



Sen. Thomas Ada
Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Liheslaturan Guahan • 33rd Guam Legislature

AUG 17 2016

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina Trentai Tres Na Liheslaturan Guahan
155 Hesler Place
Hagåtña, Guam 96910

Rory J. Respicio

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 335-33 (COR) As Amended

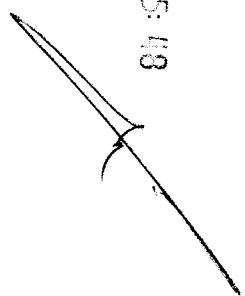
Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 335-33 (COR) As Amended, "AN ACT TO AMEND § 60401 OF CHAPTER 60, TITLE 21; TO REPEAL § 61105 OF CHAPTER 61, TITLE 21 AND TO ADD A NEW SUBSECTION (s) TO § 40112 OF CHAPTER 40, TITLE 5, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION; EMPANELMENT OF A HYBRID COMMISSION; VOTES NEEDED FOR APPROVAL; AND THE POWERS, DUTIES AND RESPONSIBILITIES OF MAYORS."

2016 AUG 22 11 5:48

Committee votes are as follows:

- 3 TO DO PASS
- _____ TO NOT PASS
- 5 TO REPORT OUT ONLY
- _____ TO ABSTAIN
- _____ TO PLACE IN INACTIVE FILE



Si Yu'os ma'ase',

Thomas C. Ada

Thomas C. Ada



Sen. Thomas Ada

Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Libeslaturan Guåhan • 33rd Guam Legislature

**COMMITTEE REPORT
ON**

Bill No. 335-33 (COR)

As Amended

**AN ACT TO AMEND § 60401 OF CHAPTER
60, TITLE 21; TO REPEAL § 61105 OF
CHAPTER 61, TITLE 21 AND TO ADD A NEW
SUBSECTION (s) TO § 40112 OF CHAPTER 40,
TITLE 5, ALL OF THE GUAM CODE
ANNOTATED, RELATIVE TO THE
COMPOSITION OF THE GUAM LAND USE
COMMISSION; EMPANELMENT OF A
HYBRID COMMISSION; VOTES NEEDED
FOR APPROVAL; AND THE POWERS,
DUTIES AND RESPONSIBILITIES OF
MAYORS.**



Sen. Thomas Ada

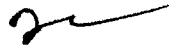
Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Libeslaturan Guåhan • 33rd Guam Legislature

August 8, 2016

MEMORANDUM

To: **All Members**
Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement

From: **Senator Thomas C. Ada**, Committee Chairperson 

Subject: **Committee Report on Bill No. 335-33 (COR) As Amended**

Transmitted herewith for your consideration is the Committee Report on Bill No. 335-33 (COR) As Amended, **“AN ACT TO AMEND § 60401 OF CHAPTER 60, TITLE 21; TO REPEAL § 61105 OF CHAPTER 61, TITLE 21 AND TO ADD A NEW SUBSECTION (s) TO § 40112 OF CHAPTER 40, TITLE 5, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION; EMPANELMENT OF A HYBRID COMMISSION; VOTES NEEDED FOR APPROVAL; AND THE POWERS, DUTIES AND RESPONSIBILITIES OF MAYORS.”**

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 335-33 (COR), As Introduced
- Copy of Bill No. 335-33 (COR), As Amended
- Public Hearing Sign-in Sheet
- Written testimonies from: Adrian Gogue, Diane Strong, Michael J.B. Borja (*Department of Land Management*), Felix Dungca, Jonita Kerr, Randel Sablan, James P. Castro and John Thomas Brown.
- Copy of Fiscal Note Request
- Copy of Fiscal Note
- COR Referral of Bill No. 335-33 (COR)
- Notices of Public Hearing
- Public Hearing Agenda

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



Sen. Thomas Ada

Chairman

Committee on Transportation, Infrastructure, Lands,
 Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Libeslaturan Guåhan • 33rd Guam Legislature

COMMITTEE VOTE SHEET

Bill No. 335-33 (COR) As Amended, "AN ACT TO AMEND § 60401 OF CHAPTER 60, TITLE 21; TO REPEAL § 61105 OF CHAPTER 61, TITLE 21 AND TO ADD A NEW SUBSECTION (s) TO § 40112 OF CHAPTER 40, TITLE 5, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION; EMPANELMENT OF A HYBRID COMMISSION; VOTES NEEDED FOR APPROVAL; AND THE POWERS, DUTIES AND RESPONSIBILITIES OF MAYORS."

COMMITTEE MEMBERS	SIGNATURE AND DATE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
SENATOR THOMAS C. ADA Chairperson	<i>T.C. Ada</i> 8/5/14	✓				
SENATOR RORY J. RESPICIO Vice Chairperson	<i>R. Respicio</i>	No 8-15-14				
VICE SPEAKER BENJAMIN J.F. CRUZ Member	<i>B. Cruz</i>	—				
SENATOR FRANK B. AGUON, JR. Member	<i>F. Aguon, Jr.</i>					
SENATOR DENNIS RODRIGUEZ, JR. Member	<i>D. Rodriguez, Jr.</i>			✓		
SENATOR NERISSA UNDERWOOD Member	<i>N. Underwood</i> 8/5/14			✓		
SENATOR FRANK BLAS, JR. Member	<i>F. Blas, Jr.</i> 8/17/14			✓		
SENATOR MARY TORRES Member	<i>M. Torres</i> 8/15/14			✓		
SENATOR JAMES V. ESPALDON Member	<i>J. Espaldon</i>			✓		



Sen. Thomas Ada

Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Liheslaturan Guahan • 33rd Guam Legislature

COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill No. 335-33 (COR) was introduced on June 13, 2016 by Senator Thomas C. Ada and Senator Thomas A. Morrison and was subsequently referred on June 14, 2016 by the Committee on Rules to the Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement.

The Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement convened a public hearing on June 27, 2016 at 5:00 pm in *I Liheslaturan's* Public Hearing Room to receive public testimony on Bill No. 335-33 (COR).

Public Notice Requirements

Public Hearing notices were disseminated via email to all Senators and all main media broadcasting outlets on June 20, 2016 (5-Day Notice) and again on June 23, 2016 (48-Hour Notice). Publication was conducted in the June 17, 2016 issue and June 23, 2016 issue of the **Guam Daily Post**, a newspaper of general circulation, fulfilling the 5-Day Notice and 48-Hour Notice of the Open Government Law requirement.

Senators Present

Senator Thomas C. Ada	<i>Committee Chairperson</i>
Senator Frank Blas Aguon, Jr.	<i>Committee Member</i>
Senator V. Anthony Ada	<i>Legislative Member</i>
Senator Thomas A. Morrison	<i>Legislative Member</i>

The public hearing was Called-to-Order at 5:00pm.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Chairperson Ada calls the Public Hearing to order and as sponsor, introduces Bill No. 335-33.

Chairperson Ada: Bill 335 addresses the composition of the Guam Land Use Commission (GLUC) and votes needed for approval. He then explains the flowchart that was displayed. The points in yellow are changes to the current law, or to be addressed in a separate bill, and how the applications for development in the municipalities are handled. In blue are the existing actions that take place. If a project is greater than \$1M dollars, then it will cause the empanelment of a hybrid GLUC. This hybrid commission will increase the size of the commission to 9 members; 5 appointed by the Governor and confirmed by the Legislature and 4 members comprised of representatives from the affected municipalities. There will be 5 votes from the municipalities and 4 votes from the appointed commissioners. The appeals

process that exists remains intact. If the project value is less than one million dollars but deemed to be significantly impactful, a hybrid commission can still be empaneled given a resolution requesting for such empanelment by the Mayors' Council. Otherwise, only the regular 5 member GLUC will be necessary.

Chairperson Ada calls those who have signed up to provide testimony.

Michael Borja, Director, *Department of Land Management* (written testimony): He reads his testimony in verbatim (see attached testimony). In his testimony, his recommendations were that members of the hybrid commission should only consist of elected officials such as mayors, powers and duties of mayors should be modified in the law, the one-million-dollar threshold should be changed to five million dollars and developing a masterplan of the whole island.

John Arroyo, Chairman, *Guam Land Use Commission* (oral testimony): This alternative bill addresses some of the issues that have been problems with the first bill while addressing the concerns of the community and allows them to have an equal vote on the commission. There are some coordination issues that we can work to a consensus such as scheduling and timing. Originally, there were three mayors and one municipal planning council member and now there are four mayors?

Chairperson Ada: That's right, because for the one municipal planning council member, it may be problematic from a legal standpoint and that individual should really be appointed by the Governor, but we're still verifying if the four elected mayors to be put on the commission by law will pass muster.

Chairman Arroyo: This is a great step forward and it addresses some of the issues that had concerned me of the original bill and I'm sure there are things we can do to work this through to make it happen.

Chairperson Ada: Thank you. Mr. Borja, you indicated that the master plan will be key to all this but that could take a while and a lot of money. In the interim, do you think that these proposed changes to the existing process, with some tweaking, could be immediately implemented so that the voice of the municipalities can have a vote on the GLUC?

Director Borja: I believe so. It gives a significant empowerment to the mayor and his municipality so there is that direct relationship that I think is being looked for.

Chairperson Ada: We did notify the mayors council and the various mayors about this and they didn't show up.

Senator Thomas A. Morrison: Thank you for allowing me to be co-sponsor of Bill 335 Mr. Chairman. Mr. Borja, what are your thoughts when we're talking about a southern development master plan? How do we grow the infrastructure and plan for the needs of agriculture use or define tourism in the southern communities? Absent these plans, how do we

proceed knowing that it's going to take some time, but not wanting to stop economic development in our communities?

Director Borja: The critique item is the height. We can look in certain municipalities and establish a height limit like Hagåtña for example. There should also be an expiration date on the approval of any kind of development, even a PUD. When you have large scale developments, it's usually a mandatory requirement for the developer to do something for the infrastructure that can be available to the community as well.

Chairman Arroyo: Mike's right. If there are more things built into the law, then there would be better guidance for the commission to follow so that those issues can be addressed.

Sen. Morrison: I'm glad that both of you are open to Bill 335 and how we can address large scale projects while balance the sentiments of our communities.

Adrian Gogue, Save Southern Guam, Inc. (written testimony): He reads his testimony (see attached testimony). He is not in support of the bill due to the following reasons: 1) the hybrid commission votes will typically result in favor of the appointed commissioners, 2) there should be more adjacent municipalities to be represented on the board and 3) the one-million-dollar threshold should be discussed and changed. He then reads minutes from one of the GLUC meetings. You have the consultant of the developer putting on the table what the intended use is, which is an apartment that can ultimately be a hotel operation, and yet the GLUC voted to approve the height variance. I'm shocked that the director mentioned height limits, but those are already outlined in Chapter 61.

During Bill 318, they talked about the municipal planning councils' voices being heard and give weight to our input. If there is such a weighted system, that a copy be provided to us for review. It appears that the GLUC gave more weight to a petition that was signed by people who are not residents of the community that this project impacted.

Chairperson Ada: You're presuming that in the case of a tie, the Chairman will vote in favor with the appointed members, did I hear you correctly?

Mr. Gogue: The scenario exists where if the four mayors are in favor of a project and the GLUC sees otherwise, then the recourse is to go through judicial review. Not too many of us have that amount of money to be fighting legal battles.

Chairperson Ada: It was a couple years ago when the appointed commissioners voted against the establishment's position. As a result, they were kicked off the board. We have to give the commissioners the benefit of the doubt and that they have a conscience.

