

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
248-32 (COR)	Vicente (ben) C. Pangelinan	AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM THE GENERAL FUND TO ALLOW THE GOVERNMENT OF GUAM TO PAY FOR AN INVERSE CONDEMNATION SETTLEMENT PURSUANT TO SUPERIOR COURT OF GUAM CIVIL CASE NO. CV1158-12.	12/30/13 2:36 p.m.	12/30/13	Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land	1/10/14 9:00 a.m.	01/27/14 11:59 a.m.	Fiscal Note Requested 01/03/14



Office of

the People

I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

JAN 22 2014

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'trentai Dos Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio

Chairperson, Committee on Rules

RE: Committee Report on Bill No. 248-32 (COR), As Introduced

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 248-32 (COR), as introduced, An Act to Appropriate Twenty-Five Thousand Dollars (\$25,000) from the General Fund to allow the Government of Guam to pay for an Inverse Condemnation Settlement pursuant to Superior Court of Guam Civil Case No. CV1158-12, sponsored by Senator Vicente (ben) Cabrera Pangelinan, which was referred to the Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land.

Committee votes are as follows:

4 TO PASS

0 NOT TO PASS

2 TO REPORT OUT ONLY

0 TO ABSTAIN

0 TO PLACE IN INACTIVE FILE

Si Yu'os Ma'åse'

Vicente (ben) Cabrera Pangelinan

Chairman

324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910

Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Website: <http://senbenp.com>

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

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

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

2014 JAN 27 AM 11:11

**COMMITTEE REPORT
ON**

Bill No. 248-32 (COR), As Introduced

**Sponsored by Senator Vicente (ben) Cabrera
Pangelinan**

**An Act to Appropriate Twenty-Five
Thousand Dollars (\$25,000) from the
General Fund to allow the Government of
Guam to pay for an Inverse
Condemnation Settlement pursuant to
Superior Court of Guam Civil Case No.
CV1158-12.**



I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

JAN 22 2014

MEMORANDUM

To: All Members
Committee on Appropriations, Public Debt, Legal Affairs,
Retirement, Public Parks, Recreation, Historic Preservation and
Land.

From: Senator Vicente (ben) Cabrera Pangelinan
Committee Chairperson

Subject: Committee Report on Bill No. Bill 248-32 (COR), As Introduced

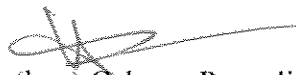
Transmitted herewith for your consideration is the Committee Report on Bill No. Bill 248-32 (COR, as introduced, An Act to Appropriate Twenty-Five Thousand Dollars (\$25,000) from the General Fund to allow the Government of Guam to pay for an Inverse Condemnation Settlement pursuant to Superior Court of Guam Civil Case No. CV1158-12, sponsored by Senator Vicente (ben) Cabrera Pangelinan.

This report includes the following:

1. Committee Voting Sheet
2. Committee Report Narrative
3. Copy of Bill No. 248-32 (COR), As Introduced
4. Public Hearing Sign-in Sheet
5. Copies of Written Testimonies
6. Copy of Fiscal Note Request
7. Copy of COR referral Bill No.248-32 (COR)
8. Notices of Public Hearing
9. Copy of the Public Hearing Agenda

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

Si Yu'os Ma'åse',


Vicente (ben) Cabrera Pangelinan
Chairman

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Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
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and Land

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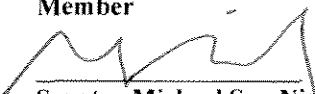


Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

I MINA' TRENTAI DOS NA LIHESLATURAN GUÁHAN

Committee Voting Sheet

Committee on Appropriations, Public Debt, Legal Affairs, Retirement,
Public Parks, Recreation, Historic Preservation and Land

Bill No. 248-32 (COR): An Act to Appropriate Twenty-Five Thousand Dollars (\$25,000) from the General Fund to allow the Government of Guam to pay for an Inverse Condemnation Settlement pursuant to Superior Court of Guam Civil Case No. CV1158-12.

Committee Members	To Pass	Not To Pass	Report Out Only	Abstain	Inactive File
 Senator Vicente (ben) Cabrera Pangelinan Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Vice Speaker BJ Cruz Vice Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Speaker Judith T. Won Pat Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Senator Tina Rose Muña-Barnes Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Senator Dennis Rodriguez, Jr. Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Michael San Nicolas Member	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Tommy Morrison Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Michael Limtiaco Member	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Committee Report

Bill No. 248-32 (COR), As Introduced: An Act to Appropriate Twenty-Five Thousand Dollars (\$25,000) from the General Fund to allow the Government of Guam to pay for an Inverse Condemnation Settlement pursuant to Superior Court of Guam Civil Case No. CV1158-12.

I. OVERVIEW

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land convened a public hearing on Friday, January 10, 2014 at 9:00 am in *I Liheslatura's* public hearing room.

Public Notice Requirements

Notices were disseminated via hand-delivery and e-mail to all senators and all main media broadcasting outlets on January 3, 2014 (5-Day Notice), and again on January 8, 2014 (48 Hour Notice).

(a) Committee Members and Senators Present

- Senator Vicente (ben) Cabrera Pangelinan, Chairman
- Senator Judith Won Pat, Member
- Senator Mike Limtiaco, Member
- Senator Frank Aguon
- Senator Chris Duenas
- Senator Tony Ada
- Senator Aline Yamashita

(b) Appearing before the Committee

- Ms. Kathy Fokas, Assistant Attorney General
- Ms. Georgette Bello Concepcion, Esq.
- Mr. Vincent Castro

(c) Written Testimonies

- Mr. Perry Taitano, Judiciary of Guam Administrator of the Courts

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
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and Land

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Hagåtña Restoration and
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Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

II. COMMITTEE PROCEEDINGS

Chairman Pangelinan: The next bill is on agenda is Bill No. 248, introduced by myself to appropriate Twenty-Five Thousand Dollars (\$25,000) from the General Fund to allow the Government of Guam to pay for an Inverse Condemnation Settlement pursuant to Superior Court of Guam Civil Case No. CV1158-12.

I have signed up to testify Ms. Kathy Fokas, Assistant Attorney General and Ms. Georgette Bello Concepcion. Mr. Joshua Tenorio has submitted written testimony and Mr. Castro. Welcome.

We will begin with the Attorney General's Office and then proceed with Mr. Castro and his representative.

Testimonies

Ms. Kathy Fokas: Good Morning Senators. My name is Kat Fokas, Assistant Attorney General with the Civil Department at the AG's office. I have been with the office for four years, but this is my first time before you. It is my pleasure.

We have requested of the Appropriations Committee on behalf of DPW an appropriation for \$25,000 to settle a 34-year old inverse condemnation case, which is currently scheduled for trial for February 12, 2014. We have a statute on Guam that requires an appropriation by the Legislature before the AG and certain line agencies can enter a settlement on a case. This is one of those kind of cases. It's an inverse condemnation case. By the way, the statute that requires the appropriation is 1 Guam Code Annotated, Section 18201.

This is an inverse condemnation case, which requires an appropriation. Many of you are aware of eminent domain or condemnation cases, which is when the government goes in and takes someone's land and is required under both the Organic Act and the United States Constitution to pay just compensation.

This case is a little different. This is when the property owner comes forward and says, government you took my land and you haven't paid me. So, they are the plaintiffs in this case. These property owners have been patiently waiting for over 34 years for some action by the government. Normally, a case this old would be barred by the statute of limitations. But we have a very special inverse condemnation statute on Guam, which tolls the statute of limitations; means it stops it and it allows this case to come forward. That statute by the way is 7 Guam Code Annotated, 11311.1. After these property owners went through the administrative level and eventually filed a complaint in the Superior Court, we met with them and we agreed that liability exists. Many years ago when the government took some land and I will allow the property owner to describe exactly where that land is, we took all the neighboring lands and paid the neighbors and although we took Mr. Castro's land we never named him on the condemnation complaint.

Since we've established that liability exists, the next step is to determine what is just compensation. How much should the government pay the Castros? We've evaluated the exposure for the government should this case proceed to trial and under the law, the Castros are

entitled to the fair market value of the little piece taken and because this is what's called partial take, they are also entitled to any damages to the remainders. So, we have gone through all those numbers, we looked at the amount that the people were paid 34 years ago because that's the value that applies; the value at the time of the taking. If we were to proceed to trial in addition to just compensation obviously the government would have its own expert witness fees, we would have to hire an appraiser, we would have to pay for an expert report and that special statute that I referred to earlier also would require that government to pay the property owners 6% interest from the date of take in 1979 to the date the judgment is paid, which is 34 years of interest at 6% per annum calculated in simple interest terms.

That special statute would also require the government of Guam to pay the property owner's attorney fees. So, as you can see if we proceed to trial, the government's exposure in this case gets higher and higher. Therefore, we worked with the property owners to avoid protracted litigation and have agreed on a settlement amount of \$25,000 as just compensation. That amount would include the 6% interest for all those years. It would also include the property owner's attorney's fees.

Very importantly, the Director of DPW the taking authority has agreed to the settlement amount and they submitted a letter, which we provided to the Appropriations Committee stating that they agree on the settlement amount, however they do not have the funding available, which is why we have come to you today. We are in full support of this and ask that the bill be passed and I thank you for your time, Senators.

Chairman Pangelinan: Thank you very much, Kat. Ms. Georgette Bello Concepcion.

Ms. Georgette Bello Concepcion: My name is Georgette Bello Concepcion. I am in private practice and I represent the landowners, Mr. and Mrs. Vicente Castro. With me today is my client, Mr. Castro and we are here to testify in favor of the bill and we thank Senator Pangelinan for working with my office and the AG's office for getting it before this body.

I wanted Mr. Castro to come today so that you have a face to the name on the bill. Mr. Castro and his wife are an elderly couple and they have been seeking recourse for what's called this inverse condemnation for more than 30 years. They came to me in early 2012 and I wasn't sure so I did my research and talking with him and making sure there is no statute of limitations as Ms. Fokas had said and surprisingly there was no statute of limitations for anything taken before 1994, I believe. So, we filed under the Government Claims Act and the government has 6 months to act on that and as expected the Attorney General's Office did nothing. Then after the 6 months had lapsed, we filed a complaint in the Superior Court of Guam. But we have been able to work with the AG's office in agreeing that yes, there is a taking and the only question under the law is what is the value of that taking.

Ms. Fokas has done an excellent job in explaining how we arrived at the number. My client is willing to do that. Unfortunately, it took this long for Mr. Castro to hire an attorney to get to where it is today. Now, we are almost to the end and so we ask that you support the bill so Mr. Castro and his wife can receive the compensation – not that they are asking for it, but they are entitled to under Guam law. Thank you.

Chairman Pangelinan: Thank you very much, Ms. Bello Concepcion. Mr. Castro I want to apologize on behalf of this government for not responding to your case. I know we've been working on your case to try and resolve this matter. We worked with the Attorney General's Office; we had a couple of meetings prior to you filing the case. My understanding was that we were going to proceed with the payment of it. We had DPW there, we had the Attorney General there, we dug up the old records, and we verified the fact that your property was in fact taken without being part of the condemnation process. We thought originally it was part of the condemnation process, additional records revealed it was not and the government just took it. DPW assured us that they were going to be able to find the money to make the payment to settle it. The Attorney General was going to do so and it just kept rolling and rolling.

I know you went to the Congresswoman Office's as well trying to get some action.

Mr. Vicente Castro: Even went to the Lt. Governor.

Chairman Pangelinan: What we have today is we will put this kind of mistreatment of its citizens by this government, by the entire system not any one individual. Nobody said, let's not pay Mr. Castro. The entire system just wasn't able to come together to resolve your problem for the last 34 years. We attempted to do so. We worked with it, unfortunately we weren't able to conclude that administrative process. You have in fact exhausted all administrative processes and you have to be exhausted and frustrated – 34 years of taking a look at the property and knowing everyone else got paid but you. Yet, you don't have use of your property.

With Kat bringing the attention to our office and Georgette acting on your behalf pushed the issue forward with regards to the legal process. I think this will finally allow us to close this chapter. It's not about the amount; it's not a huge amount of money considering what we have done to you. But, I want to thank you for working with this government to come to, what I agree would be a fair end to this chapter. I certainly will ask all my colleagues for their support on this.

Mr. Vicente Castro: You see the problem here is that when they did that (land take) in 1979, they identified my lot property, both lots but they didn't put our name. Another problem is when I tried to apply for a sewer connection, an inspector came from GWA (was PUAG), so the problem is that I guess the reason the government took that piece of land is because the sewer is on private property. They even told me that you can connect your sewer line free; you don't have to apply because they came into your property. I guess that's the reason why it happened. It just took me 30-some years to solve it. My only hope and my only best weapon is to hire her (Atty Bello Concepcion) and I know I will get paid. Thank you.

