

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN  
TWENTY-NINTH GUAM LEGISLATURE  
2007 (FIRST) REGULAR SESSION

Bill No. 46 (EC)

Introduced by:

Mark Forbes

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.

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:

15  
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.**  
19

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'lahen*  
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.

8  
9           **Certificate of Title Number 91059.**

10  
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.