The four new members are different from what is in the bill. The bill is *as introduced* which envisioned three mayors and giving two votes to the affected municipality. But because of the potential problem of putting an unconfirmed municipal planning council member, that might be legally challenged. Based on the input tonight, we're going to need to make some changes to the bill.

The one-million-dollar threshold was arbitrary and a starting point to begin the discussion. You are correct that there may be a nine hundred-thousand-dollar project which may have just as much impact as a two-million-dollar project. As the sponsors of the bill, Senator Morrison and I will go back to the drawing table and see how we can address situations like that.

Mr. Gogue: I beg to differ with the unpopular decision made by the GLUC. You have all of these GCA chapters as guidance. Section 61617 talks about the five specific variance requirements and I offer anyone to read the developer's application and see if they answered all of the five requirements.

Dianne Strong, Save Southern Guam, Inc. (written testimony): She reads her testimony (see attached testimony). She is not in support of Bill 335. According to her testimony: "*Bill 335 is a "band aid" measure that is flawed. We need to review the GUAM TERRITORIAL SEASHORE PROTECTION ACT OF 1974 and the very basis of Guam's laws on zoning and variances.*"

Chairperson Ada: Bill 335 has a more immediate solution to give a voting voice on the land use commission to the municipalities that are affected. If we come up with the perfect solution in a couple of months, then we can put a sunset provision on Bill 335.

Mr. Gogue: Why can't we just interpret the literal meaning of Chapters 61, 63, 64 and 65 of the Guam Code Annotated until we find a better solution?

Chairperson Ada: It may be time that we sit down and take a closer look at the various provisions of those chapters.

Zita Pangelinan: (Note: Testimony given in Chamorro, translated by Committee Staff Joseph Borja.)

Håfa Adai! I am Zita Pangelinan from Yona. Si Yuus Maase for this opportunity.

Firstly, and most important, why am I here today? I want to make sure that our people are heard, that the community is heard, that their wants and wishes are heard. But not just to be heard; but to make sure that the wishes of the community are followed.

We are the people of the land. We are the community with the responsibility to protect the land; our land, our air, and our ocean. I appreciate your efforts Mr. Chairman to fix something like what former commission member Tricee Limtiaco says is already broken.

And if the truth is that the GLUC knew that the system and the process is broken and they still didn't listen to the two MPCs from Yona and Chalan Pago and the Mayors' Council. I cannot support this bill because it will be just another problem.

You say that in this bill that you will seat mayors on the (GLUC); but mayors are already so busy. They have a lot to do already; and look, the mayors are not even here. Mayor Gogue told us he is very busy and he is still at his office. Then how are the mayors going to be able to sit down for 3 to 4 hours. That's the kind of time needed to discuss this kind of project. This is what our experience is when we were discussing this project.

Chairman Arroyo said today that they are seeking guidance. That's beautiful because he is opening his thoughts to this side to fix the broken. Well, here's the guidance: Raise up high

the wishes and wants of the People. If the People and the community don't want it, then stop (the project).

Why are going ahead to establish this? Why are we going ahead? For who? For people from other lands? Mr. Chairman, when and where are people from other lands listened to? BUT the wishes and wants of the People of the Land disregarded? Consider and show us. Show us how.

Ask how this decision was made to disregard the thoughts and wants of the People of the Land. Give the People of Guahan back the confidence in the government today because the people know that they were not listened to. Listen to the people now. Let us fix the broken. Si Yuus Maase.

Randel Sablan (oral and written testimony): The idea that we put a time limit on some kinds of developments has a lot of merit. I don't support Bill 335 in its current form but I do have a solution in the interim and it will be in my written testimony (see attached testimony). Write this bill so it says *interim* in the language, but interim to a comprehensive land use plan or Southern Development Master Plan (SDMP). I propose there be a moratorium on a few things until we finish the SDMP and have limitations on height variances. We need input from the people which includes the Chamber of Commerce, developers, GVB, and GEDA in the master plan. I say ban all parking variances and setbacks in Southern Guam. If I were to modify the Zoning Law, add one more criteria to the granting of variances that you cannot use a self-created hardship. Did you intend that the Application Review Committee (ARC) review and the municipal hearings run concurrently?

Chairperson Ada: The interpretation from my office is that while the ARC are doing their analyses, the hearings are conducted.

Mr. Sablan: I think it should always be sequential. In regards to the time limit of the GLUC process, maybe we should loosen up the language and say that there needs to be adequate time. We have a hybrid GEDA-GLUC. The zoning code and the land use commission become very important and connect to our economy. We're using this 1967 Zoning Code and we're so far behind, but I'm hopeful for the SDMP.

Jonita Kerr, *Save Southern Guam, Inc.* (written testimony): She reads her testimony (see attached testimony). She is not in support of Bill 335. She urges the Legislature to modify Bill 318 by implementing Community Benefit Agreements (CBA) to ensure that developers keep their promises and the community realizes gains from the development.

Chairperson Ada: Thank you and I will take the time to look at this CBA concept.

Chairperson Ada adjourns the Public Hearing for Bill No. 335-33 (COR).

Written Testimonies Received:

1. Adrian Gogue, *Save Southern Guam, Inc.*
2. Jonita Kerr, *Save Southern Guam, Inc.*
3. Dianne Strong, *Save Southern Guam, Inc.*
4. Michael Borja, Director, *Department of Land Management*

5. Felix Dungca
6. Randel Sablan
7. John Thomas Brown
9. James Castro
10. Miguel C. Bordallo, General Manager, *Guam Waterworks Authority*

III. Findings and Recommendation

The Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement finds that based on input with various stakeholders from the public hearing, village hearing, Mayors' Council Meeting and written testimonies the following amendments were reflected in Bill 335-33:

1. Members of the Hybrid Guam Land Use Commission (GLUC) shall only consist of elected Mayors or Vice-Mayors.
2. The Four Municipalities represented on the Hybrid GLUC will be determined by the Mayors' Council.
3. Powers, duties and responsibilities of Mayors.
4. The threshold for empanelment of the Hybrid GLUC was changed to Five Million Dollars (\$5,000,000).
5. Provision to allow empanelment of Hybrid GLUC for projects **less than** Five Million Dollars (\$5,000,000).

The Committee further finds that the members of *Save Southern Guam, Inc.* were all opposed to Bill 335 due to several reasons found in their oral and written testimonies. The bill has been amended, as much as reasonably possible, or noted and will be addressed in a subsequent bill that will address land use decision processes.



Lastly, the Committee met with the Mayors Council of Guam on July 6, 2016 to discuss Bill 335-33 because none of the Mayors testified during the Public Hearing. The information briefing was very positively received.

The Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement, hereby reports out **Bill 335-33 (COR) as amended**, with the recommendation to report out.

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (Second) Regular Session

Bill No. 335-33/COB

Introduced by:

T.C. Ada 
T. A. Morrison 

2016 JUN 13 10:58 AM


AN ACT TO AMEND AND ADD NEW SUBSECTIONS (a), (b), (c), (d) AND (e) TO § 60401 OF CHAPTER 60, ARTICLE 4, TITLE 21 AND TO REPEAL § 61105 OF CHAPTER 61, ARTICLE 1, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION AND VOTES NEEDED FOR APPROVAL.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent.

I Liheslaturan Guåhan recognizes that the composition of the Guam Land Use Commission (GLUC) may not adequately be representative of the community that is to be affected by a land use decision that will be issued by the GLUC.

I Liheslaturan Guåhan intends to provide better municipal representation on the GLUC by giving the affected municipalities a vote on the GLUC.

Section 2. § 60401 of Chapter 60, Title 21, Guam Code Annotated is hereby amended to read:

“§ 60401. Territorial Land Use Commission.

There is within the government of Guam the Territorial Land Use Commission. The Commission shall be composed of ~~seven (7)~~ nine (9) members; ~~seven~~ five (5) to be appointed by the Governor by and with the advice and consent of the Legislature for a period of five (5) years; provided, however, that of the ~~seven (7)~~ five (5) members first appointed, one (1) shall serve for a term of one (1) year, two (2) shall

1 serve for terms of three (3) years each, and the remaining ~~four (4)~~ two
2 (2) shall serve for terms of five (5) years each, as designated by the
3 Governor.

4 The remaining four (4) members shall be designated as:

5 (a) Hybrid Membership of Commission. Newly
6 appointed hybrid commissioners will be designated as per the
7 respective municipality of the subject application before the
8 Commission.

9 i. (First Hybrid Commissioner) – The Mayor of the
10 respective municipality of the Application.

11 ii. (Second Hybrid Commissioner) – A sworn
12 Municipal Planning Council member chosen by the First
13 Hybrid Commissioner.

14 iii. (Third Hybrid Commissioner) – The Mayor of
15 the municipality adjacent to the respective municipality of
16 the Application.

17 iv. (Fourth Hybrid Commissioner) – The Mayor of
18 the municipality adjacent to the respective municipality of
19 the Application.

20 (b) The Chairman of the Commission shall vote only
21 in the case of a tie.

22 (c) The terms of hybrid commissioners shall end with
23 the final disposition of the specific municipal application
24 unless an appeal is made to the Superior Court; in which
25 case their term shall continue until final adjudication of
26 the appeal.

27 (d) Votes Needed for Approval.

1 i. When a Hybrid Commission is in place, a total
2 of five (5) affirmative votes; regardless of quorum, is
3 needed for the approval of any Commission action for
4 any decision in any zoning matter, change or variance;
5 except summary zone change applications.

6 ii. Otherwise, when a Hybrid Commission is not in
7 place, a total of three (3) affirmative votes; regardless of
8 quorum, is needed for the approval of any Commission
9 action for any decision in any zoning matter, change or
10 variance; except summary zone change applications.

11 (e) Project – Application Review. A Hybrid
12 Commission shall be empaneled for projects or applications
13 costing more than One Million Dollars (\$1,000,000).

14 **Section 3.** § 61105 of Title 21, Chapter 61, Article 1, Guam Code
15 Annotated, is hereby repealed.

16 ~~“§ 61105. **Vote Requirements for the Commission.**~~

17 ~~In any action by the Commission under this Title, including but~~
18 ~~not limited to approvals of zone, changes in zones, variances, appeals,~~
19 ~~and all other actions, four (4) affirmative votes of the members of the~~
20 ~~Commission shall be required. The Chairperson of the Commission~~
21 ~~shall vote on all matters before it.”~~

22 **Section 4. Severability.** If any provision of this law or its application to
23 any person or circumstance is found to be invalid or contrary to law, such
24 invalidity *shall not* affect other provisions or applications of this law that can be
25 given effect without the invalid provisions or applications and to this end the
26 provisions of this Law are severable.

I MINA'TRENTAI TRES NA LIHESLATURAN GUÁHAN
2016 (Second) Regular Session

Bill No. 335-33 (COR)

As Amended by the Committee on
Transportation, Infrastructure, Lands, Border
Protection, Veterans' Affairs and Procurement.

Introduced by:

T.C. Ada
T.A. Morrison

**AN ACT TO AMEND § 60401 OF CHAPTER 60, TITLE 21;
TO REPEAL § 61105 OF CHAPTER 61, TITLE 21 AND TO
ADD A NEW SUBSECTION (s) TO § 40112 OF CHAPTER
40, TITLE 5, ALL OF THE GUAM CODE ANNOTATED,
RELATIVE TO THE COMPOSITION OF THE GUAM
LAND USE COMMISSION; EMPANELMENT OF A
HYBRID COMMISSION; VOTES NEEDED FOR
APPROVAL; AND THE POWERS, DUTIES AND
RESPONSIBILITIES OF MAYORS.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan*

3 recognizes that the decisions of the Guam Land Use Commission (GLUC) and
4 other decisions affecting building, zoning, use and subdivision laws may not
5 adequately be representative of the municipality that is affected by such decisions.