Chairman Pangelinan: Thank you and I am sure she appreciates that. I think you made the right decision. She has been very cooperative on your behalf and a good advocate for you.

Ms. Georgette Bello Concepcion: For the record, I have not been paid, yet. Mr. Castro is an elderly man and being Chamorro --- at first I wasn't sure and actually Public Works or the AG's office, I forget who initially said there was no taking. So, Mr. Castro felt like he was going crazy. After more meetings with Ms. Fokas and someone else from your office we got to the point

where we said, ok there is no taking but at that point we had no choice because we already filed a lawsuit. We just want him to be justly compensated as required by the law. Nothing more, nothing less.

Chairman Pangelinan: Thank you very much.

Speaker Judith Won Pat: On behalf of the Guam Legislature and the entire government, we want to apologize to you, Mr. Castro and your wife. I am happy that this final settlement – you and your wife are still able to realize this and it's not after the fact. It pains us to hear that this is actually happening with our own people when we, as a government and a legislature have always gone to the federal government to do the exact same thing – to ask for just compensation for our lands taken. I am glad that the government is setting such an example to be better and correct the wrongs that we've done. So, I thank you, your wife and your family for your perseverance and I am happy that the legislature apologized to you, as well. We wish you the best and thank you to the Attorney General. I loved your explanation. When I read the bill, I didn't understand it, but when you walked us through - I thank you for working closely with the attorney and the families to bring justice to Mr. and Mrs. Castro. Thank you very much, Mr. Chairman.

Chairman Pangelinan: Thank you very much, Speaker Won Pat.

Senator Aline Yamashita: Thank you, Mr. Chair. Thank you for showing us that the system can work and for helping us understand. For everybody to come together and the courage, Mr. Castro for you and your family for reaching out and making sure that things happen and for approaching Speaker Ben and saying, we need help in doing this. Sometimes it's easier to give up and say, never mind. You are teaching us that it might have taken 34 years but it can work. We appreciate that very much and I do apologize. We shouldn't have had to do like this. But, it is going to work out, so thank you.

Senator Frank Aguon: I think, Mr. Castro you have really stepped forward in trying to address this particular situation. I commend you for doing that. I know that Speaker Pangelinan on land issues for a number of terms now and this has always been an issue that has been discussed regularly is how do we get either private property owners or the government of Guam to step in and identify properties that have not been properly condemned but have been used by the government for public benefit. By virtue of you stepping forward and recognizing that and pursuing this and seeking the assistance of Georgette and the Attorney General's Office is commendable on your part and I recognize that. I just hope that this will serve as an impetus for other private property owners who have recognized that the government has taken their property for public benefit and it's either the government return those properties, if it's not being utilized or ultimately compensate the family owners because this is 30 years too late in terms of properly compensating you and your family. I thank you for your patience and I thank you for allowing the government to use your property for the last 30 years without proper compensation. Hopefully by passage of this legislation, we will be able to close the book on your property. I commend you and thank you for stepping forward. Thank you, Mr. Speaker.

Chairman Pangelinan: Thank you and Si Yu'os Ma'ase, Senators. To the Attorney General's Office, thank you for very much for your presence this morning. To Georgette Bello Concepcion and of course Mr. Castro, Si Yu'os Ma'ase.

Thank you very much for your testimony. This concludes the testimony on Bill No. 248. There being no additional individuals to present any additional testimony, this Committee will continue to remain open for the acceptance of any additional information or public testimony on the bill discussed. You can submit those testimonies to my office directly on Soledad Avenue, as well as the Guam Legislature or through any of the electronic processes either email at office@guam.net or through our website at senbenp.com

This hearing is adjourned.

III. FINDINGS & RECOMMENDATIONS

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land, hereby reports Bill No. 248-32 (COR), as introduced with the recommendation To Pass.


I MINA'TRENTAI DOS NA LIHESLATURAN GUÁHAN
2013 (FIRST) Regular Session

Bill No. ~~248-D~~ (COR)

Introduced by:

V. C. Pangelinan 

AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM THE GENERAL FUND TO ALLOW THE GOVERNMENT OF GUAM TO PAY FOR AN INVERSE CONDEMNATION SETTLEMENT PURSUANT TO SUPERIOR COURT OF GUAM CIVIL CASE NO. CV1158-12.

2013 OCT 30 PM 3:54 

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

2 **Section 1. Legislative Finding and Intent.** *I Liheslaturan Guahan* finds
3 that for over three decades, Vincent C. Castro and Menilia C. Castro (collectively
4 known as the Castros) have been waiting to be compensated for property the
5 government of Guam took in January 29, 1979 and used it to construct a public
6 road. The Castros property is described as Lot No. 3340-2-2 (now known as Lot
7 No. 3340-2-R1), 166 sq. m. ± as shown in Exhibit A and was used to widen
8 Chelenko Road in the municipality of Sinajana, located in the village of Ordot.

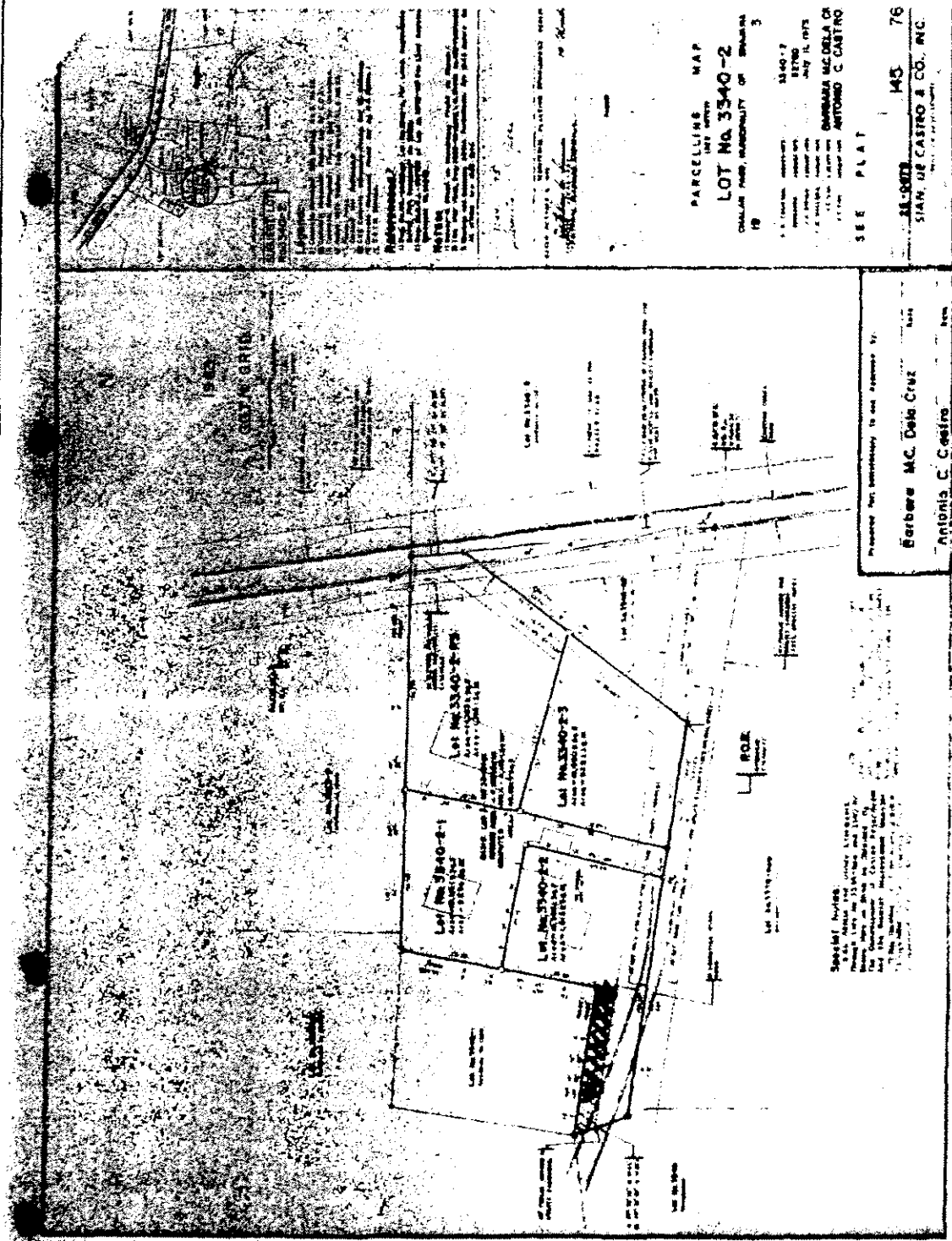
9 *I Liheslaturan Guahan* further finds that there were landowners whose
10 property were taken through court action to construct Chelenko road and were paid
11 for their property. The government did not take the Castro's property in the same
12 or any subsequent court action, yet their property was made part of Chelenko road
13 and the Castros were never paid for the property. The 1979 Declaration of Taking
14 omitted the Castro property. On October 8, 2012, the Castros filed an inverse
15 condemnation complaint against the government of Guam for the unlawful taking
16 of their property.

1 *I Liheslaturan Guahan* further finds that the Office of the Attorney General
2 has worked with the Castros and their attorney to resolve this long standing land
3 taking and have agreed to settle in the amount of Twenty-Five Thousand Dollars
4 (\$25,000).

5 Therefore, *I Liheslaturan Guahan* intends to appropriate the agreed
6 settlement amount to the Castros and to comply with the Superior Court Case No.
7 CV1158-12.

8 **Section 2. Authorization to Appropriate.** *I Liheslaturan Guahan* hereby
9 appropriates the amount of Twenty-Five Thousand Dollars (\$25,000) from the
10 general fund to the plaintiffs, Vicente C Castro and Menilia C. Castro, aka Millie
11 D.C. Castro in the Superior Court Case No. CV1158-12 to provide just
12 compensation and to finally remove the liability that exists within the government
13 of Guam. The Attorney General shall settle the case and execute all documents
14 required to ensure the government will not be liable for any additional payments
15 and secure title to the property.

16 **Section 3. Severability.** *If any provision of this Act or its application to*
17 *any person or circumstance is held invalid, the invalidity shall not affect other*
18 *provisions or applications of this Act which can be given effect without the invalid*
19 *provision or application and to this end the provisions of this Act is severable.”*



PARCELLING MAP

LOT NO. 3340-2

COUNTY AND MUNICIPALITY OF BROWARD

FLORIDA

DATE: 1975

BY: BARBARA MC DELA CRUZ

ANTONIO C. CASTRO

SEE PLAT

145 76

SIAN DE CASTRO & CO., INC.

Prepared Not Necessarily to Scale Reference to:
 Barbara M.C. Dela Cruz
 Antonio C. Castro

EXHIBIT A

2296

Lot No.3233-9
Certificate No. 38283

Li
Ca

(S
S 89
89

107.50'

Lot No.3340-2

Area = 10,001 ± Sq.F
Area = 929 ± Sq.M.

Lot No.3340-1
Certificate No. 15681

BASIC
RECORD

Lot No.3340-2-2

Area = 10,928 ± Sq.F
Area = 1,015 ± Sq.M.

SEE SPECIAL
NOTE NO. 2

ACCESS &
EASEMENT.

(S 82° 12' 31" E 100.00'
S 82° 05' 55" E 100.38'

(N 10° 59' 45" E 65.96'
N 10° 10' 45" E 75' 14" 27" E
15.15'

W 37.63'
W 37.80'

20' SET BACK FOR PUBLIC ACCESS AND

(N

39.05'
14' 32'
14' 32'



Mina'trentai Dos na Liheslaturan Guahan
32ND GUAM LEGISLATURE

Senator Vicente "ben" Cabrera Pangelinan

COMMITTEE ON APPROPRIATIONS, PUBLIC DEBT, LEGAL AFFAIRS, RETIREMENT,
PUBLIC PARKS, RECREATION, HISTORIC PRESERVATION AND LAND

Friday, January 10, 2014

Bill No. 248

SIGN UP SHEET

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
Kat Fokas Assistant Attorney General	AG's office	475 3324 x 3115	kfokas@ guamag.org		✓	✓	
Georgette Bello Concepcion, Esq.	173 Aspinwall Ave, Ste 203	477-8305	guancepcion@ guamlawfirm.com		✓	✓	
Joshua Tenorio	J.O.G.	4753278	jtenorio@ guamcub.org	✓			—

324 W. Soledad Ave. Hagatna, Guam 96910

Ph. 473-4236 Fax. 473-4238

Email: senbenp@guam.net



F. PHILIP CARBULLIDO
CHIEF JUSTICE

Judiciary of Guam

ADMINISTRATIVE OFFICE OF THE COURTS
120 WEST O'BRIEN DRIVE, HAGATÑA, GUAM 96910-5174
TEL: (671) 475-3544 / FAX: (671) 477-3184



ALBERTO C. LAMORENA III
PRESIDING JUDGE

PERRY C. TAITANO
ADMINISTRATOR OF THE COURTS

January 10, 2014

The Honorable Vicente C. Pangelinan
Chairman
Committee on Appropriations, Public Debt, Legal Affairs,
Retirement, Public Parks, Recreation, Historic Preservation and Land
Mina'Trentai Dos Na Liheslaturan Guåhan
324 W. Soledad Avenue, Ste. 100
Hagåtña, Guam 96910

Re: Public Hearing on Bill No. 248-32(COR)

Dear Chairman Pangelinan:

Thank you for your letter of January 6, 2014 inviting me to provide testimony on Bill No. 248-32(COR), An Act to appropriate Twenty-Five Thousand Dollars (\$25,000) from the General Fund to allow the Government of Guam to pay for an Inverse Condemnation Settlement pursuant to Superior Court of Guam Civil Case No. CV1158-12.

