 

AN ACT TO AUTHORIZE *I MAGA'LAHEN GUÅHAN*
TO EXCHANGE GOVERNMENT PROPERTY IN
BARRIGADA FOR PRIVATELY OWNED PROPERTY
LOCATED IN BARRIGADA EXPROPRIATED AS A
PONDING BASIN FOR PUBLIC USE.

cc/Bom

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds

3 that the residents of Barrigada have benefited for the last twenty (20) years,
4 the use of Mrs. Frances H. Cepeda's property as a ponding basin to prevent
5 flooding in the village. The Department of Public Works upon completing a
6 study in 1987, found it necessary to use Mrs. Cepeda's property to mitigate
7 the flooding problem in the village. The following year, the government of
8 Guam proposed a land exchange with Lot No. 15, Block E, Track 9, Barrigada.
9 All government agencies required to review the proposal supported the
10 proposal. Not until February 1993, the late Senator Francisco R. Santos
11 introduced Bill No. 196 to facilitate the land exchange. However, the property
12 was placed into the Chamorro Land Trust Commission inventory prior to the
13 proposed Bill's consideration. Frances H. Cepeda and her family have not

1 received any compensation or relief from the government of Guam. An offer
2 for a land exchange on the use of her property or the initiation of eminent
3 domain proceedings have not occurred over the last twenty (20) years.

4 *I Liheslaturan Guåhan* finds that privately owned land used by the
5 government of Guam for a public purpose without compensation to the
6 original owner is not unique. The Office of the Inspector General of the U.S.
7 Department of Interior within a November 1992 Audit Report, stated that a
8 land taking of more than four hundred thousand (400,000) square meters of
9 private property occurred over the last forty (40) years without compensation
10 to the original land owners. This illegal practice continues to this day.

11 *I Liheslaturan* recognizes that this practice must immediately come to an
12 end as it contradicts the principles of eminent domain, justice and
13 constitutional guarantees of property rights. Public Law 22-73 gave land
14 owners the right to bring claims for inverse condemnation taken between
15 August 1, 1950 to July 1, 1994. The statute of limitations for inverse
16 condemnation claims have been expanded for private property. The law
17 further authorizes *I Maga'lahaen Guåhan* to make land exchanges remedying
18 such land takings requiring the Chamorro Land Trust Commission in
19 collaboration with the Directors of Land Management, Public Works,
20 Agriculture and Parks and Recreation to identify lands under its jurisdiction
21 that could be utilized for exchange. Unfortunately, Public Law 22-73 has not
22 been put to use. Many government properties have been transferred to the
23 Chamorro Land Trust Commission which contained numerous land

1 description arrears; are owned by private persons; lands upon which public
2 buildings and facilities sit; or earmarked by a prior master plan or use which
3 includes Lot No. 15, Block E, Track 9 in Barrigada.

4 Lot No. 15, Block E, Track 9, Barrigada, earmarked for the purpose of
5 this land exchange which has been transferred to the Chamorro Land Trust
6 Commission inventory must be recommitted for the purposes of this land
7 exchange to correct the injustice suffered by the Cepeda family.

8 **Section 2. Barrigada Parcel Transferred from the Chamorro Land**
9 **Trust Commission Inventory.** Pursuant to Public Law 22-73, which requires
10 the government of Guam to properly compensate landowners whose property
11 have been expropriated for public purposes, *I Liheslaturan Guåhan* does hereby
12 transfer from the inventory of the Chamorro Land Trust Commission to the
13 Department of Land Management the following government of Guam
14 property more particularly described as:

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16 **Lot Number 15, Block E, Track 9, Municipality of**
17 ***Barrigada*, containing ±9,949.74 square meters, under the**
18 **ownership of the government of Guam.**

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20 **Section 3. Authorization for Land Exchange. (a) Land Exchange**
21 **Authorized.** As fair compensation for privately owned land expropriated by
22 the government of Guam for public use as a ponding basin, *I Maga'lahaen*
23 *Guåhan* is hereby authorized to exchange Lot Number 15 owned by the
24 government of Guam as described within Section 2 with:

1 **Lot Number 2264-1-R3**, Municipality of Barrigada, Guam
2 Estate No. 58813, containing an area of $\pm 11,322.54$ square
3 meters, as marked and designated on Map Drawing No.
4 828T63B, prepared by Juan T. Untalan, RLS No. 6, dated
5 October 1, 1963, and described on Document No. 467272,
6 recorded at the Department of Land Management,
7 government of Guam.

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9 **Certificate of Title Number 91059.**

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11 **(b) Basis of Land Exchange.** *I Liheslaturan Guåhan* finds that the land
12 exchange authorized by this Section is a fair market value for value
13 exchange based on the appraisals first performed on both parties
14 when the land exchanged was initially proposed in 1988 in
15 accordance with Public Law 22-73. Furthermore, *I Liheslaturan*
16 *Guåhan* finds that the land exchange also is fair compensation as an
17 area for area exchange in accordance with Public Law 22-73 and
18 Public Law 22-80.

19 **(c) Survey Mapping and Registration.** The Director of the Department
20 of Land Management shall perform the necessary survey, mapping
21 and registration of the properties to be exchanged and is authorized
22 to expend up to Six Thousand Dollars (\$6,000) from the sums
23 appropriated in Item (j) of Section 1, Part I of Chapter IV, Public
24 Law 28-150, "*General Appropriations Act of Fiscal Year 2007*" to pay
25 for the necessary survey, mapping and registration.

1 (d) All fees that may be assessed by the Department of Land
2 Management necessary to facilitate this Act is waived.

3 **Section 4.** Section 75119 of Title 21 of the Guam Code Annotated is
4 amended to read as follows:

5 “§75119. **Identification of land to be exchanged to compensate**
6 **private landowners.** The Commission, with the assistance of the
7 Director of Land Management, the Director of Public Works, the
8 Director of Agriculture, and the Director of Parks and Recreation, shall
9 identify land under its jurisdiction which may be utilized by I
10 Maga'låhen Guåhan ~~the Governor~~ in exchanging property with private
11 landowners whose lands have been expropriated by the government of
12 Guam for public purposes prior to December 31, 2002 ~~1993~~, and for
13 which no compensation has been paid to such private landowners.

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