6 *I Liheslaturan Guahan* reiterates its intent, expressed in 5 GCA § 1201(a)(4)
7 of the Centralized Planning Law, “*To ensure that the people of Guam are not*
8 *subjected to unbridled and unmanageable growth that would threaten the benefits,*
9 *comforts and privileges to which each Guam resident is entitled*”.

1 It is the intent of *I Liheslaturan Guahan* to provide more effective means by
2 which the municipality's concerns are heard and accommodated according to the
3 laws and regulations of real property uses.

4 **Section 2.** § 60401 of Chapter 60, Title 21, Guam Code Annotated is hereby
5 amended to read:

6 **“§ 60401. Territorial Guam Land Use Commission.**

7 (a) There is within the government of Guam the ~~Territorial~~
8 Guam Land Use Commission (“Commission”). The Commission shall
9 be composed of ~~seven (7)~~ five (5) members to be appointed by the
10 Governor by and with the advice and consent of the Legislature for a
11 period of five (5) years; provided, however, that of the ~~seven (7)~~ five (5)
12 members first appointed, one (1) shall serve for a term of one (1) year,
13 two (2) shall serve for terms of three (3) years each, and the remaining
14 ~~four (4)~~ two (2) shall serve for terms of five (5) years each, as designated
15 by the Governor. Quorum shall require the presence of three (3)
16 members.

17 (b) When, pursuant to this Act, a Hybrid Commission is to be
18 empaneled; four (4) additional members shall be seated and designated
19 as: “Municipal Commissioners (MCs)”.

20 1. MCs shall be appointed on an ad hoc basis as
21 determined by the location of a land use application submitted
22 pursuant to Title 21, Chapter 61, Guam Code Annotated, and in
23 accordance with the following guidelines:

24 (i) The First Municipal Commissioner shall be
25 the Mayor of the respective municipality where the land
26 use action will occur.

1 (ii.) The Second, Third and Fourth Municipal
2 Commissioners, who shall be elected Mayors or Vice-
3 Mayors shall, with the recommendation of the First
4 Municipal Commissioner, be appointed by the President of
5 the Mayors' Council.

6 2. The term of the Municipal Commissioners shall
7 terminate when final disposition of the land use application has
8 been completed.

9 3. Quorum under an empaneled Hybrid Commission
10 shall be five (5) members.

11 (c) Votes Needed for Approval.

12 1. When a Hybrid Commission is empaneled, a total
13 of five (5) affirmative votes is required for the approval of any
14 Commission action for any decision in any land use matter;
15 except summary zone change applications.

16 2. Otherwise, when a Hybrid Commission is not
17 empaneled, a total of three (3) affirmative votes is required for
18 the approval of any Commission action for any decision in any
19 zoning matter, change or variance; except summary zone
20 change applications.

21 (d) Empanelment of Hybrid Commission.

22 1. A Hybrid Commission shall be empaneled for
23 projects or applications projected to cost more than Five
24 Million Dollars (\$5,000,000).

25 2. If, notwithstanding (d)1. above, the Mayors'
26 Council, by Resolution, deems that a land use application

1 warrants the empanelment of a Hybrid Commission, a Hybrid
2 Commission shall be empaneled.”

3 **Section 3.** § 61105 of Chapter 61, Title 21, Guam Code Annotated, is
4 hereby repealed.

5 ~~“§ 61105. Vote Requirements for the Commission.~~

6 ~~In any action by the Commission under this Title, including but~~
7 ~~not limited to approvals of zone, changes in zones, variances, appeals,~~
8 ~~and all other actions, four (4) affirmative votes of the members of the~~
9 ~~Commission shall be required. The Chairperson of the Commission~~
10 ~~shall vote on all matters before it.”~~

11 **Section 4.** A New Subsection (s) is hereby added to § 40112 of Chapter
12 40, Title 5, Guam Code Annotated, to read:

13 **“§ 40112. Powers, Duties and Responsibilities.**

14 A Mayor shall perform the following duties and responsibilities
15 in his district:

16 (a) Serve as the direct administrative representative of
17 the people of the district from which he is elected.

18 (b) Plan and implement a street name and house
19 numbering system.

20 (c) Oversee, coordinate or undertake beautification
21 programs including a clean-up and removal of public nuisance
22 and debris, and, to this end, is hereby authorized to officially
23 utilize, establish regular and consistent working relations and
24 effectively coordinate with the Department of Public Works,
25 the Department of Parks and Recreation and any other entity
26 within the government of Guam and may also work with non-
27 profit organizations.

1 (d) In cooperation with the appropriate department or
2 agency conduct or cause to be conducted a periodic sanitary,
3 health and environmental inspection in accordance with
4 guidelines set forth by the appropriate public agency. He may
5 issue a warning for a first violation or report the same to the
6 appropriate government agency for action.

7 (e) Be responsible for the maintenance and security of
8 the Mayor's Office in his district.

9 (f) Be responsible for maintenance of village streets,
10 parks and recreation facilities, in conjunction with the
11 Department of Public Works and Department of Parks and
12 Recreation pursuant to § 40113 of this Chapter.

13 (g) Assist appropriate government agencies in
14 implementing social services and public assistance programs
15 with in his jurisdiction.

16 (h) Serve as peace officer and assist in the
17 maintenance of law and order in his district.

18 (i) Act as an official representative of his district at
19 legislative and executive public hearings involving matters
20 affecting his district.

21 (j) Assist in coordinating the civilian emergency
22 preparedness system in time of emergency or disaster.

23 (k) Submit an annual written report to the Governor
24 and the Guam Legislature on the activities of his office,
25 expenditure of funds allotted and make general comments and
26 recommendations relative to the state of his district.

27 (l) Make a report to the residents of his district on a

1 quarterly basis at a properly noticed public meeting to be held
2 within the district.

3 (m) Conduct an annual census and maintain a current
4 listing of names of all residents in his jurisdiction.

5 (n) Cooperate with any agency and department of the
6 government of Guam in matters pertaining to his district and
7 work jointly with officials of the government of Guam toward
8 the attainment of peace, order, justice and the general economic
9 and social welfare of the people of Guam.

10 (o) To issue citations to owners of property for failure
11 to remove property deemed unsafe by building officials
12 pursuant to §§ 66501 through 66507 of Title 21, Guam Code
13 Annotated. In the event that the owner does not remove the
14 unsafe structure, the Mayor or Vice-Mayor may have the
15 structure cleared and submit the bill to the owner for payment.
16 In the event that the Mayor or Vice-Mayor takes action to clear
17 the unsafe structure, a ten percent (10%) surcharge shall be
18 added to the bill, and the surcharge shall be deposited into the
19 Municipal Fund. Should the owner refuse to pay, the Mayor or
20 Vice-Mayor shall forward the claim to the Attorney General
21 requesting that steps be taken to record a lien against the
22 property in the amount of the unpaid bill.

23 (p) Coordinate with the Department of Public Works
24 (DPW) and the Guam Police Department (GPD) in determining
25 where speed bumps should be located in their village streets.
26 DPW shall construct and maintain such speed bumps after their
27 location is so determined and after obtaining the concurrence of

1 GPD. DPW shall post warning signs on such streets with speed
2 bumps cautioning drivers to beware of pedestrians and to slow
3 down.

4 (q) To administer the Oath of Office to Municipal
5 Planning Council members, and to officers-elect and board
6 members-elect of organizations and associations. This authority
7 may be delegated to a village Vice Mayor upon the discretion
8 of that same village's Mayor.

9 (r) To block or close off non-routed streets and
10 roadways in their villages during village funerals, fiestas, and
11 other events without obtaining any highway encroachment
12 permit from the Department of Public Works. The Mayor shall
13 post notice at the site indicating when the road closure is
14 pursuant to the authority granted herein.

15 (s) To serve on the Hybrid Guam Land Use
16 Commission as "Municipal Commissioners" pursuant to §
17 60401 of 21 GCA Ch 60 ."

18 **Section 5. Severability.** If any provision of this law or its application to any
19 person or circumstance is found to be invalid or contrary to law, such invalidity *shall not*
20 affect other provisions or applications of this law that can be given effect without the
21 invalid provisions or applications and to this end the provisions of this Law are severable.

Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement
Confirmation / Public Hearing
June 27, 2016
5:00pm
I Liheslaturan Guåhan, Hagåtña

Bill No. 335-33 (COR) – T.C. Ada / T.A. Morrison

An act to amend and add new subsections (a), (b), (c), (d) and (e) to § 60401 of Chapter 60, Article 4, Title 21 and to repeal § 61105 of Chapter 61, Article 1, Title 21, Guam Code Annotated, relative to the composition of the Guam Land Use Commission and votes needed for approval.

NAME (please print)	AGENCY/ ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR	CONTACT NUMBER	EMAIL ADDRESS
✓ Adrian Gage	Save Southern Guam	✓				498-6578	magehett@gmail.com
✓ Dianne Strong	Save Southern Guam	✓			✓	687-9647	strong@guam.net
✓ Ted Nelson	Self	✓			✓	727-355	
✓ MICHAEL BORTA	DLM		✓				
ZITA Panglinen		✓			✓	727-7117	zpanglinen@gmail.com
Randy Sablan	self	✓				898-1295	
✓ John Arroyo	GLUC	✓				688-0873	jarroyo@guam.net
Joni Kerr	Save Southern Guam	✓	✓			797-1477	jonikerr@gmail.com

27 June 2016

To: Senator Thomas C. Ada, Chairperson, Committee on
Transportation, Infrastructure, Lands, Border Protection,
Veterans' Affairs, and Procurement
From: Adrian Gogue, Vice Chairperson, Save Southern Guam, Inc.
Subj: BILL 335-33 (COR): AN ACT TO AMEND AND ADD NEW SUBSECTIONS
(A), (B), (C), (D) AND (E) TO § 60401 OF CHAPTER 60,
ARTICLE 4, TITLE 21 AND TO REPEAL § 61105 OF CHAPTER 61,
ARTICLE 1, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE
COMPOSITION OF THE GUAM LAND USE COMMISSION AND VOTES
NEEDED FOR APPROVAL

1. Buenas Noches Senator Thomas Ada, Senator Tommy Morrison, and fellow islanders. I am Adrian Gogue, resident of Ordot-Chalan Pago, and a member of Save Southern Guam, Inc.
2. Save Southern Guam, Inc. does not support Bill 335-33 as proposed due to the following:
 - a. The proposed Hybrid Commission composition is similar to the existing Guam Land Use Commission application process and will typically result in a land use decision in favor of the appointed commissioners.
 - b. The 2 Hybrid Commissioners for adjacent municipalities does not include all adjacent municipalities (e.g. a project in Ordot-Chalan Pago will include the adjacent municipalities of Mangilao, Sinajana, and Yona).
 - c. The \$1,000,000.00 threshold that must be met to empanel a hybrid commission denies the Municipal Planning Councils a true voice on projects and applications impacting their communities.
3. Save Southern Guam, Inc. is a grass roots movement advocating the protection of the seashore and coastal beauty of southern Guam. Our group further advocates responsible development along the seashore and coastal areas in accordance with Guam Code Annotated (GCA), Title 21 (Real Property) that include but not limited to Chapters:
 - 61 (Zoning Law),
 - 63 (Guam Territorial Seashore Protection Act of 1974),
 - 64 (Ocean Shores: Territory Beach Areas), and
 - 65 (Public Access to the Ocean Shore).
4. Save Southern Guam, Inc. recognizes land use is an integral part to our island's social and economic future. Bills 318-33 and 335-33 put land use at the center of our attention and we

Subj: BILL 335-33 (COR): AN ACT TO AMEND AND ADD NEW SUBSECTIONS (A), (B), (C), (D) AND (E) TO § 60401 OF CHAPTER 60, ARTICLE 4, TITLE 21 AND TO REPEAL § 61105 OF CHAPTER 61, ARTICLE 1, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION AND VOTES NEEDED FOR APPROVAL

look forward to the Committee on Lands' upcoming Roundtable Hearing for Bill No. 318-33 (COR), on Wednesday, July 13, 2016.