The Judiciary of Guam does not have any position on this matter. However, I can confirm that a verified complaint in the matter of VICENTE C. CASTRO and MENILIA C. CASTRO aka MILLIE D.C. CASTRO, Plaintiffs, vs. GOVERNMENT OF GUAM, Defendant, was filed on October 8, 2012 as CIVIL CASE NO. CV1158-12.

A bench trial has been set for February 12, 2014 at 9AM by Judge James L. Canto II. I am attaching a copy of this verified complaint, the answer to the complaint, and the order setting case schedule for your review.

Should you require further information, please feel free to contact me at your convenience.

Senseramente,


PERRY C. TAITANO
Administrator of the Courts

Attachment(s)

FILED
SUPERIOR COURT
OF GUAM

2012 OCT -8 PM 1:35

CLERK OF COURT

BY: *ch*

1 Law Office of Georgette Bello Concepcion, P.C.
173 Aspinall Avenue, Suite 203
Hagatna, Guam 96910
2 Telephone: 671.477.8305
Facsimile: 671.477.5873

3 *Attorneys for Plaintiffs Vicente C. Castro*
4 *and Menilia C. Castro aka Millie D.C. Castro*

5 IN THE SUPERIOR COURT OF GUAM

6
7 VICENTE C. CASTRO and MENILIA C.
CASTRO aka MILLIE D.C. CASTRO,

8 Plaintiffs,

9 vs.

10 GOVERNMENT OF GUAM,

11 Defendant.

12 **CV 1158-12**
CIVIL CASE NO. _____

13 **VERIFIED
COMPLAINT**

14 I.

15 JURISDICTIONAL FACTS

16 The Court has jurisdiction over this matter pursuant to 7 GCA §§ 3105 and

17 11311.1.

18 1. Plaintiffs, Vicente C. Castro and Menilia S. Castro aka Millie C. Castro
19 (hereinafter collectively as "Plaintiffs") are residents of Guam and are the owners of Lot
20 No. 3340-2-2 (now Lot No. 3340-2-R1) and Lot No. 3340-2-3 (now Lot No. 3340-2-3-
21 R1), in the municipality of Sinajana, Guam.

22 2. The Department of Public Works is an agency of Defendant Government
23 of Guam.

24 *Castro v. Gov't of Guam, CV _____*
25 Verified Complaint
Page 1 of 5

ORIGINAL

1 3. Defendant Government of Guam (hereinafter "Defendant") has been
2 vested with the power of eminent domain pursuant to the Organic Act of Guam.

3 4. Plaintiffs filed a claim for unlawful taking pursuant to the Government
4 Claims Act (P.L. 17-29) on March 29, 2012 which was denied as more than six months
5 have passed without disposition of Plaintiffs' claim by Defendant.

6 5. Plaintiffs' claim for unlawful taking is not time barred pursuant to 7 GCA
7 11311.1.

8 **III.**

9 **CLAIM FOR UNLAWFUL TAKING**

10 6. On or about December 21, 1977, Plaintiffs executed a Right of Entry
11 Agreement" (hereinafter "Agreement") wherein they grant Defendant Government of
12 Guam, Department of Public Works permission to enter upon said lot "to construct and
13 maintain The Chelenko Road."

14 7. The Government required Plaintiffs' permission to enter their property to
15 survey the property as to the location of the proposed road.

16 8. Pursuant to the Agreement "it was understood and agreed that the
17 owner(s) will receive compensation for the said land upon completion of an appraisal the
18 Government will cause to be made which would estimate the fair market value of the
19 land needed for the _____ [sic] and severance damages, if any as of December 21, 1977."

20 6. In 2009, Plaintiffs engaged the services of an appraiser as to Lot No.
21 3340-2-2 (now Lot No. 3340-2-R1) and it was not until then did Plaintiffs learn the
22 government had taken a portion of their property without being compensated accordingly.

23 7. The area of Lot No. 3340-2-2 (now Lot No. 3340-2-R1) was reduced from
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1,015 square meters to 589 square meters.

8. Plaintiffs also learned that their adjacent property, Lot No. 3340-2-3 (now Lot No. 3340-2-3-R1), had also been reduced in size.

9. The area of Lot No. 3340-2-3 (now Lot No. 3340-2-3-R1) was reduced from 929 square meters to 763 square meters.

10. Defendant did not obtain a Right of Entry Agreement from Plaintiffs in 1977 as to Lot No. 3340-2-3 (now Lot No. 3340-2-3-R1) as Defendant had done with regard to Lot No. 3340-2-2 (now Lot No. 3340-2-R1).

11. Plaintiffs have paid property taxes on these properties based on the original sizes of the lots.

12. Plaintiffs have been denied the use and enjoyment of their property as their property continues to be used as public easement.

13. Since the date of entry onto Plaintiffs' land and continuing to the date of the filing of this action Defendant, Plaintiffs have not been justly compensated for the unlawful taking of their property by Defendants nor has Defendant made any offers of compensation.

14. Further, to date, Defendant has failed to institute eminent domain proceedings so that damage to Plaintiffs' property could be assessed.

15. Defendant's actions have resulted in the taking of Plaintiffs' private property for public use since 1977 for public use pursuant to Defendant's right of eminent domain.

WHEREFORE, Plaintiffs respectfully request:

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1. Judgment against Defendant for damages in an amount to be proven at trial;

2. Reimbursement of property taxes overpaid by them in accordance with the reduction in size of each of Plaintiffs' properties since December 21, 1977;

3. Interest as allowed under the laws of Guam for said damages as of December 21, 1977


4. Injunctive relief precluding Defendant from further actions injurious to Plaintiffs' property;

4. Attorney's fees and costs of suit as allowed pursuant to 7 GCA § 11311.1 ; and

5. Such other and further relief as the court may deem just and proper.

Submitted this 8th day of October, 2012.

Law Office of Georgette Bello Concepcion, P.C.




By: Georgette Bello Concepcion, Esq.
Attorney for Plaintiffs

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VERIFICATION

We, **Vicente C. Castro and Menilia C. Castro, aka Millie C. Castro**, being first
duly sworn, depose and state: That we are the Plaintiffs in the above-entitled matter; that
we have read the foregoing Complaint and know the contents thereof; and certify that the
same is true of our own knowledge, except as to those matters which are therein stated
upon our information or belief, and as to those matters, we believe them to be true.



Vicente C. Castro



Menilia C. Castro aka Millie C. Castro



Office of the Attorney General
 Leonardo M. Rapadas
 Attorney General of Guam
Civil Division
 287 West O'Brien Drive
 Hagåtña, Guam 96910 • USA
 (671) 475-3324 • (671) 472-2493 (Fax)
 www.guamag.org

Attorneys for the Government of Guam

FILED
 SUPERIOR COURT
 OF GUAM

2012 DEC -6 PM 3:56

CLERK OF COURT

**IN THE SUPERIOR COURT OF GUAM
 TERRITORY, GUAM**

VICENTE C. CASTRO and MENILIA C. CASTRO aka MILLIE D.C. CASTRO,)	Civil Case NO. CV1158-12
)	
Plaintiff,)	ANSWER TO COMPLAINT
)	
vs.)	
)	
GOVERNMENT OF GUAM,)	
)	
Defendant.)	

COMES NOW, the Defendant, Government of Guam (the "Government" or "Defendant"), by and through undersigned counsel, the Office of the Attorney General, and answers plaintiff's complaint in the above-captioned action as follows:

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Complaint to admit or deny them, or said allegations assert disputed legal conclusions for the Court, or both; and in each case, and on those bases, Defendant denies the allegations contained therein, generally and specifically;
2. Defendant admits the allegations in paragraph 2 of the Complaint;

Answer to Complaint
 Vicente Castro et al., vs. GovGu, Superior Court Case No. CV1158-12

ORIGINAL

[Handwritten signature]

3. Defendant admits the allegations in paragraph 3 of the Complaint;
4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Complaint, and on that basis, Defendant denies the allegations contained therein, generally and specifically;
5. Defendant generally and specifically denies the allegations in paragraph 5 of the Complaint;
6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the Complaint ;
7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Complaint to admit or deny them;
8. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Complaint and on that basis, Defendant denies the allegations contained therein entitle the payment of any monies to the plaintiff;
9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in the next paragraph numbered 6 (sic) of the Complaint to admit or deny them;
10. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in the next paragraph numbered 7 (sic) of the Complaint to admit or deny them;
11. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in the next paragraph numbered 8 (sic) of the Complaint to admit or deny them;

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in the next paragraph numbered 9 (sic) of the Complaint to admit or deny them;

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in the next paragraph numbered 10 (sic) of the Complaint, and on that basis Defendant denies the allegations contained therein, generally and specifically, ;

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in the next paragraph numbered 11 (sic) of the Complaint to admit or deny them;

15. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in the next paragraph numbered 12 (sic) of the Complaint to admit or deny them;

16. Defendant generally and specifically denies the allegations in the next paragraph numbered 13 (sic) of the Complaint;

17. Defendant admits that it has not instituted condemnation proceedings and Defendant generally and specifically denies any such obligation and the remaining allegations in the next paragraph numbered 14 (sic) of the Complaint;

18. Defendant generally and specifically denies any such obligation and the remaining allegations in the next paragraph numbered 15 (sic) of the Complaint; and

19. Defendant further denies that Plaintiff is entitled to any relief from this Court, whether prayed for or not, in any amount, for any reason.

AFFIRMATIVE DEFENSES

For AFFIRMATIVE DEFENSES, Defendant states as follows:

1. Plaintiff fails to state claims upon which relief can be granted;
2. Plaintiff's claims are barred because the Court lacks subject-matter jurisdiction over the case;
3. Plaintiff's claims are barred, in whole or in part, by the statute of limitations;
4. Improper and insufficient service of process;
5. Lack of personal jurisdiction;
6. Plaintiff's claims are barred, in whole or in part, by laches;
7. Plaintiff's claims are barred, in whole or in part, by waiver;
8. Plaintiff's claims are barred, in whole or in part, by estoppel;
9. Plaintiff's claims are barred, in whole or in part, by the doctrine of accord and satisfaction, due in part, to the fact that prior owners of the property described in Plaintiff's complaint granted an easement to the Government on or about June 3, 1959;
10. Plaintiff's claims are barred, in whole or in part, by plaintiff's failure to comply with the Government Claims Act;
11. Plaintiff's request for attorneys' fees fails to state an actionable claim, as there is no statutory or contractual basis for any such award;
12. Plaintiff's claims are barred, in whole or in part, by the doctrine of payment;
13. Plaintiff's claims are barred, in whole or in part, by the doctrine of release; and
14. Plaintiff's claims do not state facts upon which a claim for relief for damages or just compensation may be maintained.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for the following relief:

1. That the Plaintiff take nothing in this action;

2. For a judgment of dismissal in favor of the defendants; and,
3. That the Defendants be granted such other relief as the Court deems just and appropriate under the circumstances, including reasonable attorneys' fees and costs

Respectfully submitted this 6th day of December, 2012.

OFFICE OF THE ATTORNEY GENERAL
Leonardo M. Rapadas, Attorney General

By: 
KATHY A. FOKAS
Assistant Attorney General

VERIFICATION

I, Joanne Brown, in my capacity as Director, Department of Public Works, Government of Guam in this matter, that I have read the Answer herein and declare upon penalty of perjury that the content thereof is true and correct to the best of my personal knowledge, information and belief.

Dated this 6th day of December, 2012.


JOANNE BROWN
Director, Department of Public Works

FILED
SUPERIOR COURT

IN THE SUPERIOR COURT OF GUAM
HAGÁTÑA, GUAM

710 NOV 13 AM 8:59

VICENTE & MENILIA CASTRO,

CIVIL CASE CV1158-12 COURT

Plaintiffs,

vs

ORDER SETTING
CASE SCHEDULE

GOVERNMENT OF GUAM,

Defendant.