5. We encourage fellow islanders and anyone who shares our message to join our cause. You could visit us on Facebook. The time has come to save what remains of our southern seashores and coastal beauty. The stakes are too high for us to just sit idle and remain silent. The people's voices need to be heard to stand up against big money and special interest groups.

6. In closing, let us remind ourselves of the Inifresi Pledge:

Ginen i mäs takhilo' gi hinasso-ku
I mäs takhalom gi kurason-hu,
Yan i mas figo' na nina'siña-hu,
Hu ufresen maisa yu'
Para bai prutehi yan hu difende
I HINENGGE,
I KOTTURA,
I LENGGUÅHI,
I AIRE,
I HANOM yan I TANO' CHAMORU
Ni' irensiå-ku direchu ginen as Yu'os Tåta,
Este hu afitma gi hilo' I Bipblia yan I Banderå-hu,
I Banderan Guåhan.

7. Senators, Un Dang'ka'lu Na Si Yu'us Ma'ase para un Satba y Haya Guahan para fan gosa y generasion agupa. Thank you Senators for wanting to Save Southern Guam for generations to enjoy.

Senseramente,



Testimony Provided in Opposition to Bill 335-33 – 27 June, 2016

Good Evening Senators:

I am opposed to Bill 335-33 for the following reasons:

The bill fails to recognize that more than four villages could be affected by a project. For example, traffic associated with construction and subsequent occupancy of the Pago Bay Marine Resort would also affect Mangilao, Sinajana, Talofofo, Inarajan, and Merizo.

The bill potentially places too much power with the GLUC commissioners. If the hybrid commission votes on a project and a tie were to occur between the four appointed commissioners and four hybrid-commissioners, then the Chair of the Commission, in casting the tie-breaking vote could cast his vote with the appointed commissioners. This scenario is not much different from the operating methods of the current GLUC.

The current GLUC is comprised of commissioners appointed by the Governor and confirmed by the Legislature. The Commission has demonstrably failed the community as it operates like an independent body. While hearings are ostensibly provided for public input, the GLUC chooses to meet at a time that is difficult for working residents to attend. Moreover, the conditional approval of the Pago Bay Marina Resort Hotel project, was made in spite of overwhelming opposition from residents, submissions of opposing resolutions from both the Ordot-Chalan Pago and Yona Village Municipal Councils, and the Mayors' Council.

Testimony provided during the hearing held June 9th for Bill 318-33 recognized that the current system used for vetting projects is broken and needs to be fixed. I urge this legislative panel to consider modifying Bill 318-33 by implementing Community Benefit Agreements or CBAs, or a similar plan that can be used to fix our system. Village municipal councils that more truly represent the residents most affected by potential development can employ CBAs.

A Community Benefit Agreement is an agreement between developers and members, or organizations, of a community. With a CBA, residents and organizations are provided a voice in vetting a project, as well as a way to ensure that a developer provides benefits for the community, and that the developer delivers on those promises. While CBAs might not offer all the solutions, elements of the CBA method can be adopted to ensure that developers keep their promises and the community realizes gains rather than losses from development.

I provide the following references for your perusal:

http://goodjobsny.org/sites/default/files/docs/cba_handbook_2005_final.pdf

<http://www.shareable.net/blog/how-community-benefits-agreements-protect-local-communities>

<https://lawreview.uchicago.edu/sites/lawreview.uchicago.edu/files/uploads/77.1/77-1-Vicki%20Been-CommunityBenefitsAgreements.pdf>

Saina Ma'åse,



Jonita Quenga Kerr

Resident of Dededo and Founding Member of Save Southern Guam, Inc.

27 June 2017

In Preservation of Guam's Beauty – and Supporting Guam Tourism

I am Dr. Dianne Strong, a resident of Yona. I am here to OPPOSE Bill No. 335-33 (COR) by T.C. Ada, and T.A. Morrison: **relative to the composition of the Guam Land Use Commission and votes needed for approval.**

Every day hundreds of tourists – most of them from Asia – rent cars or ride busses that pass over the Pago Bay Bridge – the *Gateway to Southern Guam*. They pay to come here to see something different. They don't want to see the same skyscrapers they see at home in Daegu or Seoul, Korea, in Shanghai or Hong Kong, in Manila, Singapore or Tokyo. They come to see the natural beauty of Guam.

I came to Guam 44 years ago. I came from a quaint town in Connecticut founded in 1659. Woodbury has 32 antique shops, five colonial-style white churches on Main Street, and NO neon lights.

I come from a family history of town governance. The town has fewer than 10,000 residents—a population far smaller than Guam's 170,000. And yet this town has a Zoning Commission with five commissioners **elected** for four years on a rotating basis. It also has an Inland-Wetlands Agency with five **elected** members serving four years.

Applicants come before these “municipal” bodies with their proposed plans to alter the quaint colonial town, which is a 90-minute drive from New York City. After they describe their development plans, my mother, and later my sister, who have chaired these bodies, have asked them, “If you want to change this place, why did you come here?”

On April 28, 2016, four **appointed** members of the Guam Land Use Commission voted to conditionally approve two high-rise towers at Pago Bay. Every one of those commissioners was chosen and appointed by a Guam governor before being confirmed by the Legislature. **These four people ignored the voices of hundreds.** Pago Bay is a residential community, not a second Tumon Bay.

In 1974, Guam's tourism industry was an infant. Visionaries like Martin Pray, David Tuncap, Robert Jones, Rex Willis and Bert Unpingco worked to grow Guam. The Guam Legislature and Guam's people had the foresight to protect our greatest resource: our seashore. The **GUAM TERRITORIAL SEASHORE PROTECTION ACT OF 1974** SOURCE: GC '13410 enacted by **P.L. 12-108. § 63102 .**

The people of the territory of Guam hereby find and declare that the Guam Territorial Seashore Reserve is a distinct and valuable natural resource belonging to all the people of Guam and existing as a delicately balanced ecosystem; that the permanent protection of the natural, scenic, and historical resources of the seashore reserve is a paramount concern to the present and future residents of this island; that in order to promote the public safety, health, and welfare, and to protect public and private property, wildlife,

marine life, and other ocean resources, and the natural environment, it is necessary to preserve the ecological balance of the seashore reserve and prevent its deterioration and destruction; that it is the policy of this territory to preserve and protect the resources of the seashore reserve for the enjoyment of the current and succeeding generations.

If we want to grow Guam to welcome two million tourists by 2020, we need a Guam that we can still live in AND tourists will want to visit.

We need to balance the desires of the people who live here with the desires of the people who want to do business here.

On April 28, 2016, four members of the Guam Land Use Commission voted to conditionally approve two high-rise towers at Pago Bay. They had already closed the “period for public comment.” And yet on that day they accepted SUPPORTIVE testimony in the form of petitions. Ninety five percent of the signers were not from Yona, and 65% were not registered voters.

The petitions stated the Pago Bay Resort was an “example of responsible, sustainable, 21st century development that takes into account history, cultural, indigenous and rare species, the Pago Bay River and nearby wetlands and habitats, and all other environmental, economic and life concerns.”

But it made no difference when this testimony was received. The Pago Bay Hotel had been “fast tracked” long before the appointed commissioners voted. They just went through the motions of hearings, and disregarded the testimony of hundreds who have OPPOSED this project.

How will the proposed “Hybrid Commission” be the solution? It can’t be. The whole system of planning on Guam is flawed by “planning one variance at a time,” and by a system that is not transparent and favors development over the quality of life of Guam’s residents.

Bill 335 is a “band aid” measure that is flawed. We need to review the GUAM TERRITORIAL SEASHORE PROTECTION ACT OF 1974 and the very basis of Guam’s laws on zoning and variances.

We need to find a system that gives WEIGHT to the people who live next to a proposed development, and gives them transparency when their APPOINTED government servants take actions that disregard overwhelming opposition.

As a founding member of Save Southern Guam, Inc., I stand ready to assist in the process of overhauling our government’s bureaucracy that has taken away our voices that cry out to preserve our quality of life.



DIPATTAMENTON MINANEHAN TANO'
 (Department of Land Management)
GUBETNAMENTON GUAHAN
 (Government of Guahan)



EDDIE BAZA CALVO
 Governor of Guahan

MICHAEL JB BORJA
 Director

RAY TENORIO
 Lieutenant Governor of Guahan

DAVID V. CAMACHO
 Deputy Director

Street Address:
 590 S. Marine Corps Drive
 Suite 733 ITC Building
 Tamuning, GU 96913

Mailing Address:
 P.O. Box 2950
 Hagåtña, GU 96932

Website:
<http://land.guam.gov>

E-mail Address:
dlmdir@land.guam.gov

Telephone:
 671-649-LAND (5263)

Facsimile:
 671-649-5383

June 23, 2016

Senator Thomas C. Ada
 33rd Guam Legislature
 Chairman, Committee on Transportation,
 Infrastructure, Lands, Border Protection,
 Veteran's Affairs and Procurement
 173 Aspinall Ave, Ste 207
 Hagatna, Guam 96910

RECEIVED by the
 Office of Senator
 Thomas C. Ada
 6/24

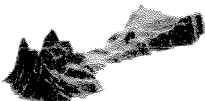
SUBJECT: Bill No. 335-33 – AN ACT TO AMEND AND ADD NEW SUBSECTIONS (a), (b), (c), (d) AND (e) TO §60401 OF CHAPTER 60, ARTICLE 4, TITLE 21 AND TO REPEAL §61105 OF CHAPTER 61, ARTICLE 1, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION AND VOTES NEEDED FOR APPROVAL.

Buenas Yan Hafa Adai!

This bill proposes the inclusion of what should be called auxiliary commissioners to the Guam Land Use Commission. If this is the desired route, then I must continue to emphasize that the membership consist only of those persons who are appointed by the Governor and confirmed by the Legislature, and an elected official as certified by the Guam Election Commission, such as the mayors of Guam.

In establishing these ancillary duties of the mayors of Guam to serve as a voting member on the Guam Land Use Commission on specific municipal matters, then Title 5, Guam Code Annotated, Chapter 40, Section 40112, Powers, Duties and Responsibilities, needs to be additionally modified to incorporate the duties this bill is establishing.

Concerning the need for a mayor of an adjacent municipality participating in a voting decision on a land use application, this need should be reevaluated. A mayor from an adjacent municipality should only become involved when the five hundred foot radius of the land use application project reaches into their respective municipality. In these instances, residents within the five hundred foot radius of the land use application project would be contacted, regardless of the municipality. When a land use application project encompasses multiple municipalities, then all those respective mayors should become



involved. Now imagine a realistic scenario of several project applications affecting different municipalities on the agenda with each requiring the attendance of many different mayors.

The one million dollar threshold established in this bill may be somewhat low and consideration should be given to raise the threshold amount. Projects of substantial standing are generally much greater in cost. A suggested threshold would be five million dollars.