This matter was scheduled to come before the HON. JAMES L. CANTO II on October 23, 2013 for a Scheduling Conference hearing, this Court hereby issues trial scheduling order as follows:


To: Attorney Georgette Concepcion – counsel for plaintiff
Assistant Attorney General Kathy Fokas – counsel for the Govt of Guam

IT IS HEREBY ORDERED that the Civil Case Schedule will be as follows:

- All motions, witness lists by both Counsel DUE: DECEMBER 04, 2013
- Pre Trial Conference Hearing: JANUARY 29, 2014 9am
- Bench Trial: FEBRUARY 12, 2014 9am

So Ordered: 10/23/13


Hon. James L. Canto II
Judge, Superior Court of Guam

SERVICE VIA COURT BOX
I acknowledge that a copy of the original hereto was placed in the court box of:
G. CONCEPCION
Date: 11/13/13 Time: 9 AM

Deputy Clerk, Superior Court of Guam



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

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

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
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Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

Certification of

Waiver of

Fiscal Note Requirement

This is to certify that the Committee on Rules submitted to the Bureau of Budget and Management Research (BBMR) a request for a fiscal note, or applicable waiver, on **BILL NO. 248-32 (COR)** – “AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM THE GENERAL FUND TO ALLOW THE GOVERNMENT OF GUAM TO PAY FOR AN INVERSE CONDEMNATION SETTLEMENT PURSUANT TO SUPERIOR COURT OF GUAM CIVIL CASE NO. CV1158-12.” – on January 3, 2014. COR hereby certifies that BBMR confirmed receipt of this request on January 6, 2014 at 8:16 AM.

COR further certifies that a response to this request was not received. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 248-32 to be included in the committee report on said bill, is hereby waived.**

Certified by:

Senator Rory J. Respicio
Chairperson, Committee on Rules

January 27, 2014

Date



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

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Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
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Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

January 3, 2014

VIA E-MAIL
john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 246-32 (COR) through 252-32(COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (1)

Cc: Clerk of the Legislature

Bill Nos.	Sponsor	Title
246-32 (COR)	T C. Ada, R. J. Respicio	AN ACT TO AMEND SECTIONS OF ARTICLE 3 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED RELATIVE TO SOURCE SELECTION AND CONTRACT FORMATION IN GUAM PROCUREMENT LAW.
247-32 (COR)	FRANK B. AGUON, JR.	AN ACT RELATIVE TO EXPANDING THE GUAM SLAYER'S STATUTE THAT WOULD PROHIBIT INHERITANCE BY A PERSON WHO MURDERS SOMEONE FROM WHOM HE OR SHE STANDS TO INHERIT; THROUGH THE REPEAL AND REENACTMENT OF §819 OF CHAPTER 8, TITLE 15, GUAM CODE ANNOTATED.
248-32 (COR)	Vicente (ben) C. Pangelinan	AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM THE GENERAL FUND TO ALLOW THE GOVERNMENT OF GUAM TO PAY FOR AN INVERSE CONDEMNATION SETTLEMENT PURSUANT TO SUPERIOR COURT OF GUAM CIVIL CASE NO. CV1158-12.
249-32 (COR)	V. Anthony Ada Chris M. Dueñas Aline A. Yamashita, Ph.D. R. J. Respicio T. R. Muña Barnes Tommy. Morrison FRANK B. AGUON, JR. Michael T. Limtiaco	AN ACT TO REPROGRAM THE SUM OF THREE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$375,000.00) TO THE DEPARTMENT OF PUBLIC WORKS FOR THE PAVING OF VILLAGE STREETS AND THE REPAIR OF DAMAGES TO VILLAGE STREETS AS A RESULT OF TRAFFIC DIVERSION RELATED TO ONGOING ROAD CONSTRUCTION PROJECTS.
250-32 (COR)	Dennis G. Rodriguez, Jr. Rory J. Respicio Christopher M. Duenas	AN ACT TO AMEND DIVISION 4 OF 10 GUAM CODE ANNOTATED §80109(s)(9) RELATIVE TO THE WAIVER OF SOVEREIGN IMMUNITY ON A LOAN PREVIOUSLY AUTHORIZED FOR THE GUAM MEMORIAL HOSPITAL AUTHORITY.
251-32 (COR)	Dennis G. Rodriguez, Jr. Rory J. Respicio Christopher M. Duenas	AN ACT TO AMEND PUBLIC LAW 32-67 RELATIVE TO THE WAIVER OF SOVEREIGN IMMUNITY ON A LOAN PREVIOUSLY AUTHORIZED FOR THE GUAM LEGISLATURE.
252-32 (COR)	Dennis G. Rodriguez, Jr. Rory J. Respicio Christopher M. Duenas	AN ACT TO AMEND ARTICLE 2, CHAPTER 10 TITLE 12 GUAM CODE ANNOTATED §10238 RELATIVE TO THE WAIVER OF SOVEREIGN IMMUNITY ON A LOAN PREVIOUSLY AUTHORIZED FOR THE JOSE D. LEON GUERRERO PORT AUTHORITY OF GUAM.



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

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Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

December 30, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio**
Chairperson of the Committee on Rules

Subject: Referral of Bill No. 248-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 248-32(COR)**.

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

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

Si Yu'os Ma'åse!

Attachment

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
248-32 (COR)	Vicente (ben) C. Pangelinan	AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM THE GENERAL FUND TO ALLOW THE GOVERNMENT OF GUAM TO PAY FOR AN INVERSE CONDEMNATION SETTLEMENT PURSUANT TO SUPERIOR COURT OF GUAM CIVIL CASE NO. CV1158-12.	12/30/13 2:36 p.m.	12/30/13	Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land			



Lisa Dames <cipo@guamlegislature.org>

Public Hearing - FIRST NOTICE

Lisa Dames <cipo@guamlegislature.org>

Fri, Jan 3, 2014 at 3:35 PM

To: PHrg Notice <phnotice@guamlegislature.org>, phmaterials@guamlegislature.org

Hafa Adai,

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00 am on Friday, January 10, 2014** at the Guam Legislature's Public Hearing Room.

The following is the agenda:

Confirmation Hearing

Dr. Marilyn Salas, Chamorro Culture Representative, Guam Historic Preservation Review Board

Bills

Bill No. 166-32 (LS) – Introduced by Speaker Judith Won Pat: An Act to transfer title of Lot No. 5397 Municipality of Barrigada, Guam to the University of Guam.

Bill No. 248-32 (COR) – Introduced by Senator Vicente Pangelinan: An Act to Appropriate Twenty-Five Thousand Dollars (\$25,000) from the General Fund to allow the Government of Guam to pay for an Inverse Condemnation Settlement pursuant to Superior Court of Guam Civil Case No. CV1158-12.

Bill No. 203-32 (COR) – Introduced by Senator Chris Duenas: An Act to offer incentives for the purchase of Plug-In Electric Vehicles.

Bill No. 244-32 (COR) – Introduced by Senator Frank Aguon : An Act amending Public Law 32-068 relative to withholding Tax Revenue Collections and making appropriations to the Unified Judiciary for Law Enforcement salary increase implementation.

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

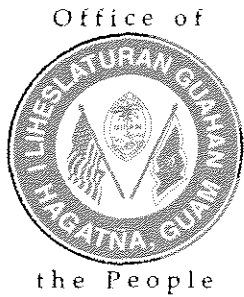
If you require any special accommodations, auxiliary aids or other special services or for further information, please call the Office of Senator Vicente (ben) Cabrera Pangelinan at 473-4236/7. For copies of any of the Bills listed on this agenda, you may log on to the Guam Legislature's website at www.guamlegislature.com Testimonies may be submitted directly to our office at 324 West Soledad Avenue in Hagâtña or at the Mail Room of the Guam Legislature, via fax at 473-4238, or via email at [office @senbenp.com](mailto:office@senbenp.com)

Lisa Dames
Chief of Staff
I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public
Parks, Recreation, Historic Preservation, and Land.
(671) 473-4236 (office)
(671) 473-4238 (fax)
senbenp.com
www.guamlegislature.org

2 attachments

 **Agenda_Jan 10.doc**
49K

 **First Notice PH 011014.pdf**
106K




I Mina'trentai Dos na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

January 3, 2013

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing – FIRST NOTICE

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

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

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00 am** on **Friday, January 10, 2014** at the Guam Legislature's Public Hearing Room.

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Yanggen un nisisita espesiãt na setbision, put fabot ågang i Ifisinan Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hãlom gi i uepsait i Liheslaturan

324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910

Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Website: <http://senbenp.com>

Memo to All Senators

January 3, 2014

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Lisa Dames <cipo@guamlegislature.org>

Public Hearing - FIRST NOTICE

Lisa Dames <cipo@guamlegislature.org>

Fri, Jan 3, 2014 at 3:37 PM

To: news@k57.com, news@guampdn.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, Krystal Paco <krystal@kuam.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, "Gerardo R. Partido" <gerry@mvguam.com>, Jon Anderson <editor@mvguam.com>, marvic@mvguam.com, louella@mvguam.com, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, "Daleno, Gaynor D" <gdumat-ol@guam.gannett.com>, Steve Limtiaco <slimtiaco@guampdn.com>, Oyaol Ngirairiki <odngirairiki@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, Lifestyles_PDN <life@guampdn.com>

Hafa Adai,

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00 am on Friday, January 10, 2014** at the Guam Legislature's Public Hearing Room.

The following is the agenda:

Confirmation Hearing

Dr. Marilyn Salas, Chamorro Culture Representative, Guam Historic Preservation Review Board

Bills

Bill No. 166-32 (LS) – Introduced by Speaker Judith Won Pat: An Act to transfer title of Lot No. 5397 Municipality of Barrigada, Guam to the University of Guam.

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Lisa Dames
Chief of Staff
I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public
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Lisa Dames <cipo@guamlegislature.org>

Public Hearing - SECOND NOTICE

Lisa Dames <cipo@guamlegislature.org>
To: PHrg Notice <phnotice@guamlegislature.org>
Bcc: lisa cipollone <ecipollone56@gmail.com>

Wed, Jan 8, 2014 at 8:34 AM

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00 am on Friday, January 10, 2014** at the Guam Legislature's Public Hearing Room.

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the People


I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

January 8, 2013

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing – SECOND NOTICE

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

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

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00 am on Friday, January 10, 2014** at the Guam Legislature's Public Hearing Room.

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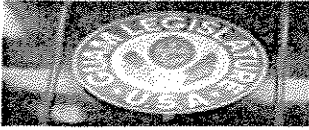
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Memo to All Senators
January 8, 2014
Page 2

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Lisa Dames <cipo@guamlegislature.org>

Public Hearing - SECOND NOTICE

Lisa Dames <cipo@guamlegislature.org>

Wed, Jan 8, 2014 at 8:32 AM

To: news@k57.com, news@guampdn.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, Krystal Paco <krystal@kuam.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, Jon Anderson <editor@mvguam.com>, "Gerardo R. Partido" <gerry@mvguam.com>, marvic@mvguam.com, louella@mvguam.com, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, "Daleno, Gaynor D" <gdumat-ol@guam.gannett.com>, Steve Limtiaco <slimtiaco@guampdn.com>, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, Lifestyles_PDND <lifepdn@guampdn.com>

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at 9:00 am on **Friday, January 10, 2014** at the Guam Legislature's Public Hearing Room.

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Dr. Marilyn Salas, Chamorro Culture Representative, Guam Historic Preservation Review Board

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Chief of Staff
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I Mina trenta Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangellinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement,
Public Parks, Recreation, Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

gi Betnes, gi diha 10 gi Ineri, 2014
Friday, January 10, 2014

Kuåtton Inekungok Pubbleko gi Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)

**TAREHA
(AGENDA)**

alas nuebi gi egga'an
(9:00 AM)

**TAREHA
(AGENDA)**

**Para Komfirmasion:
(Confirmation Hearing)**

**Dr. Marilyn Salas, Chamorro Culture Representative, Guam Historic
Preservation Review Board**

**Priniponi Siha:
(Bills)**

**Bill No. 166-32 (LS) – Introduced by Speaker Judith Won Pat: An
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amending Public Law 32-066 relative to withholding Tax Revenue
Collections and making appropriations to the Unified Judiciary for
Law Enforcement salary increase implementation.**

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32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt,
Legal Affairs, Retirement, Public Parks, Recreation,
Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

**gi Betnes, gi diha 10 gi Ineru, 2014
Friday, January 10, 2014**

**Kuåtton Inekungok Pupbleko gi Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)**

**alias nuebi gi egga'an
(9:00 AM)**

**TAREHA
(AGENDA)**

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(Confirmation Hearing)**

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**Listserv: phnotice@guamlegislature.org
As of January 8, 2014**

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I Mina'trentai Dos na Liheslaturan Guåhan

32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

**gi Betnes, gi diha 10 gi Ineru, 2014
Friday, January 10, 2014**

**Kuåtton Inekungok Pupbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)**

**alas nuebi gi egga'an
(9:00 AM)**

**TAREHA
(AGENDA)**

**Para Komfitmasion:
(Confirmation Hearing)**

Dr. Marilyn Salas, Chamorro Culture Representative, Guam Historic Preservation Review Board

**Priniponi Siha:
(Bills)**

Bill No. 166-32 (LS) – Introduced by Speaker Judith Won Pat: An Act to transfer title of Lot No. 5397 Municipality of Barrigada, Guam to the University of Guam.

Bill No. 248-32 (COR) – Introduced by Senator Vicente Pangelinan: An Act to appropriate Twenty-Five Thousand Dollars (\$25,000) from the General Fund to allow the Government of Guam to pay for an Inverse Condemnation Settlement pursuant to Superior Court of Guam Civil Case No. CV1158-12.

Bill No. 203-32 (COR) – Introduced by Senator Chris Duenas: An Act to offer incentives for the purchase of Plug-In Electric Vehicles.

Bill No. 244-32 (COR) – Introduced by Senator Frank Aguon : An Act amending Public Law 32-068 relative to withholding Tax Revenue Collections and making appropriations to the Unified Judiciary for Law Enforcement salary increase implementation.

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E-mail: senbenp@guam.net
www.senbenp.com



I Mina'trentai Dos na Liheslaturan Guåhan

32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

Yanggen un nisisita espesiåt na setbisio put fabot ågang i Ifisinin Senadot ben pangelinan gi 473- Yanggen un nisisita espesiåt na setbisio, put fabot ågang i Ifisinin Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hålom gi i uepsait i Liheslaturan Guåhan gi www.guamlegislature.com Yanggen para un na 'hålom testigumu, chule' para i ifisinin-måmi gi 324 West Soledad Avenue gi iya Hagåtña, pat guatto gi i Kuatton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi office@senbenp.com Este na nutisiu inapåsi nu i fendon gubetnamento.

If you require any special accommodations, auxiliary aids or other special services or for further information, please call the Office of Senator Vicente (ben) Cabrera Pangelinan at 473-4236/7. For copies of any of the Bills listed on this agenda, you may log on to the Guam Legislature's website at www.guamlegislature.com Testimonies may be submitted directly to our office at 324 West Soledad Avenue in Hagåtña or at the Mail Room of the Guam Legislature, via fax at 473-4238, or via email at office@senbenp.com

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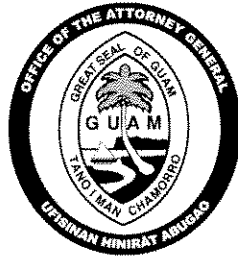
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 As of January 8, 2014

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LEONARDO M. RAPADAS
Attorney General

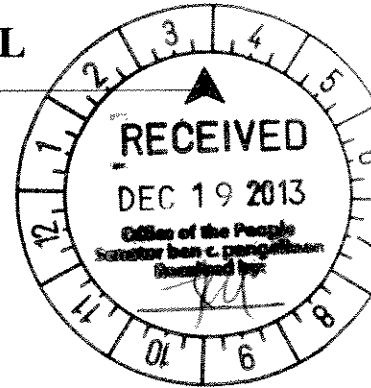


PHILLIP J. TYDINGCO
Chief Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL

32nd Guam Legislature
Committee on Appropriations
Senator Vicente C. Pangelinan, Chairperson
155 Hesler Street
Hagatna, Guam 96910

December 18, 2013



Re: Request by Department of Public Works (DPW) for Appropriation of \$25,000 to Settle 34-Year Old Inverse Condemnation Case: Castro v. Government of Guam; Superior Court of Guam Civil Case No. CV1158-12

Dear Senator Pangelinan:

Background

This case involves an inverse condemnation filed in the Superior Court of Guam by Vincent C. Castro and Menilia C. Castro *aka* Millie C. Castro (collectively, the “Castros”). The taking occurred on January 29, 1979 and related to the widening of Chelenko Road, Municipality of Sinajana, located in the village of Ordot. For the road widening project, the Government of Guam acquired property from the two neighboring properties, but for some inexplicable reason, the Government did not list the Castro property in the 1979 eminent domain case.

For many years the Castros have been seeking resolution of this matter with the Government of Guam. The Castros have waited patiently for a response from the Government while knowing that their neighbors received compensation over three decades ago. And the Government has been using the property for the entire time. Moreover, the Castros have continued to pay real estate taxes on the property.

Through their lawyer, Attorney Georgette Bello Concepcion, the Castros filed a claim against the Government under the Government Claims Act. The claim was properly filed pursuant to 5 G.C.A. Chapter 6 in order to exhaust their administrative remedies before seeking relief from the court. No action was taken by the Government on the Castro’s government claim. Thereafter, through their counsel, the Castros filed a verified complaint in the Superior Court on October 12, 2012 which was served on the Government, along with a summons.

Since the filing of the Complaint, our office has met with the Castros and their attorney. Based on the title work done, and meetings held with personnel from Land Management and the

ORIGINAL

Rights-of-Way Division of the Department of Public Works, we have concluded that the Castros are correct in their assertion that the land in question was taken by the Government without compensation.

Typically, a claim for inverse condemnation arising so many years ago would be barred by the statute of limitations. However, on Guam we have a special statute which tolls the statute of limitation for condemnations occurring between 1950 and 1994 for which either no compensation or grossly inadequate compensation was given. *See* 7 G.C.A. § 11311.1. Since the taking of the Castro Property occurred on January 29, 1979, the Castro's inverse condemnation claim is not time barred by virtue of 7 G.C.A. § 11311.1. Having determined that liability exists on the Government, the next question is to determine the amount of just compensation to be paid to the Castros.

Government's Exposure - Just Compensation

For purposes of determining just compensation in an eminent domain case, the property taken is valued as of the date of the taking. In this case, the date of value is January 29, 1979. According to our records, the 1979 land values paid to the two neighboring property owners were \$9.00 per sq. m. (to the owners of Lot 3336-New-1-G) and \$8.25 per sq. m. (to the owners of Lot 3244-1G). For settlement purposes, using a value of \$9.00 per sq. m., the value of the part taken from the Castros (i.e., 1.66 sq. m.) would yield an amount of \$1,494.00.

When the government takes only a portion of a larger tract of land, just compensation consists of the fair market value of the part taken, as well as any damages to the remaining property in the landowner's possession resulting from the government's activities on the condemned land. Typically, damages between 10%-50% as a result of dust and noise from the traffic are customary in such cases. For settlement purposes, using a damages percentage of 25% applied to the remaining property (i.e., \$9.00 x 25% x 763 sq. m.) would yield an amount of \$1,717.00.

In addition to just compensation, the special Guam statute referred to previously (7 G.C.A. § 11311.1) allows the landowners to recover simple interest at a rate of 6% per annum from the date of take (January 29, 1979) until judgment is paid. The statute also requires the Government to pay the landowners' attorney fees. All of these factors must be taken into account in assessing the settlement value of this case. Applying a 6% interest rate on the above amounts for a period of 34 ½ years, yields an amount of \$6,647. The Government recognizes that the Castros have overpaid property taxes for all of these years and agrees that they should be reimbursed.

If this case proceeds to trial, we would also need to retain an expert appraisal witness to produce an appraisal report and testify. Trial would be expected to last approximately 5 days. Land Management and the Rights-of-Way Department of the Department of Public Works would have to prepare trial exhibits and be prepared to testify at trial.

Based on the following calculations, we would expect the Government's exposure in the case to be between \$27,000.00 and \$42,000.00:

Exposure based on \$9.00 per sq. m. and 25% damages:

Part Taken.....	\$1.66 sq. m. x \$9.00 = \$1,494
Damages to Remainder.....	\$9.00 x 25% x 763 sq. m. = \$1,717
Interest at 6% for 34 ½ yrs.....	\$3211 x 6% x 34.5 = \$6,647
Overpaid Property Taxes.....	\$6,835
Incl interest	
Attys' Fees Based on 5 day trial.....	<u>\$10,000</u>
Total	\$26,693.00

Exposure based on \$15.00 per sq. m. and 50% damages:

Part Taken.....	\$1.66 sq. m. x \$15.00 = \$2,490
Damages to Remainder.....	\$15.00 x 50% x 763 sq. m. = \$5,723
Interest at 6% for 34 ½ yrs.....	\$8,213 x 6% x 34.5 = \$17,000
Overpaid Property Taxes.....	\$6,835
Incl interest	
Attys' Fees Based on 5 day trial.....	<u>\$10,000</u>
Total	\$42,000.00

With the inclusion of expert witness fees these amounts would increase between \$5,000.00 and \$10,000.00, bringing the Government's exposure to upwards of \$52,000.00.

Reasonable Settlement Amount

Based on the foregoing, 7 months ago, in May 2013, we recommended a reasonable settlement amount to be in the area of \$20,000.00 to \$25,000.00, inclusive of all interest and attorneys' fees payable to the Castros. This case is set for trial in the Guam Superior Court on February 12, 2014. Through their attorney, the property owners have recently indicated that they would accept a settlement amount of \$25,000.00. In order to avoid trial and the Government's added exposure and costs associated therewith, this Office recommends the case be settled for \$25,000.00, inclusive of all interest and attorneys' fees payable pursuant to 7 G.C.A. § 11311.1.

DPW's Request for Appropriation

Before the Attorney General's Office may settle this case, legislative approval or a specific appropriation must be made. See 1 G.C.A. §18201.¹ DPW agrees with our settlement

¹1 G.C.A. §18201 provides:

No office, department, instrumentality, agency, institution, board, bureau, commission, council, authority, committee of territorial government or branch of the government of Guam may enter into any consent decree, stipulated order or other settlement agreement with any party seeking a claim against the government of Guam, that requires the payment of cash, financing, or future financing of the government of Guam without the approval of *l Liheslatura* [the Legislature] or specific appropriation for that claim. Any proposed settlement agreement, supra, that requires legislative appropriation or authorization, by an Office, Department, Instrumentality, Agency or Branch, purporting a consent decree, stipulated order or

recommendation, however has advised this office that it does not have any funding available to assist in the payment of this settlement. *See* letter dated December 18, 2013, from DPW Director to Office of the Attorney General, enclosed herewith.

Therefore, DPW is requesting an appropriation of \$25,000 to settle this 34-year old inverse condemnation case: *Castro v. Government of Guam*; Superior Court of Guam Civil Case No. CV1158-12. In light of the imminent trial date, DPW also requests that the bill relating to this appropriation be presented to the Legislature at the next scheduled Legislative session.

Sincerely,



Kat Fokas

Assistant Attorney General

Enclosure (Letter from DPW Director dated December 18, 2013)

cc: Honorable Judith T. Won Pat, Ed.D., Speaker
Sandra Miller, Governor's Legal Counsel
Carl V. Dominguez, Director, DPW
J. Patrick Mason, Deputy Attorney General
Attorney Georgette Concepcion (Counsel for Property Owners)

other settlement with the government of Guam *shall* be transmitted to *Lihestatura* which, by statute, may amend, approve, *or* disapprove the plan *or* action taken within forty-five (45) days *or* said plan *or* action *shall* be deemed approved. This Section *shall not* apply to claims against the government arising from the provisions of the Government Claims Act (Chapter 6, 5GCA), the actions authorized by Public Law of the Civil Service Commission *or* other settlement expressly authorized by Public Law.



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



Carl V. Dominguez
Director
Jessie B. Palican
Deputy Director

December 17, 2013

Kat Fokas, Assistant Attorney General
Office of the Guam Attorney General
590 S. Marine Corps Drive, Suite 706
Tamuning, Guam 96913

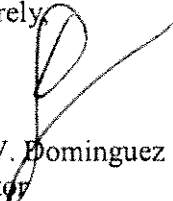
Re: Castro v. Government of Guam
Superior Court of Guam Civil Case No. CV1158-12

Dear Assistant Attorney General Fokas:

This case involves an inverse condemnation filed in the Superior Court of Guam by Vincent C. Castro and Menilia C. Castro *aka* Millie C. Castro (collectively, the "Castros"). The taking occurred on January 29, 1979 and related to the widening of Chelenko Road, Municipality of Sinajana, located in the village of Ordot. For the road widening project, the Government of Guam acquired property from the two neighboring properties, but for some inexplicable reason, did not list the Castro property in the 1979 eminent domain case. Although the Government did not condemn the Castros property, the Government has been using their property as a road since 1979, without ever having compensated the Castros for the Government's acquisition of their land.

The Department of Public Works (DPW) agrees with the settlement recommendation set forth in your memorandum dated May 20, 2013 (a copy of which is attached). However, DPW does not have any funding available to assist in the payment of this settlement.