Finally, the issue resulting in the creation of this legislation is based on an unpopular yet fundamentally legal decision made by the Guam Land Use Commission. As in any of their decisions, there is an appeal process established by law. In this specific decision, the only remedy set by law to appeal this decision was to petition the court. In accordance with the law, two separate petitions were filed in the Superior Court of Guam and are currently under review. While no decisions from the Court have yet been issued, it may be prudent to await the Court's decisions to determine if this legislation may be necessary.

Regardless of the outcome of this bill, the true fix is to seriously engage in and approve a masterplan of the whole island which can best guide future land use activities and provide transparency for land owners and potential developers, alike. The Department of Land Management and the Guam Land Use Commission stand ready to assist with the formulation of a comprehensive land use plan.

Thank you very much for permitting me to provide this testimony.

Senseramente,

A handwritten signature in black ink, appearing to read "Michael J.B. Borja", with a horizontal line extending to the right.

MICHAEL J.B. BORJA
Director

July 26, 2016

Senator Thomas C. Ada, Chairman
Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Tremai Tres Na Libeshlaturan Guahan
33rd Guam Legislature
Ada Plaza Center, Suite 207
173 Aspinall Avenue
Hagatna, Guam 96910

Re: Testimony in Support- Bill 335-33 (COR)

Buenas yan Hafa Adai !

Thank you for giving me an opportunity to comment on the above bill. I have reviewed this amended version and find it satisfactory as per its' Legislative Findings and Intent to ensure that municipalities and its' residents are afforded an opportunity to review, comment and participate on any proposed future development in their village.

I am therefore in support on this proposed legislation and encourage the members of your committee as well the full 33rd Guam Legislature to support it.

Si Yu'os Ma ase.


Felix R. Dungca, CFP

P.O. Box 24361
Guam Main Facility
Barrigada, GU 96921

Email: guam@pannet.gyabov.com

James P. Castro

P.O. Box 20731, GMF
Barrigada, Guam96921

June 29, 2016

Honorable Thomas C. Ada
Chairman, Committee on Transportation, Infrastructure,
Lands, Border Protection, Veterans' Affairs
and Procurement
33rd Guam legislature
Hagåtña, Guam 96910

Re: Statement on Bill No. 335-33 (COR) Relative to the Guam Land Use
Commission and votes needed for approval.

Dear Mr. Chairman and Members of the Committee:

Once again, we being asked to comment on legislation that affects our land use planning processes. This time, we are reviewing legislation that will “empower mayors and make them more involved in the disposition of land matters within their respective municipalities.”

A closer look at **Bill No. 335-33 (COR)** by Senators T. C. Ada and T. A. Morrison, amends and adds new subsections (a), (b), (c), (d) and (e) to §60401 of Chapter 60, Article 4, Title 21 and repeals §61105 of Chapter 61, Article 1, Title 21, Guam Code Annotated, relative to the composition of the Guam Land Use Commission and votes needed for approval.

Since a Hybrid Commission shall be empaneled for projects or applications costing more than One Million Dollars (\$1,000,000) ... are members of the Hybrid Commission going to be subjected to the provisions of Chapter 13, Title 4, Guam Code Annotated, the “**Public Official Disclosure Act**”.

Mr. Chairman, the proposed legislative measure has good intent. However, they only provide a “**band aid**” solution to the proposals at hand and in the long run will only serve to deter proper and sound development on our island.

A case in point ... when the Guam Land Use Commission was doing their due diligence on the applications that they have received. People complained that the Commission was taking to long to review and approve their projects. So, rather than having the Land Use Commission finish their review...they brought their

projects to the Guam Legislature. These projects ranged from zone changes to construction of high rise projects.

Now, our residents are suffering from the legislature's overzealousness in rezoning and approving variances. Inadequate infrastructure and flooding of residential areas are now being experienced. It came to a point where if you wanted a zone variance or a zone change, you bring your documents to the Legislature.

Lets not forget that the Guam Land Use Commission (GLUC) was established to be a decision-making body empowered to grant subdivision approvals, zone changes, conditional uses and variances from land use laws and regulations as well as Seashore Reserve and Wetland Permits. More importantly, they have a cadre of professional staff assisting the Commission. The Director of the Department of Land Management serves as the Executive Secretary of the Commission; the Chief Planner and staff of the Planning Division, Department of Land Management, perform the research, administration and enforcement functions on behalf of GLUC.

Unlike the Guam Legislatures public hearing process, a technical review process is performed by the Application Review Committee (ARC). This Committee is composed of representatives from each of the following agencies: Department of Land Management, Bureau of Statistics and Plans, Department of Public Works, Guam Environmental Protection Agency, Department of Agriculture, Guam Waterworks Authority, the Department of Parks and Recreation (DPR), and the Guam Power Authority (GPA).

The Application Review Committee provides technical recommendations to the Guam Land Use Commission for final consideration in deciding on an applicant's request. This review process usually requires three to four months time, unless complexities of a project or inadequacies of a submittal require additional reviews.

If we look at the statutes, we find that the Mayors and Vice Mayors are authorized to participate in the consideration of capital improvement projects. Furthermore, it provides that they Mayors and Vice Mayors together with their respective Municipal Planning Council members are allowed to express their views, make recommendations on the proposed projects for their districts. Also, it provides that "all government of Guam departments and agencies *shall* advise in writing and appraise the Mayor of any public works project or activity to be under taken in his district at least five days prior to the start of said project or activity. In case of an emergency, said department or agency shall advise the Mayor of the same immediately." (P.L. 14-27:9, amended by P.L. 20-33: 1).

A closer look also reveals that §40128, Chapter 40, Title 5, Guam Code Annotated, empowers the Mayor and the Municipal Planning Council with certain powers,

duties, responsibilities, including the right to review and express a view on all variance applications, zone changes, and government leases involving land within their districts, pursuant to §§ 61623, 61638, and 60115 of Title 21, Guam Code Annotated.

Lastly, Bill No. 57-33 (LS), signed into law on September 15, 2015 as PL 33-68, amended Subsection (f) of §40128, Article 1, Chapter 40, Title 5 Guam Code Annotated. Public law 33-68 **“allows the Municipal Planning Councils to review projects proposed to the Guam Land Use Commission, and further authorizes the Director of Department of Land Management to include the Mayors in the GLUC Zoning and Construction Forms.”**

A closer look at the amendment reveals that **“The Municipal Planning Council of each municipal district to be affected by other proposed projects reviewed by the Guam Land Use Commission shall review the request and express its opinion thereon by Resolution adopted by a majority of its members, and such resolution shall be forwarded to the Guam Land Use Commission.”**

The enactment of P.L. 20-217 in 1990, provided that **“the Municipal Planning Council of each municipal district to be affected by a proposed zone change shall within forty (40) days from the date of a public hearing held thereon by such council express its opinion thereon by resolution adopted by the majority of its members. Such resolution shall be forwarded to the Governor for his consideration thereof pursuant to §61634 within twenty (20) days from the date of its adoption.”**

As you can see, the municipalities, through the mayors and their planning council members have always been involved in the formulation of land use policies prior to taking action.

Sincerely,

A handwritten signature in black ink, appearing to read 'James P. Castro', written over a large, loopy flourish.

JAMES P. CASTRO

Randel Sablan
P.O. Box 3593
Hagatna, Guam 96932

Subject: Testimony on Bill 335-33

27 June 2016

Dear Chairman Ada, Senator Morrison and members of the Committee,

I do not support Bill 335-33 in its current form. Bill 335-33 fundamentally maintains the current power structure by territorial government over villages. We need change and Bill 335-33 is an honest effort to facilitate that change. I very much appreciate the effort.

It seems to me the GLUC attempts to balance “general welfare” of the entire island (see Section 61102) in stead of weighing the requirement of Section 61617 (c) of the zoning law which clearly identifies that “public welfare” is exclusive to the “zone or neighborhood in which the property is located....” Appropriately, it is not “general welfare” for the whole of Guam that zoning administrators (GLUC) should be concerned with when evaluating variances. The whole of Guam’s welfare should be addressed in comprehensive planning including, if necessary, special districts and planned areas, ideally as part of a comprehensive plan.

The zoning law in Section 61617 first protects the interests of all landowners, adjacent and nearby (i.e., the neighborhood), with regard to variance requests. I think the framers of the Zoning Law intended it to have an overarching and comprehensive application (statutory intent) to the Territory while providing criteria for variances that narrows geographically to ensure the welfare of the neighborhood. The language differences in 61102 and 61617, when taken in proper context, are purposeful and appropriately powerful. The people have a voice and that voice can be a deciding factor whether by petition, testimony at village hearings, testimony at GLUC hearings, or when MPCs pass resolutions. If we really followed the law (61617 in particular) we might have reached a conclusion decades ago that we need a new master plan and in the current context that MPC authority to first approve variance requests would not be necessary. But, I submit many residents no longer trust central government, as they seem to have other priorities and probably always will.

It would be productive and appreciated if the GLUC hosted village meetings with mayors and MPCs to conduct community-visioning workshops once per month to guide and provide scoping input to the southern development master plan (SDMP). The GLUC could hear variances and other zoning matters at one of their monthly meetings and then visit the villages to listen and accurately represent community interests to the SDMP overseers. The GLUC would complete the first leisurely round of village meetings in just seven months! As a Talofofa land owner I would enthusiastically participate.

The Department of Land Management (DLM) planning division should provide technical and administrative support to the MPCs just as they have for the GLUC for decades. The basic intent of Bill 318-33 could and should eventually work with modifications to address legal concerns and train the MPCs to ease into zoning administration.

At this point, I believe we need to take a step back and think about how we transition to authorizing MPCs to permanently assume zoning administration – an interim solution as you mentioned at the hearing last night. I propose a two-step process that integrates efforts to develop a SDMP, protects private property rights in our neighborhoods while shaping development in harmony with community character and ensures a new zoning code is developed based on the SDMP.

STEP 1

Amend Bill 335-33 to include the following provisions or something similar as an interim measure until a SDMP is passed and in full force.

- **Modify the composition such that municipal representatives outnumber the remaining GLUC membership, five to four in favor of municipal leadership** works for me. The interim period (probably 2 years) is valuable to be able to bring Mayor's up to speed and assess how best to structure MPC zoning administration. A new master plan and accompanying new zoning code should greatly reduce variance requests to a "trickle", as it should be. Zoning administration work for the MPCs should be minimal and actually add value to traditional community work – strengthen their relationships with constituents.
- **Impose limits on the granting of height variances** at no greater than approximately 66 percent of what is allowed by current law (this would allow a maximum of five stories in most zones except for along beaches which is governed more restrictively by Section 61504(b) and in Hotel zones where I believe six stories is allowed).
- **I'm not suggesting we simply begin to default to these new limits because we are in an "interim" period.** All provisions (findings) of Section 61617 must still be met.
- **Establish a moratorium on the following:**
 - Parking variances
 - Use variances (if this type variance is still entertained)
 - Setback variances (I think our setback standards are very generous)

- Zone changes to Multi-Family ("R2"), Planned Unit Development ("PUD" or "PD") on parcels greater than something in the range of three to five acres (no "major" development zone changes)
 - Zone changes to Hotel/Resort ("H")
 - Zones changes to Light and Heavy Industry ("M1" and M2") except for public purposes
 - Establishment of new districts of any kind
- Only minor modification of building location, setbacks, open space, or integrated uses (**no height or density modifications unless the proposal is a reduction**) of any previously approved PUD for which a new plan, design or related master plan is desired by the developer/owner.
 - **Amend §61617 of the Zoning Law to prohibit the use of self-created hardship and personal circumstances as justification for the granting of variances**...sample language is provided here:

“(b) That hardship does not result or stem from the personal circumstances of the applicant and that special conditions, circumstances, or hardship do not result from the actions of the applicant;

- **Establish a new requirement that the DLM Chief Planner obtain certification from the American Institute of Certified Planners (AICP).** AICP certification is the industry standard and many cities and municipalities have developed requirements for such at the higher levels of management. I think it is time we take the next step to support our planners with contemporary tools, capacity, knowledge and requisite funding to ensure continuing education. I ask that the Committee examine the requirements at <https://www.planning.org/aicp/>

The opening statement on the website reads;

“The American Institute of Certified Planners is APA’s professional institute and provides the only nationwide, independent verification of planners’ qualifications. Certified planners pledge to uphold high standards of practice, ethics, and professional conduct, and to keep their skills sharp and up-to-date by continuously pursuing advanced professional education.”