Sincerely,


Carl V. Dominguez
Director

Enclosure

cc: Sandra Miller, Governor's Legal Counsel

05/21/13 am

LEONARDO M. RAPADAS
Attorney General



PHILLIP J. TYDINGCO
Chief Deputy Attorney General


OFFICE OF THE ATTORNEY GENERAL

ATTORNEY CLIENT PRIVILEGED COMMUNICATION

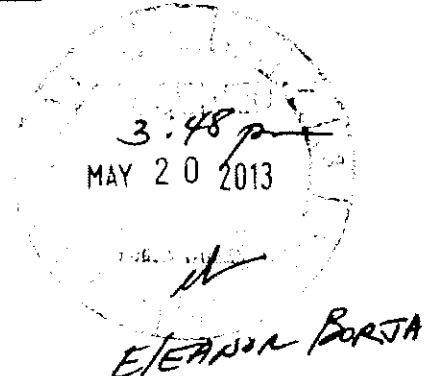
DATE: May 20, 2013

TO: Carl Dominquez, Director, Department of Public Works

CC: J. Patrick Mason, Deputy Attorney General
Glenn Eay, Rights-of-Way, Department of Public Works

FR: Kat Fokas, Assistant Attorney General 

RE: *Castro v. Government of Guam*, Guam Superior Court Case No. CV1158-12
Inverse Condemnation case, Chalon Pago
Request for Settlement Authority and Certification



I. Introduction

This memorandum seeks settlement authority for a condemnation which occurred almost 34 ½ years ago. Please pay particular attention to Section VI below regarding prerequisites to obtaining settlement authority from government agencies.

This case involves an inverse condemnation filed in the Superior Court of Guam by Vincent C. Castro and Menilia C. Castro *aka* Millie C. Castro (collectively, the "Castros"). The taking occurred on January 29, 1979 and related to the widening of Chelenko Road, Municipality of Sinajana, located in the village of Ordot. For the road widening project, the Government of Guam acquired property from the two neighboring properties, but for some inexplicable reason, did not list the Castro property in the eminent domain case. A copy of the 1979 Declaration of Taking omitting the Castro property is attached as Exhibit A.

COPY

II. The Castro Property

The Castro Property includes Lot No 3340-2-2 (now known as Lot 3340-2-R1). The area of the taking is 166 sq. m. ±, and is shown as the cross-hatched area on Exhibit B.

III. Procedural Aspects

For many years the Castros have been seeking resolution of this matter with the Government of Guam. The Castros have waited patiently for a response from the Government while knowing that their neighbors received compensation over three decades ago. And the Government has been using the property for the entire time. Moreover, the Castros have continued to pay real estate taxes on the property.

The Castros hired a lawyer, Attorney Georgette Bello Concepcion, and filed a claim against the Government under the Government Claims Act. The claim was properly filed pursuant to 5 G.C.A. Chapter 6 in order to exhaust their administrative remedies before seeking relief from the court. No action was taken by the Government on the Castro's government claim. Thereafter, through their counsel, the Castros filed a verified complaint in the Superior Court on October 12, 2012 (attached as Exhibit C) which was served on the Government, along with a Summons (attached as Exhibit D).

Since the filing of the Complaint, our office has met with the Castros and their attorney. Based on the title work done, and meetings held with personnel from Land Management and the Rights-of-Way Division of the Department of Public Works, we have concluded that the Castros are correct in their assertion that the land in question was taken by the government without compensation.

Typically, a claim for inverse condemnation arising so many years ago would be barred by the statute of limitations. However, on Guam we have a special statute which tolls the statute of limitation for condemnations occurring between 1950 and 1994 for which either no compensation or grossly inadequate compensation was given. *See* 7 G.C.A. § 11311.1. Since the taking of the Castro Property occurred on January 29, 1979, the Castro's inverse condemnation claim is not time barred by virtue of 7 G.C.A. § 11311.1. Having determined that liability exists on the Government, the next question is to determine the amount of just compensation to be paid to the Castros.

IV. Government's Exposure - Just Compensation

When the government takes only a portion of a larger tract of land, just compensation consists of the fair market value of the part taken, as well as any damages to the remaining property in the landowner's possession resulting from the government's activities on the condemned land.

In this case, the date of value is January 29, 1979. The Government of Guam has not obtained an appraisal, however land values are available for the acquisitions of the two neighboring properties as of January 29, 1979. Namely, the owners of Lot 3336-New-1-G were

paid \$9.00 per sq. m. and the owners of Lot 3244-1G were paid \$8.25 per sq. m. While the Government would assert that there is no damage to the remainder property, at trial the Castros will inevitably argue damages between 25-50% as a result of dust and noise from the traffic, as is customary in such cases.

In addition to just compensation, the special Guam statute referred to previously (7 G.C.A. § 11311.1) allows the landowners to recover simple interest at a rate of 6% per annum from the date of take (January 29, 1979) until judgment is paid. The statute also requires the Government to pay the landowners' attorney fees. All of these factors must be taken into account in assessing the Government's exposure in this case should it proceed to trial.

If this case proceeds to trial, we would also need to retain an expert appraisal witness to produce an appraisal report and testify. Trial would be expected to last approximately 5 days. Land Management and the rights-of-way department of the Department of Public Works would have to prepare trial exhibits and be prepared to testify at trial.

Based on the following calculations, we would expect the Government's exposure in the case to be between \$27,000.00 and \$42,000.00. With the inclusion of expert witness fees these amounts would increase between \$5,000.00 and \$10,000.00, bring the Government's exposure to upwards of \$52,000.00.

Exposure based on \$9.00 per sq. m. and 25% damages:

Part Taken.....	\$1.66 sq. m. x \$9.00 =	\$1,494
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Overpaid Property Taxes.....		\$6,835
Incl interest		
Attys' Fees Based on 5 day trial.....		<u>\$10,000</u>
	Total	\$26,693.00

Exposure based on \$15.00 per sq. m. and 50% damages:

Part Taken.....	\$1.66 sq. m. x \$15.00 =	\$2,490
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Overpaid Property Taxes.....		\$6,835
Incl interest		
Attys' Fees Based on 5 day trial.....		<u>\$10,000</u>
	Total	\$42,000.00

V. Reasonable Settlement Amount

Based on the foregoing, we judge a reasonable settlement to be in the area of \$20,000.00 to \$25,000.00, inclusive of all interest and attorneys' fees payable to the Castros.

VI. DPW's Certification

Before the Attorney General's Office may settle a case, the agency involved in the case must certify that the following statute has been complied with:

No agency shall contract or agree to spend money for goods or services or in settlement of a lawsuit or claim in excess of the amount appropriated by I Liheslatura (the Legislature) to that agency for such goods, services, claim, or settlement, and BBMR shall not allot funds to that agency for the payment of any amount towards such goods, services, claim, or settlement if the total amount of goods, services, claim, or settlement is more than the amount appropriated or amount allotted by BBMR. Any contract or agreement made in violation hereof shall be void. Any agency head or certifying officer who knowingly contracts or agrees to spend any money in excess of said allotments shall be guilty of a misdemeanor.

P.L. 31-77:XII Section 13.

Under the statute, a settlement cannot be entered into unless the total amount of the settlement amount has been appropriated or allotted by BBMR. Therefore, to move forward with the settlement of this Superior Court case, I must receive your settlement authority and a certification that the above-referenced law has been complied with.

Please forward a letter to me providing settlement authority and the necessary certification and we will pursue settlement of this matter, including drafting and/or filing the necessary releases, title documents and court papers. Please feel free to call me with any questions you may have.

Attachments

FILED

IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

APR 29 9 52 AM '79
SUPERIOR COURT

THE GOVERNMENT OF GUAM,)
Plaintiff,)
vs.)
4,513 Square Meters of Land,)
more or less, situated in)
the Municipality of Sinajana,)
and Dolores C. Shultice, Et.,)
Al., and Unknown Owners,)
Defendants.)

CIVIL CASE NO. 1-79
COMPLAINT IN CONDEMNATION

OFFICE OF THE ATTORNEY GENERAL
Government of Guam
7th Floor, People's News Building
Post Office Box 624
Agaña, Guam 96901
TEL: 472-8241/8244

1. This is an action of a civil nature brought by the Government of Guam for the taking of private properties under the power of eminent domain and for the ascertainment and award of just compensation to the owners and parties in interest.

2. The authority for the taking is based on the Organic Act of Guam, 48 USC §§ 1421b(f) and 1423a; Guam Code of Civil Procedure §§ 1237 through 1245, and Guam Civil Code § 1001.

3. The use for which said lands are to be taken is for the realignment and improvement of Chelenko Road to provide access to the Jose U. Atoigue Baseball Field, together with access for purposes necessary or incidental to said construction project.

4. The interests to be taken in said lands are in fee simple absolute and are delineated in Schedule A and Exhibits A, B, and C-1. Attached hereto are maps of said lands.

EXHIBIT A

interests taken, public uses, owners' names, area taken, and estimated compensation are summarized, Exhibits A, B, and Map-1 describe more fully the particular lands taken.

5. The persons having or claiming interests in the property to be taken, whose names are now known, are as shown on Schedule A, attached hereto and made a part hereof.

6. In addition to the persons named, there are or may be others who have or claim interests in the property to be taken, whose names are unknown to the plaintiff and such persons are made parties to this action under the designation "Unknown Owners".

WHEREFORE, the plaintiff demands judgment that the property herein described be condemned; that just compensation for the taking be ascertained and awarded; and for such other relief as may be lawful and proper.

Dated this 31st day of October, 1978.

DANIEL DEL PRIORE
Attorney General, Acting

[Signature]
BY AIN POPPE
Assistant Attorney General

SPREAD SHEET

CIVIL CASE NO. _____

PROJECT: CHELENKO ROAD, CHALAN PAGO

DATE: _____

TRACT NO.	BASIC LOT	LOT WITHIN RIGHT OF WAY	AREA WITHIN RIGHT OF WAY (SQ.M.)	OWNER	ESTIMATED COMPENSATION
1	3336-NEW	3336-NEW-1G	624 sq. m.	Dolores C. Shultice	\$ 3,616.00
2	3244	3244-1G	3,889 sq. m.	H.O. Nicolas Mendiola Castro (deceased) JUAN C. AGUAN, admr.	\$32,084.00
TOTAL			<u>4,513 sq. m.</u>		<u>\$ 37,700.00</u>
		<p>2-16 + 2-26 8.25 psm. = 3,819.75</p>			

SCHEDULE 4

LOT # 3336-NEW-IG, SINAJANA, GUAM

Beginning at a point located at N 84° 04' 56" W, 130.75'
from G.G.T.N. G.2:

thence S 7° 47' 51" W, 9.84' to a point;

S 82° 12' 09" E, 141.08' to a point;

S 5° 02' 01" W, 10.17' to a point;

N 82° 12' 09" W, 404.37' to a point;

N 0° 52' 00" E, 20.11' to a point;

S 82° 12' 09" E, 264.88' to the point of

beginning; containing an area of 624 square meters more or less.

All points referred to above are more particularly described on
D.P.W. Drawing No. P.W. 78-M1 and also labelled Land Management
Check Data 209-FY 78 and entitled "Severance Plat Chetenko Road
Lots 3340-R2, 2-3, 2-1, 2-2, 3349-1, 2, 3244; 3336-NEW, 3371-4-4."