It could be that an AICP credentialed planner would have known about Community Benefit Agreements (CBA) and could have informed policy makers and community pundits that in fact any municipality even the current GLUC could move toward negotiating benefits (with legislative authority) as special projects on a case-by-case basis and reach accommodations to secure approval. For example, if the maximum height

allowed by law is three stories and there's analysis-supported justification or "findings" to grant a couple more stories but the developer desires yet another couple stories then the developer could offer to enter into negotiations with a community for more height in exchange for direct community benefits.

Senators Aguon and Morrison were not only spot on in this regard but they may have glimpsed the future. They were looking for equitable ways to arrive at consensus for the benefit of all involved. Good development ideas abound so why can't we harness the best, mitigate impacts and add value to neighborhood quality of life? CBAs are not "silver bullets" and there are no perfect systems when dealing with community values but to imply that communities should not be allowed to organize and negotiate (contract) for benefits is a bit arrogant and short sighted.

STEP 2

Legislate that the SDMP Task Force develop model zoning code legislation that supports the SDMP and have both documents with supporting analysis submitted to the Governor and Legislature for approval. The model code should include a transition from GLUC to MPC zoning administration.

On a separate but related issue, you may have noticed that I took the liberty to interpret the identity of the GLUC. I think they are the Territorial Planning Commission (TPC), the Territorial Land Use Commission, and one other council authorized under P.L. 12-200. All of these identities still exist in various laws and regulations. I could be interpreting these identities erroneously.

It would be useful to review all land use, zoning, seashore, comprehensive planning and related real property regulations (wetlands, flood hazard, Natural Resources Board, Interim Hotel rules or standards, subdivision rules and regulations, etc.) to ensure clarity of function, duty and authorization. The list identifying where TPC "powers" are applicable in 18 GAR §3107(1) through (6) and from what statutory authority those regulations originate is confusing. I always thought that proper legal construct dictates that powers come from statutes and not regulations. What I think has happened is that some laws have been amended introducing different named commissions having the same authority and power and that nobody has not taken the time to amend regulations or introduce legislation to explain or harmonize commission names and their respective powers.

Finally, the Zoning Law alone is a difficult statute to follow. It's a critical law that should be easy for the public to comprehend. Hopefully, when we have a model code to support the SDMP it will be clear that the Legislature should repeal and replace 21 GCA Chapter 61 in its entirety rather than try to amend the Zoning Code yet again.

Sincerely,

A handwritten signature in black ink, appearing to be the name 'Randy' written in a cursive, stylized script.

Randy



Senator Tom Ada

Tom Ada <tom@senatorada.org>

This time with attachment Re: Bill 335-33 re role of Mayors and MPCs in land use matters

3 messages

John Thos. Brown <jngo@ozemail.com.au>

Fri, Jul 8, 2016 at 5:28 PM

Reply-To: "John Thos. Brown" <jngo@ozemail.com.au>

To: "John Thos. Brown" <jngo@ozemail.com.au>, Mayor Louise Rivera <mayorlcrivera.tatuha@gmail.com>

Cc: Tom Ada <tom@senatorada.org>

----- Original Message -----

From:

"John Thos. Brown" <jngo@ozemail.com.au>

To:

"Mayor Louise Rivera" <mayorlcrivera.tatuha@gmail.com>

Cc:

"Tom Ada" <tom@senatorada.org>

Sent:

Fri, 08 Jul 2016 17:20:17 +1000

Subject:

Bill 335-33 re role of Mayors and MPCs in land use matters

Dear Mayor,

Following our MPC meeting Thursday evening, and your particular comments about the need for the Mayor and/or MPC to have an effective role in approval and enforcement of land use decisions, I have come with the attached. It differs in approach from the bill. The bill assumes if the mayors get a few more votes on the GLUC, the outcome will be different.

While I believe that is possible, to me the real grit is behind the vote and establishing the groundwork for the decision. Thus, this proposal enhances the weight to be given to MPC opinions, explicitly saying that the MPC opinion overrides conflicting indicators in general plans. It avoids the vague and ambiguous determinations of who would be first, second, third and fourth MC. It establishes the MPC as the voice of the people, which is handy when people for whatever reason do not get to a hearing. It gives some enforcement bite to the existing requirement of the Director of DPW to investigate failed conditions. It improves, I believe, the administrative review powers of the Commission by giving it de novo review, similar to the Civil Service Commission and OPA procurement review. It borrows from the model dealing with grants of variances to make it clear that the requirement that the grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located is a separate an *independent* requirement to grant the variance or other change. Thus, if this factor is not met, the grant of variance/change should not be given. Finally, it gives the Mayors a role in the Development Review Committee, which is a creature created by Executive Order and regulation (18 GAR Article 7 at § 3701 et seq.). The voting members include the Territorial Planner, DPW, DEPA, DPR, GWA/GPA aka PUAG, Dept Ag, Chamorro Language Commission, GFD DPHSS, and DOE but not Mayors. I'm not familiar with what actually goes on, but if the DRC has the authority the regs indicate, Mayors must have a hand in that too.

Anyway, I may have wandered far down the dirt road and into the weeds, but this proposal with give teeth where the current one has none.

Let me know your thoughts and reactions.

Cheers, John

**A rough re-write of Bill 335 to give greater effect to community interests in property use laws.pdf**

74K



GUAM WATERWORKS AUTHORITY

Gloria B. Nelson Public Service Building
688 Route 15, Mangilao, Guam 96913

copy to file
8/10/16
3:00pm
RECEIVED by the
Office of Senator
Thomas C. Ada

MEMORANDUM

August 3, 2016

TO: Senator Thomas C. Ada
Senator Thomas A. Morrison

FROM: Miguel C. Bordallo, P.E., General Manager *MB*

CC: Director, Department of Land Management

SUBJECT: Bill 335-33

Guam Waterworks Authority is a member of the Guam Land Use Commission's Application Review Committee. Bill 335-33 has been reviewed and comments are offered below.

- ✓ (1) Proposed §60401(a) indicates that the third and fourth hybrid commissioners will be from a municipality adjacent to the proposed development. The process to fill hybrid commissioner positions when a proposed development has more than two adjacent municipalities is not identified.
- * ✓ (2) Currently, four commissioners establish a quorum per Guam Administrative Rules and Regulations, Title 18, Chapter 3, Article 1, §3117. The number of commissioners needed for a quorum for both hybrid and non-hybrid commissions is not identified.
- ✓ (3) Proposed §60401(d)(i) and (ii) identify the required number of affirmative votes for approval of a commission action, regardless of quorum. A quorum should be met in order for a commission meeting and vote to take place.
- (4) Proposed §60401(e) indicates that a project with a cost less than or equal to one million dollars will be reviewed by a non-hybrid commission, while a project with a cost greater than one million dollars will be reviewed by a hybrid commission.
 - (i) The term "cost" is not defined. A definition should specifically identify items included or excluded from the total cost, such as land purchase, construction on the subject lot, engineering design, and offsite utility improvements.
 - (ii) Considering current construction costs, the threshold value of one million dollars will include projects that may not warrant a hybrid commission review. A higher threshold value, such as one and a half million dollars, may be more appropriate to address the concerns of local residents and mayors, as well as developers.
 - (iii) A requirement for tracking changing costs for a project approved by a non-hybrid commission is not identified. Requirements for an additional review by a hybrid commission, should a project's actual cost exceed the threshold value, is not identified.
 - (iv) The proposed language does not preclude hybrid commission review for projects that will cost less than one million dollars.

If you have any questions, please contact me at 300-6848.



COMMITTEE ON RULES

I Mina'trentai Tres na Liheslaturan Guåhan • The 33rd 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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CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
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V. Anthony Ada
MINORITY LEADER

Mary C. Torres
MINORITY MEMBER

June 27, 2016

Memorandum

To: Rennae Meno
Clerk of the Legislature

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

Subject: Fiscal Notes

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below.
Please note that the fiscal notes are issued on the bills as introduced.

FISCAL NOTES:

Bill No. 310-33(COR)

Bill No. 335-33(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2016 JUN 27 PM 12:03

Bureau of Budget & Management Research
Fiscal Note of Bill No. 335-33 (COR)

AN ACT TO AMEND AND ADD NEW SUBSECTIONS (a), (b), (c), (d), AND (e) TO § 60401 OF CHAPTER 60, ARTICLE 4, TITLE 21 AND TO REPEAL § 61105 OF CHAPTER 61, ARTICLE 1, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION AND VOTES NEEDED FOR APPROVAL.

Department/Agency Appropriation Information

Dept./Agency Affected: Department of Land Management	Dept./Agency Head: Michael J.B. Borja, Director
Department's General Fund (GF) appropriation(s) to date:	413,674
Department's Other Fund (Specify) appropriation(s) to date: Land Survey Revolving Fund	3,111,311
Total Department/Agency Appropriation(s) to date:	\$3,524,985

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2015 Unreserved Fund Balance		\$0	\$0
FY 2016 Adopted Revenues	\$0	\$0	\$0
FY 2016 Appro. (P.L. 33-66 thru _____)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2016 (if applicable)	FY 2017	FY 2018	FY 2019	FY 2020
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Land Survey Revolving Fund	1/	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? // Yes /X/ No
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A // Yes // No
If no, what is the additional amount required? \$ _____ /X/ N/A
- Does the Bill establish a new program/agency? // Yes /X/ No
If yes, will the program duplicate existing programs/agencies? /X/ N/A // Yes // No
Is there a federal mandate to establish the program/agency? // Yes /X/ No
- Will the enactment of this Bill require new physical facilities? // Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /X/ Yes // No
// Requested agency comments not received by due date // Other:

Analyst: <u>Jason Baza</u> Jason Baza, BMA II	Date: <u>6/23/16</u>	Director: <u>Jose S. Calvo</u> Jose S. Calvo, Director	Date: <u>6-24-16</u>
--	----------------------	---	----------------------

Notes:
1/ See attached comments.

BUREAU OF BUDGET AND MANAGEMENT RESEARCH
COMMENTS ON BILL NO. 335-33 (COR)

The proposed legislation intends to increase the amount of members comprising the Guam Land Use Commission (GLUC) in order to accommodate the inclusion of municipal representation on any GLUC measure that is put to a vote.

In essence, the legislation intends to increase the total amount of members from seven (7) to nine (9) members. The amount of members appointed to the Governor and approved by the Legislature will be reduced from seven (7) to five (5) members. The remaining four (4) members will be: 1) the Mayor of the affected municipality, 2) a sworn Municipal Planning Council member chosen by the Mayor of the affected municipality, 3) the Mayor of the adjacent municipality, and 4) the Mayor of the other adjacent municipality.