EXHIBIT "A"

LOT # 3244-1G, SINAJANA, GUAM

Beginning to a point located at N 85° 33' 49" W, 489.77'
from G.G.T.N. G.2;

thence S 60° 29' 00" W, 511.85' to a point;

N 21° 15' 14" W, 78.51' to a point;

N 58° 42' 34" E, 302.37' to a point;

then along a circular curve, concave to the
right having a radius 426.34', a delta 39°
05' 17" a length, 290.85' and a chord bearing
N 78° 15' 12.5" E, 285.25' to a point;

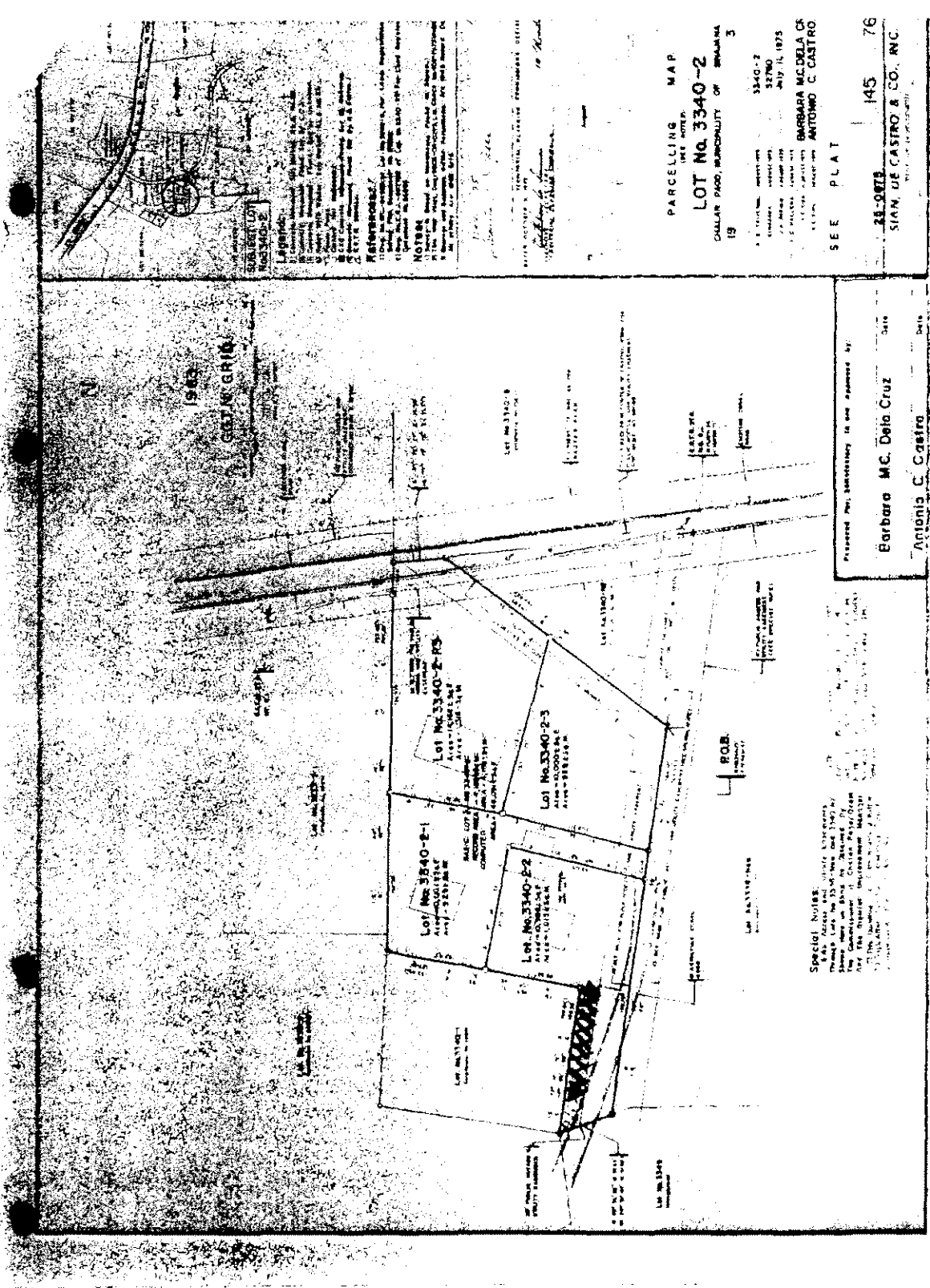
then S 60° 29' 00" W, 73.29' to the point of
beginning containing an area of 3889 ± square
meters more or less.

All points referred to above are more particularly described on
D.P.W. Drawing No. P.W. 78-M1 under L.M. check Dwg. No. 209-FY 78
and labeled "Severance Plat Chelenko Road."

EXHIBIT 18

EXHIBIT B

2296



PARCELLING MAP
 SEE NOTES
LOT No. 3340-2
 CALLER PAGO, MUNICIPALITY OF BARRANCA
 19

3340-2
 32790
 2/17/1975
BARBARA MC DELA CR
ANTONIO C CASTRO
 SEE PLAT

23-0873 145 76
SIAM, US CASTRO & CO., INC.
 PREPARED FOR: **Barbara M.C. DeLa Cruz**
 PREPARED BY: **Antonio C. Castro**

SPECIAL NOTES:
 1. All areas and other boundaries shown hereon are based on the Plat of the Caller PAGO, Municipality of Barranca, P.R. The State Department of Natural Resources, San Juan, P.R. is hereby notified of the existence of this plat.

NOTES:
 1. This map is based on the plat of the Caller PAGO, Municipality of Barranca, P.R. The State Department of Natural Resources, San Juan, P.R. is hereby notified of the existence of this plat.

REFERENCES:
 1. The map is based on the plat of the Caller PAGO, Municipality of Barranca, P.R. The State Department of Natural Resources, San Juan, P.R. is hereby notified of the existence of this plat.

1-1-76

Lot No. 3233-9
Certificate No. 38283

Lot
Cert

(S
S 89°
89°

107.50'

Lot No. 3340-2-

Area = 10,001 ± Sq. F.
Area = 929 ± Sq. M.

Lot No. 3340-1
Certificate No. 15681

~~BASIC E
RECORD
DATE~~

Lot No. 3340-2-2

Area = 10,928 ± Sq. F.
Area = 1,015 ± Sq. M.

SEE SPECIAL
NOTE NO. 2

IC ACCESS &
EASEMENT.

(S 82° 12' 51" E 100.00'
S 82° 05' 55" E 100.38'

(N 10° 51' 45"
N 10° 45'
N 10° 51' 45"
N 10° 45'

75' 14' 27"
65.15'

67.05'
133.45'
133.01'

93.05'
148' 32'
148' 32'

15" W 37.63'
07" W 37.60'

20' SET BACK FOR PUBLIC ACCESS

AND UTI

(N
(N

82°

TERRITORY OF GUAM
DEPARTMENT OF LAND MANAGEMENT

CERTIFICATE OF TITLE

253017
253017

Certificate of Title Number 53507

Document No.

Originally registered 27 January, 1965 Certificate of Title No. 253017
Municipality of _____ Page _____ Governmental No. 253017
Transfer from Number C.T. No. 53507

TERRITORY OF GUAM)
AGANA, GUAM) SR.

This is to certify that Vicente C. Castro and Manilia C. Castro
husband and wife

now residing at the Territory of Guam

Certificate of Identification No. _____ and by occupation _____
the owner of an estate in Fee Simple, in that certain piece or parcel _____
municipality of Sinajana, territory of _____
Cadastral Lot Number 3340-2-2, Chalan Pago, Sinajana, Guam, Estate No. 52
containing an area of 1,015 square meters, as shown Map Drawing No. 11
V.C. Siles, RLS No. 23, dated November 7, 1975;
subject, however, to the estate, easements, liens, charges and encumbrances hereunto referred.

Said owner are over 21 years; civil status Married, and is
under no disability.

The sale, gift or devise to aliens of lands in the territory of Guam is prohibited, except as provided in Section 672. Civil Code of Guam.

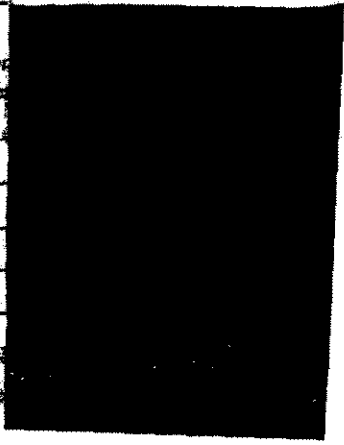
IN WITNESS WHEREOF, I have hereunto set my hand and caused my official seal to be affixed this 6th day of January 19 76

C. C. Perez
C.C. Perez

Recorder of Title
In and for the Territory of Guam

Memorial of estates, assessments, liens, charges or encumbrances on the land described in the above Certificate of Title, other than taxes, for non-payment of which said property has not yet been sold.

Document No.	Kind of Instrument	Registration		Amount	In favor of	Date
		Date	Time			



1 Law Office of Georgette Bello Concepcion, P.C.
173 Aspinall Avenue, Suite 203
2 Hagatna, Guam 96910
Telephone: 671.477.8305
3 Facsimile: 671.477.5873

4 *Attorneys for Plaintiffs Vicente C. Castro
and Menilia C. Castro aka Millie D.C. Castro*

5 IN THE SUPERIOR COURT OF GUAM,

6 **CV 1158-12**

7 VICENTE C. CASTRO and MENILIA C.
8 CASTRO aka MILLIE D.C. CASTRO,

CIVIL CASE NO. _____

9 Plaintiffs,

**VERIFIED
COMPLAINT**

10 vs.

11 GOVERNMENT OF GUAM,

12 Defendant.

13
14 **I.**

15 **JURISDICTIONAL FACTS**

16 The Court has jurisdiction over this matter pursuant to 7 GCA §§ 3105 and
17 11311.1.

18
19 1. Plaintiffs, Vicente C. Castro and Menilia S. Castro aka Millie C. Castro
20 (hereinafter collectively as "Plaintiffs") are residents of Guam and are the owners of Lot
21 No. 3340-2-2 (now Lot No. 3340-2-R1) and Lot No. 3340-2-3 (now Lot No. 3340-2-3-
22 R1), in the municipality of Sinajana, Guam.

23 2. The Department of Public Works is an agency of Defendant Government
24 of Guam.

EXHIBIT C

OCT 08 2012

1 3. Defendant Government of Guam (hereinafter "Defendant") has been
2 vested with the power of eminent domain pursuant to the Organic Act of Guam.

3 4. Plaintiffs filed a claim for unlawful taking pursuant to the Government
4 Claims Act (P.L. 17-29) on March 29, 2012 which was denied as more than six months
5 have passed without disposition of Plaintiffs' claim by Defendant.

6 5. Plaintiffs' claim for unlawful taking is not time barred pursuant to 7 GCA
7 11311.1.

8 **III.**

9 **CLAIM FOR UNLAWFUL TAKING**

10 6. On or about December 21, 1977, Plaintiffs executed a Right of Entry
11 Agreement" (hereinafter "Agreement") wherein they grant Defendant Government of
12 Guam, Department of Public Works permission to enter upon said lot "to construct and
13 maintain The Chelenko Road."

14 7. The Government required Plaintiffs' permission to enter their property to
15 survey the property as to the location of the proposed road.

16 8. Pursuant to the Agreement "it was understood and agreed that the
17 owner(s) will receive compensation for the said land upon completion of an appraisal the
18 Government will cause to be made which would estimate the fair market value of the
19 land needed for the _____ [sic] and severance damages, if any as of December 21, 1977."

20 6. In 2009, Plaintiffs engaged the services of an appraiser as to Lot No.
21 3340-2-2 (now Lot No. 3340-2-R1) and it was not until then did Plaintiffs learn the
22 government had taken a portion of their property without being compensated accordingly.

23 7. The area of Lot No. 3340-2-2 (now Lot No. 3340-2-R1) was reduced from
24
25

1,015 square meters to 589 square meters.

8. Plaintiffs also learned that their adjacent property, Lot No. 3340-2-3 (now Lot No. 3340-2-3-R1), had also been reduced in size.

9. The area of Lot No. 3340-2-3 (now Lot No. 3340-2-3-R1) was reduced from 929 square meters to 763 square meters.

10. Defendant did not obtain a Right of Entry Agreement from Plaintiffs in 1977 as to Lot No. 3340-2-3 (now Lot No. 3340-2-3-R1) as Defendant had done with regard to Lot No. 3340-2-2 (now Lot No. 3340-2-R1).

11. Plaintiffs have paid property taxes on these properties based on the original sizes of the lots.

12. Plaintiffs have been denied the use and enjoyment of their property as their property continues to be used as public easement.

13. Since the date of entry onto Plaintiffs' land and continuing to the date of the filing of this action Defendant, Plaintiffs have not been justly compensated for the unlawful taking of their property by Defendants nor has Defendant made any offers of compensation.

14. Further, to date, Defendant has failed to institute eminent domain proceedings so that damage to Plaintiffs' property could be assessed.

15. Defendant's actions have resulted in the taking of Plaintiffs' private property for public use since 1977 for public use pursuant to Defendant's right of eminent domain

1 WHEREFORE, Plaintiffs respectfully request:

2 1. Judgment against Defendant for damages in an amount to be proven at
3 trial;

4 2. Reimbursement of property taxes overpaid by them in accordance with the
5 reduction in size of each of Plaintiffs' properties since December 21, 1977;

6 3. Interest as allowed under the laws of Guam for said damages as of
7 December 21, 1977


8 4. Injunctive relief precluding Defendant from further actions injurious to
9 Plaintiffs' property;

10 4. Attorney's fees and costs of suit as allowed pursuant to 7 GCA § 11311.1;
11 and

12 5. Such other and further relief as the court may deem just and proper.

13 Submitted this 8th day of October, 2012.

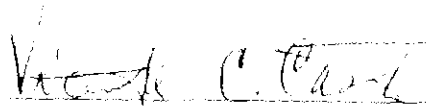
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16 Law Office of Georgette Bello Concepcion, P.C.