A majority of the measure is administrative in nature. However, GLUC members do receive a \$50 stipend per meeting. Reducing the amount of appointed members from seven (7) to five (5) will, in effect, reduce the total Department of Land Management (DLM) obligation to pay for stipends. Per DLM, any employee of the Government of Guam that is appointed as a member of the GLUC is not eligible to receive stipend payments. As such, the four (4) members that would be representing the municipality in any GLUC measure put to vote will not be eligible to receive stipend payments thereby reducing costs to the Government of Guam by approximately \$1,200 per annum (assuming the GLUC meets once a month).



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MINORITY LEADER

Mary C. Torres
MINORITY MEMBER

June 15, 2016

VIA E-MAIL
joey.calvo@bbmr.guam.gov

Jose S. Calvo
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note – Bill No. 335-33(COR)

Hafa Adai Mr. Calvo:

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

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 No.	Sponsor	Title
335-33 (COR)	T. C. Ada Tommy Morrison	AN ACT TO AMEND AND ADD NEW SUBSECTIONS (a), (b), (c), (d) AND (e) TO § 60401 OF CHAPTER 60, ARTICLE 4, TITLE 21 AND TO REPEAL § 61105 OF CHAPTER 61, ARTICLE 1, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION AND VOTES NEEDED FOR APPROVAL.



COMMITTEE ON RULES

I Mina'trentai Tres na Liheslaturan Guåhan • The 33rd Guam Legislature
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V. Anthony Ada
MINORITY LEADER


Mary C. Torres
MINORITY MEMBER

June 14, 2016

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. 335-33(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 335-33(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 Tres 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 Tres' Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
335-33 (COR)	T. C. Ada Tommy Morrison	AN ACT TO AMEND AND ADD NEW SUBSECTIONS (a), (b), (c), (d) AND (e) TO § 60401 OF CHAPTER 60, ARTICLE 4, TITLE 21 AND TO REPEAL § 61105 OF CHAPTER 61, ARTICLE 1, TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE COMPOSITION OF THE GUAM LAND USE COMMISSION AND VOTES NEEDED FOR APPROVAL.	6/13/16 5:33 p.m.	06/14/16	Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affairs and Procurement			



Peter Tran <peter@senatorada.org>

1st Notice of Confirmation / Public Hearing: Monday, June 27, 2016 at 5:00 p.m.

1 message

Charlene Flores <flores@senatorada.org> Mon, Jun 20, 2016 at 11:18 AM

To: Media <media@senatorada.org>, phnotice@guamlegislature.org, Cristina Gutierrez <Cristina.Gutierrez@land.guam.gov>, dlmdir@dml.guam.gov, michael.borja@land.gov, John Arroyo <jarroyo@tggguam.net>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, Agat <agatmayorsoffice@hotmail.com>, ksusico@yahoo.com, Asan Maina <hamiasanmaina@gmail.com>, Barrigada <bmomayor@gmail.com>, Barrigada <jessie.bautista007@gmail.com>, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <melissa.savares@gmail.com>, peter_daigo@hotmail.com, hagatnamayor@hotmail.com, Doris Lujan <mayordorisfloreslujan@gmail.com>, inarajan municipality <inarajanmayorsoffice@gmail.com>, nblas_magilaomayor@yahoo.com, vicemayor_allan.ungacta@yahoo.com, mayorernestc@yahoo.com, mtmmayorsoffice1@yahoo.com, pitimayor@yahoo.com, Dale Alvarez <daleealvarez@gmail.com>, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <rudyiriarte@gmail.com>, talofofomayor@gmail.com, "Mayor Louise C. Rivera" <mayorlcrivera.tatuha@gmail.com>, vicemayorsantos.tatuha@gmail.com, Umatac Mayor <umatacmo@gmail.com>, Mayor Rudy <yigomayorsoffice@gmail.com>, Anthony Sanchez <yigovoice@gmail.com>, kenjoeada@yahoo.com, Chris Felix <felix@guam.net>, Ken Leon-Guerrero <kenleonguerrero@yahoo.com>, didang221@yahoo.com, magahet4@gmail.com, guamplanner@yahoo.com, ellensrealty.rdg@gmail.com, lindian@teleguam.net, camacho.jimmyt@gmail.com, rlsablan@yahoo.com, biggs.js@gmail.com, tomdiego_guam@yahoo.com, asiasison@hotmail.com, jonikerr@gmail.com, jose@compadres.com, bcruz253@msn.com, lasia@me.com, malamasly@gmail.com, webb.rodney@gmail.com, iqperedo@hotmail.com, strongdiver44@gmail.com, rmcu@ite.net, olibordallo_@hotmail.com

June 20, 2016

MEMORANDUM

To: All Senators, Media, and Stakeholders

Fr: Senator Thomas C. Ada, *Chairperson*

Subject: **1st Notice of Confirmation / Public Hearing: Monday, June 27, 2016 at 5:00 p.m.**

Please be advised that the Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affair, and Procurement will be conducting a confirmation/public hearing on **Monday, June 27, 2016 at 5:00 p.m.** This meeting will take place in the public hearing room of *I Liheslaturan Guahan*. The agenda is as follows:

5:00 PM

Executive Appointment of **Mr. Joseph I. Cruz** to serve as a **member** of the **Chamorro Land Trust Commission**.


Bill No. 335-33 (COR) – T.C. Ada / T.A. Morrison


An act to amend and add new subsections (a), (b), (c), (d) and (e) to § 60401 of Chapter 60, Article 4, Title 21 and to repeal § 61105 of Chapter 61, Article 1, Title 21, Guam Code Annotated, relative to the composition of the Guam Land Use Commission and votes needed for approval.


Testimony on the **Executive Appointment of Mr. Joseph I. Cruz and Bill No. 335-33 (COR)** should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office, our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to office@senatorada.org, or via facsimile to (671) 473-3303 until **4:00pm, Tuesday, July 04, 2016**. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Tom Ada at 473-3301.

--
Charlene Flores
Policy Analyst
Office of Senator Thomas C. Ada
I Mina'trentai Tres na Liheslaturan Guahan - 33rd Guam Legislature
671-473-3301

3 attachments

 **1st Notice.pdf**
332K

 **Doc No. 33GL-16-1700.pdf**
747K

 **Bill No. 335-33 (COR).pdf**
171K



Sen. Thomas Ada

Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Liheslaturan Guahan • 33rd Guam Legislature

June 20, 2016

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Senator Tom Ada

Peter Tran <peter@senatorada.org>

2nd Notice of Confirmation / Public Hearing: Monday, June 27, 2016 at 5:00 p.m.

1 message

Charlene Flores <flores@senatorada.org>

Thu, Jun 23, 2016 at 10:38 AM

To: Media <media@senatorada.org>, phnotice@guamlegislature.org, Cristina Gutierrez <Cristina.Gutierrez@land.guam.gov>, michael.borja@land.gov, John Arroyo <jarroyo@tgguam.net>, "Mayor Paul M. McDonald" <mayor.mcdonald671@gmail.com>, Agat <agatmayorsoffice@hotmail.com>, ksusico@yahoo.com, Asan Maina <hamiasanmaina@gmail.com>, Barrigada <bmomayor@gmail.com>, Barrigada <jessie.bautista007@gmail.com>, Jessy Gogue <ocp.mayor@gmail.com>, MELISSA SAVARES <melissa.savares@gmail.com>, peter_daigo@hotmail.com, hagatnamayor@hotmail.com, Doris Lujan <mayordorisfloreslujan@gmail.com>, inarajan municipality <inarajanmayorsoffice@gmail.com>, nblas_magilaomayor@yahoo.com, vicemayor_allan.ungacta@yahoo.com, mayorernestc@yahoo.com, mtmmayorsoffice1@yahoo.com, pitimayor@yahoo.com, Dale Alvarez <daleealvarez@gmail.com>, Robert Hofmann <guammayor@gmail.com>, rudy iriarte <rudyiriarte@gmail.com>, talofofomayor@gmail.com, "Mayor Louise C. Rivera" <mayorlcrivera.tatuha@gmail.com>, Umatac Mayor <umatacmo@gmail.com>, Mayor Rudy <yigomayorsoffice@gmail.com>, Anthony Sanchez <yigovoice@gmail.com>, kenjoeada@yahoo.com, Chris Felix <felix@guam.net>, Ken Leon-Guerrero <kenleonguerrero@yahoo.com>, didang221@yahoo.com, A Gogue <magahet4@gmail.com>, guamplanner@yahoo.com, ellensrealty.rdg@gmail.com, Linda Tatreau <lindian@teleguam.net>, Jimmy Camacho <camacho.jimmyt@gmail.com>, rlsablan@yahoo.com, Jason Biggs <biggs.js@gmail.com>, tomdiego_guam@yahoo.com, asiasison@hotmail.com, Joni Kerr <jonikerr@gmail.com>, jose@compadres.com, bcruz253@msn.com, lasia@me.com, malamasly@gmail.com, Rodney Webb <webb.rodney@gmail.com>, iqperedo@hotmail.com, Strongdiver44 <strongdiver44@gmail.com>, rmcu@ite.net, olibordallo_@hotmail.com, "Vice Mayor Ken C. Santos" <vicemayorksantos.tatuha@gmail.com>, Joseph Cruz <jicruz671@gmail.com>, DLMDIR <dlmdir@land.guam.gov>, ksusuico@yahoo.com, nblas_mangilaomayor@yahoo.com

June 23, 2016

MEMORANDUM

To: All Senators, Media, and Stakeholders

Fr: Senator Thomas C. Ada, *Chairperson*

Subject: **2nd Notice of Confirmation / Public Hearing: Monday, June 27, 2016 at 5:00 p.m.**

Please be advised that the Committee on Transportation, Infrastructure, Lands, Border Protection, Veterans' Affair, and Procurement will be conducting a confirmation/public hearing on **Monday, June 27, 2016 at 5:00 p.m.** This meeting will take place in the public hearing room of *I Liheslaturan Guahan*. The agenda is as follows:

5:00 PM

Executive Appointment of **Mr. Joseph I. Cruz** to serve as a **member** of the **Chamorro Land Trust Commission**.

Bill No. 335-33 (COR) – T.C. Ada / T.A. Morrison

An act to amend and add new subsections (a), (b), (c), (d) and (e) to § 60401 of Chapter 60, Article 4, Title 21 and to repeal § 61105 of Chapter 61, Article 1, Title 21, Guam Code Annotated, relative to the composition of the Guam Land Use Commission and votes needed for approval.


Testimony on the **Executive Appointment of Mr. Joseph I. Cruz and Bill No. 335-33 (COR)** should be addressed to Senator Thomas C. Ada, Chairperson, and will be accepted via hand delivery to our office, our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to office@senatorada.org, or via facsimile to (671) 473-3303 until **4:00pm, Tuesday, July 04, 2016**. In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services should contact the Office of Senator Tom Ada at 473-3301.