17
18 By: 
19 **Georgette Bello Concepcion, Esq.**
20 *Attorney for Plaintiffs*

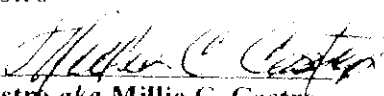
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VERIFICATION

We, **Vicente C. Castro and Menilia C. Castro, aka Millie C. Castro**, being first duly sworn, depose and state: That we are the Plaintiffs in the above-entitled matter; that we have read the foregoing Complaint and know the contents thereof; and certify that the same is true of our own knowledge, except as to those matters which are therein stated upon our information or belief, and as to those matters, we believe them to be true.



Vicente C. Castro



Menilia C. Castro aka Millie C. Castro

SERVICE REQUEST

05/20/13 CV1158-12

CASTRO vs. GG

Pleading(s) Correspondence Legal Memo/Opinion Other

1) ATTORNEY CLIENT PRIVILEGED COMMUNICATION 2) EXHIBIT A 3) EXHIBIT B 4) EXHIBIT C

Superior Court District Court Other

SERVE and/or HAND DELIVER:

CARL DOMINQUEZ, DPW 05/20/13 @ 348

STAMP RECEIVED COPY

Return File Copy w/Acknowledgement Receipt Prepare Affidavit of Service

KFOKAS

5/20/2013

SERVICE REQUEST

05/20/13 CV1158-12

CASTRO vs. GG

Pleading(s) Correspondence Legal Memo/Opinion Other 0

1) ATTORNEY CLIENT PRIVILEGED COMMUNICATION 2) EXHIBIT A 3) EXHIBIT B 4) EXHIBIT C

Superior Court District Court Other

SERVE and/or HAND DELIVER:

CARL DOMINQUEZ, DPW 0 0 0

STAMP RECEIVED COPY

Return File with Acknowledgement Receipt Prepare Affidavit of Service

KFOKAS

41414



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

January 3, 2014

VIA E-MAIL

john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Notes– Bill Nos. 246-32 (COR) through 252-32(COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson of the Committee on Rules

Attachment (1)

Cc: Clerk of the Legislature

Bill Nos.	Sponsor	Title
246-32 (COR)	T C. Ada, R. J. Respicio	AN ACT TO AMEND SECTIONS OF ARTICLE 3 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED RELATIVE TO SOURCE SELECTION AND CONTRACT FORMATION IN GUAM PROCUREMENT LAW.
247-32 (COR)	FRANK B. AGUON, JR.	AN ACT RELATIVE TO EXPANDING THE GUAM SLAYER'S STATUTE THAT WOULD PROHIBIT INHERITANCE BY A PERSON WHO MURDERS SOMEONE FROM WHOM HE OR SHE STANDS TO INHERIT; THROUGH THE REPEAL AND REENACTMENT OF §819 OF CHAPTER 8, TITLE 15, GUAM CODE ANNOTATED.
248-32 (COR)	Vicente (ben) C. Pangelinan	AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM THE GENERAL FUND TO ALLOW THE GOVERNMENT OF GUAM TO PAY FOR AN INVERSE CONDEMNATION SETTLEMENT PURSUANT TO SUPERIOR COURT OF GUAM CIVIL CASE NO. CV1158-12.
249-32 (COR)	V. Anthony Ada Chris M. Dueñas Aline A. Yamashita, Ph.D. R. J. Respicio T. R. Muña Barnes Tommy. Morrison FRANK B. AGUON, JR. Michael T. Limtiaco	AN ACT TO REPROGRAM THE SUM OF THREE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$375,000.00) TO THE DEPARTMENT OF PUBLIC WORKS FOR THE PAVING OF VILLAGE STREETS AND THE REPAIR OF DAMAGES TO VILLAGE STREETS AS A RESULT OF TRAFFIC DIVERSION RELATED TO ONGOING ROAD CONSTRUCTION PROJECTS.
250-32 (COR)	Dennis G. Rodriguez, Jr. Rory J. Respicio Christopher M. Duenas	AN ACT TO AMEND DIVISION 4 OF 10 GUAM CODE ANNOTATED §80109(s)(9) RELATIVE TO THE WAIVER OF SOVEREIGN IMMUNITY ON A LOAN PREVIOUSLY AUTHORIZED FOR THE GUAM MEMORIAL HOSPITAL AUTHORITY.
251-32 (COR)	Dennis G. Rodriguez, Jr. Rory J. Respicio Christopher M. Duenas	AN ACT TO AMEND PUBLIC LAW 32-67 RELATIVE TO THE WAIVER OF SOVEREIGN IMMUNITY ON A LOAN PREVIOUSLY AUTHORIZED FOR THE GUAM LEGISLATURE.
252-32 (COR)	Dennis G. Rodriguez, Jr. Rory J. Respicio Christopher M. Duenas	AN ACT TO AMEND ARTICLE 2, CHAPTER 10 TITLE 12 GUAM CODE ANNOTATED §10238 RELATIVE TO THE WAIVER OF SOVEREIGN IMMUNITY ON A LOAN PREVIOUSLY AUTHORIZED FOR THE JOSE D. LEON GUERRERO PORT AUTHORITY OF GUAM.



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
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Senator
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Senator
Michael F.Q. San Nicolas
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Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

December 30, 2013

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson of the Committee on Rules

Subject: Referral of Bill No. 248-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 248-32(COR)**.

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

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


Si Yu'os Ma'åse!

Attachment

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. ~~248-D~~ (COR)

Introduced by:


V. C. Pangelinan 

AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM THE GENERAL FUND TO ALLOW THE GOVERNMENT OF GUAM TO PAY FOR AN INVERSE CONDEMNATION SETTLEMENT PURSUANT TO SUPERIOR COURT OF GUAM CIVIL CASE NO. CV1158-12.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Finding and Intent. *I Liheslaturan Guahan* finds that for over three decades, Vincent C. Castro and Menilia C. Castro (collectively known as the Castros) have been waiting to be compensated for property the government of Guam took in January 29, 1979 and used it to construct a public road. The Castros property is described as Lot No. 3340-2-2 (now known as Lot No. 3340-2-R1), 166 sq. m. ± as shown in Exhibit A and was used to widen Chelenko Road in the municipality of Sinajana, located in the village of Ordot.

I Liheslaturan Guahan further finds that there were landowners whose property were taken through court action to construct Chelenko road and were paid for their property. The government did not take the Castro's property in the same or any subsequent court action, yet their property was made part of Chelenko road and the Castros were never paid for the property. The 1979 Declaration of Taking omitted the Castro property. On October 8, 2012, the Castros filed an inverse condemnation complaint against the government of Guam for the unlawful taking of their property.

2013 DEC 30 PM 3:30


1 *I Liheslaturan Guahan* further finds that the Office of the Attorney General
2 has worked with the Castros and their attorney to resolve this long standing land
3 taking and have agreed to settle in the amount of Twenty-Five Thousand Dollars
4 (\$25,000).

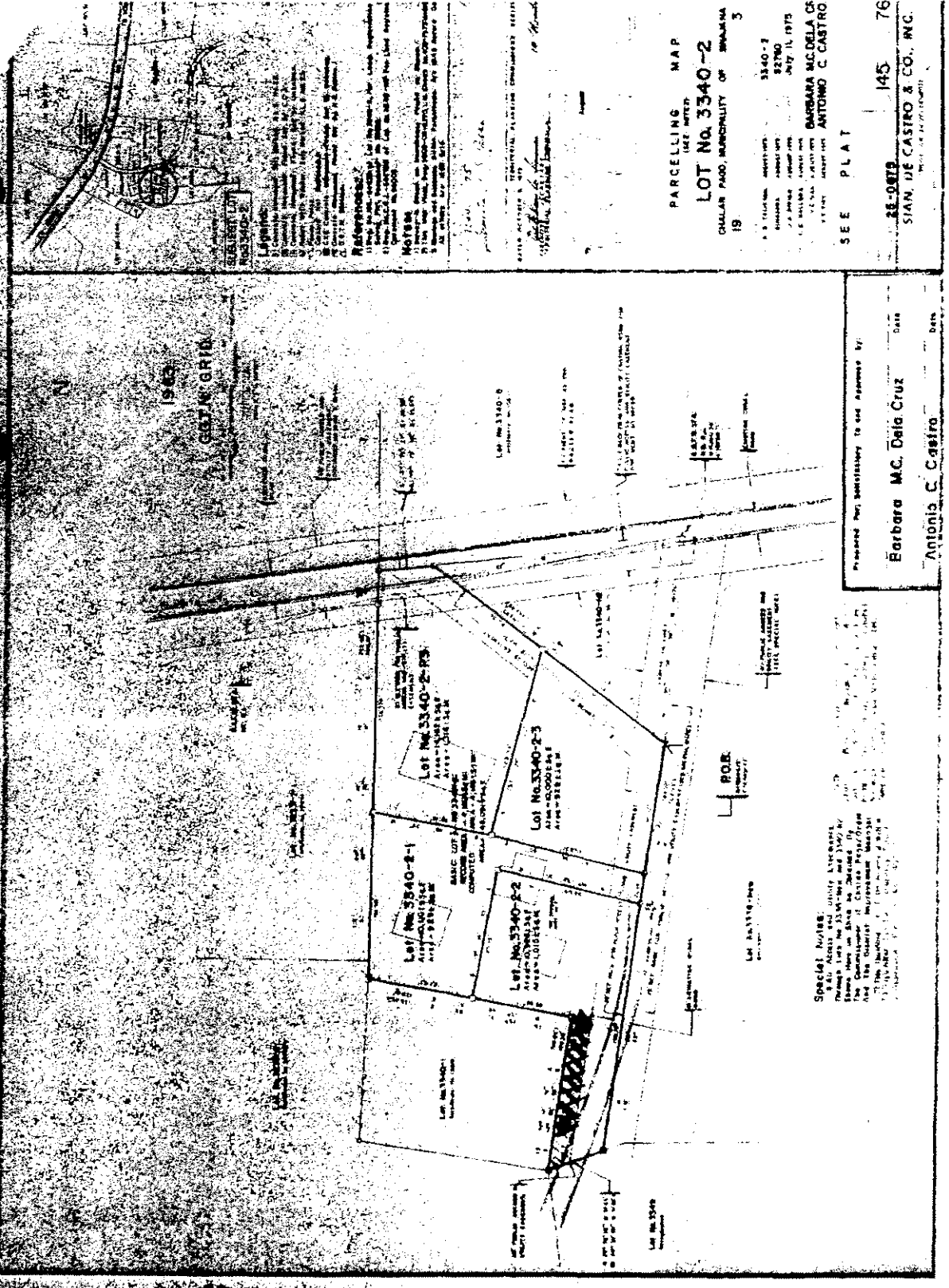
5 Therefore, *I Liheslaturan Guahan* intends to appropriate the agreed
6 settlement amount to the Castros and to comply with the Superior Court Case No.
7 CV1158-12.

8 **Section 2. Authorization to Appropriate.** *I Liheslaturan Guahan* hereby
9 appropriates the amount of Twenty-Five Thousand Dollars (\$25,000) from the
10 general fund to the plaintiffs, Vicente C Castro and Menilia C. Castro, aka Millie
11 D.C. Castro in the Superior Court Case No. CV1158-12 to provide just
12 compensation and to finally remove the liability that exists within the government
13 of Guam. The Attorney General shall settle the case and execute all documents
14 required to ensure the government will not be liable for any additional payments
15 and secure title to the property.

16 **Section 3. Severability.** *If any provision of this Act or its application to*
17 *any person or circumstance is held invalid, the invalidity shall not affect other*
18 *provisions or applications of this Act which can be given effect without the invalid*
19 *provision or application and to this end the provisions of this Act is severable.”*

EXHIBIT A

2296



PARCELLING MAP
 MADE BY
LOT No. 3340-2
 CHALLAN PAQO MUNICIPALIDAD DE SIKAPAKA
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Presented for homologation to the assembly by:
Barbara M.C. De la Cruz Date
Antonio C. Castro Date

Lot No. 3233-9
Certificate No. 38283

(S
S 89
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107.50'

Lot No. 3340-1
Certificate No. 15681

Lot No. 3340-2

Area = 10,001 ± Sq. F
Area = 929 ± Sq. M.

BASIC
RECORD

Lot No. 3340-2-2

Area = 10,928 ± Sq. F
Area = 1,015 ± Sq. M.

SEE SPECIAL
NOTE NO. 2

ACCESS &
EASEMENT.

(S 82° 12' 51" E 100.00'
S 82° 05' 55" E 100.38'

(N 100° 51' 45" E 65.96'
N 100° 100' 45" E 67.05'

(E 133.45' E 133.01'

(S 79° 14' 27" E 15.15'

(N 95.05' N 148° 32' 50" N 148° 30'

W 37.63'
W 37.60'

(N

82°

20' SET BACK FOR PUBLIC ACCESS AND