--


Charlene Flores
Policy Analyst
Office of Senator Thomas C. Ada

I Mina'trentai Tres na Liheslaturan Guåhan - 33rd Guam Legislature
671-473-3301

3 attachments

 **2nd Notice.pdf**
331K

 **Bill No. 335-33 (COR).pdf**
171K

 **Doc No. 33GL-16-1700.pdf**
747K



Sen. Thomas Ada

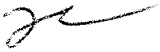
Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
I Mina Trentai Tres Na Liheslaturan Guåhan • 33rd Guam Legislature

June 23, 2016

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Public Hearing Notice Listserv
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Updated: June 30, 2016

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clerks@guamlegislature.org	info@chinesetimesguam.com	malainse@gmail.com
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Updated: June 30, 2016

marilyntablante@gmail.com	rlimtiaco@guampdn.com
martavictoriapalmermtree@gmail.com	robert@postguam.com
marycamachotorres@gmail.com	rolly@ktkb.com
maryfejeran@gmail.com	roryforguam@gmail.com
marym@guamlegislature.org	rowena@senatormorrison.com
matthew.santos@senatorbjcruz.com	sabrina@kuam.com
mcarlson@guamlegislature.org	sarah.elmore@senatorbjcruz.com
mcperson.kathryn@abc.net.au	senator@senatorbjcruz.com
mcruz@hitradio100.com	senator@tinamunabarnes.com
media@frankaguonjr.com	senatorbrantmccreadie@gmail.com
menchu@toduguam.com	senatordrodriguez@gmail.com
millie@tinamunabarnes.com	senatorsannicolas@gmail.com
mindy@kuam.com	senatortonyada@guamlegislature.org
mis@guamlegislature.org	senatorunderwood@guamlegislature.org
mlwheeler2000@yahoo.com	senjvespaldon@gmail.com
mohernande@guampdn.com	sgtarms@guamlegislature.org
monty.mcdowell@amiguam.com	sitarose2@yahoo.com
mspeps4873@gmail.com	sixquintanilla@gmail.com
mwatanabe@guampdn.com	slimtiaco@guampdn.com
natasha@toduguam.com	smendiola@guamlegislature.org
nb.underwood@yahoo.com	sonedera-salas@guamlegislature.org
news@guampdn.com	speaker@judiwonpat.com
news@spbguam.com	staff@frankaguonjr.com
nick@kuam.com	stephaniemendiola@gmail.com
norman.aguilar@guamcc.edu	tasigirl@gmail.com
office@senatorada.org	tcastro@guam.net
officeassistant@frankaguonjr.com	tcruzelson@gmail.com
oliviampalacios@gmail.com	team5andahalfstar@gmail.com
onlyonguam@acubedink.com	telo.taitague@visitguam.org
orleen@senatorbjcruz.com	thebigshow@k57.com
orsini.rikki@gmail.com	tina.alicto@yahoo.com
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parroyo@k57.com	tom@senatorada.org
pdkprg@gmail.com	tommy@senatormorrison.com
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phill@spbguam.com	tritten@pstripes.osd.mil
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rfteehan@yahoo.com	ylee2@guam.gannett.com
rsalas@senatorada.org	
ricknauta@hitradio100.com	



Sen. Thomas Ada

Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement

I Mina Trentai Tres Na Liheslaturan Guåhan • 33rd Guam Legislature

AGENDA

CONFIRMATION / PUBLIC HEARING

Monday, June 27, 2016

Public Hearing Room, *I Liheslaturan Guåhan*

The agenda is as follows:

5:00pm

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Sen. Thomas Ada
Committee on Lands
Confirmation/Public Hearing Notice
Monday, June 27, 2016, 5PM
I Liheslaturan Guåhan
Public Hearing Room

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Individuals requiring special accommodations should submit request to Blaine Dydasco at 473-3301.

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Pacific Daily News - 16 June 16



Sen. Thomas Ada
Committee on Lands
Confirmation / Public Hearing Notice

Monday, June 27, 2016, 5PM
I Liheslaturan Guahan Public Hearing Room

AGENDA

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Guam Daily Post - 17 June 2016



Sen. Thomas Ada
Committee on Lands
Confirmation / Public Hearing Notice

Monday, June 27, 2016, 5PM
Ilheslaturan Guahan Public Hearing Room

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Guam Daily Post - 23 June 16

Pacific Daily News - 23 June 16



Sen. Thomas Ada
Committee on Lands
Confirmation/Public Hearing Notice
Monday, June 27, 2016, 5PM
I Liheslaturan Guåhan
Public Hearing Room

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Chairman

Committee on Transportation, Infrastructure, Lands,
Border Protection, Veterans' Affairs and Procurement
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UPDATED PRESS RELEASE

Contact: Joseph Borja
Phone: 473-3301
Email: jborja@senatorada.org

FOR IMMEDIATE RELEASE

Senator Tom Ada Creates Hybrid Guam Land Use Commission.

Hagåtña, Guam: On Monday, June 13, 2016, Senator Tom Ada introduced Bill No. 335-33(COR), which changes the composition of the Guam Land Use Commission (GLUC) from seven (7) members to nine (9) members. Current law states that all GLUC members are appointed by the Governor, but Bill 335-33 would allow only five (5) members to be appointed by the Governor and the remaining four (4) members to be comprised of three (3) Mayors and one (1) Municipal Planning Council member determined by the respective adjoining municipalities of the project application. Bill 335-33 was also co-sponsored by Senator Tommy Morrison.

"This Hybrid Commission will provide better municipal representation on the GLUC by giving the affected municipalities a vote," Said Sen. Tom Ada. *"The Hybrid Commission will only be empaneled for projects or applications costing more than One Million Dollars (\$1,000,000),"* added Sen. Ada.

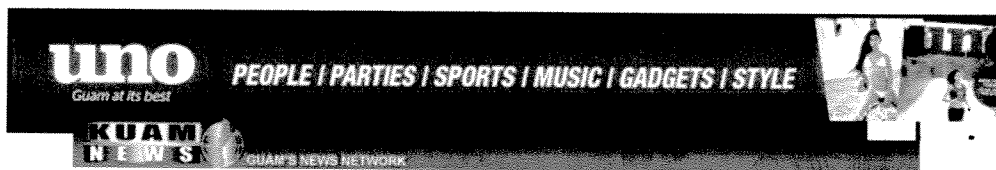
Bill 335-33 also requires that when a Hybrid Commission is in place, a total of five (5) votes is needed; regardless of quorum, for approval of any zone change, variance, appeals, and all other actions.

A public hearing for Bill 335-33 is scheduled for 5pm, Monday, June 27th at the Legislature's public hearing room.

A copy of Bill 335-33 (COR) is attached or may be downloaded from Senator Tom Ada's website (www.senatorada.org) or the Legislature's website

(www.guamlegislature.com). For more information, please contact Senator Tom Ada's office at 473-3301.

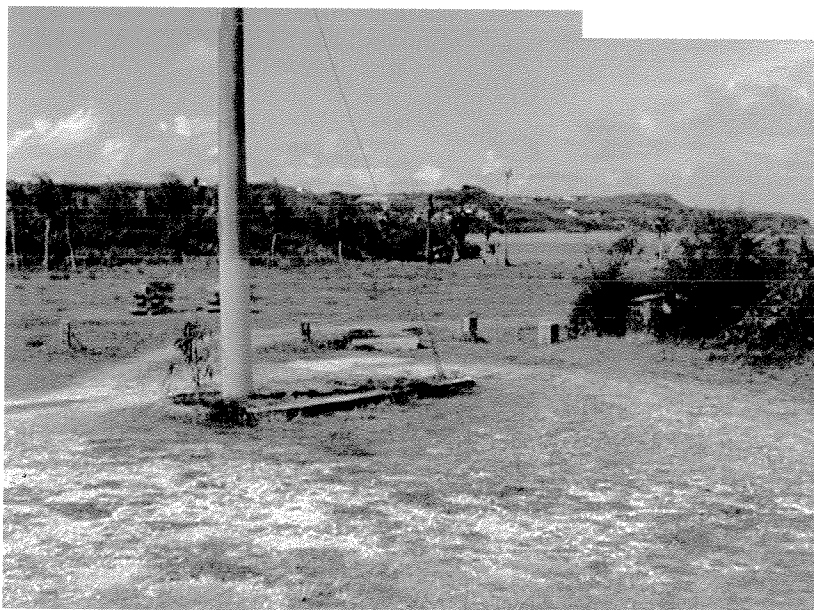
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Bill to create hybrid GLUC under review



Posted: Jun 16, 2016 4:14 PM
Updated: Jun 23, 2016 4:14 PM

By Ken Quintanilla [CONNECT](#)

The Guam Land Use Commission is reviewing another bill that will empower mayors and make them more involved in land use matters. Department of Land Management director Michael Borja says he is reviewing Bill 335, which creates a hybrid GLUC.

"This is, you know, a band-aid start to trying to understand and help out what the people's issues are, and that's what, the legislature is there for all these kinds of things when people or a group feel they need something done, to serve their interest, that's what they're there for. So I respect that kind of authority and I respect that kind of process. But if we're going to look at something that may have longer term effects, we should look at the overall plan," he said.

Bill 335 would change the composition of GLUC members from 7 to 9 to include three mayors and one Municipal Planning Council member.



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http://www.postguam.com/news/local/senator-addressing-concerns-over-proposed-hybrid-gluc/article_add559c0-4751-11e6-93f6-97a891c4c251.html

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Senator addressing concerns over proposed 'hybrid' GLUC

Louella Losinio | Post News Staff Jul 12, 2016

While the proposed plan for a hybrid Guam Land Use Commission could increase village representation in the commission, the mechanism for permanency and empanelment of the commission members has yet to be finalized, according to Bill 335-33 author Sen. Tom Ada.

Bill 335-33 proposes to adopt a hybrid model which seeks to provide better community representation in the commission by increasing GLUC membership from seven to nine. Out of nine, four will be "hybrid" commissioners – that is, they will change depending on the location of the given project being considered.

During a recent presentation for the Mayors' Council of Guam, Ada said the mechanism for determining which municipalities would be represented in the body should be identified.

During the meeting, concerns over the composition of the commission were raised, since projects could impact more than the number of villages proposed in the bill.

Ada said legislators are also considering a suggestion made by the Department of Land Management during a public hearing on the bill to increase the initial proposal of the \$1 million threshold to \$5 million. Once a proposed project reaches the \$5 million threshold, Ada said the hybrid commission will be empaneled.

The proposed hybrid commission would include the mayor of the respective municipality, an appointed municipal planning council member, and mayors of the municipalities adjacent to the location of the project.

The terms of the hybrid commissioners shall end with the final disposition of the specific municipal application unless an appeal is made to the Superior Court, in which case their term shall continue until final adjudication of the appeal.

Merizo Mayor Ernest Chargualaf also suggested that a review process should be incorporated into the bill's provision.

"Developments that may have been approved years ago should be reviewed again since the sentiments of the people then may be different years later," Chargualaf said.

Ada acknowledged that the review process may be required and that the concern had been raised at another meeting.

Representation

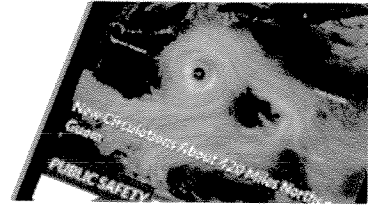
Ada said that during the public hearing for the measure, no mayors showed up. He said he needs to know what the mayors feel about the measure, if they don't want to have the level of involvement required by the hybrid commission.

"I don't want to impose on the mayors any more than they can handle," he said.

Ordot-Chalan Pago Mayor Jessy Gogue said the community is feeling disenfranchised by the GLUC's process of approving land zoning requests. Although no mayors showed up during the public hearing for Bill 335-33, Gogue said residents showed up to express their views.

GLUC's decision to approve a height variance for the construction of the Pago Bay Marine Reservoir has been met by protests from concerned members of the community. Petitions for judicial review of the decision and injunctive relief have been filed stating that the commission had exceeded its authority when it approved the variance.

Louella Losinio



Tuesday, 14 June 2016

Tom Ada Wants to Create 'Hybrid' Guam Land Use Commission

Written by Timothy Mchenry (/local/author/9200-timothy-mchenry)



(<http://digg.com/submit?url=http%3A%2F%2Fwww.pacificnewscenter.com%2Flocal%2F9742&title=Tom%20Ada%20Wants%20to%20Create%20%26%23039%3BHybrid%26%23039%3B%20Guam%20Land%20Use%20Commission>)



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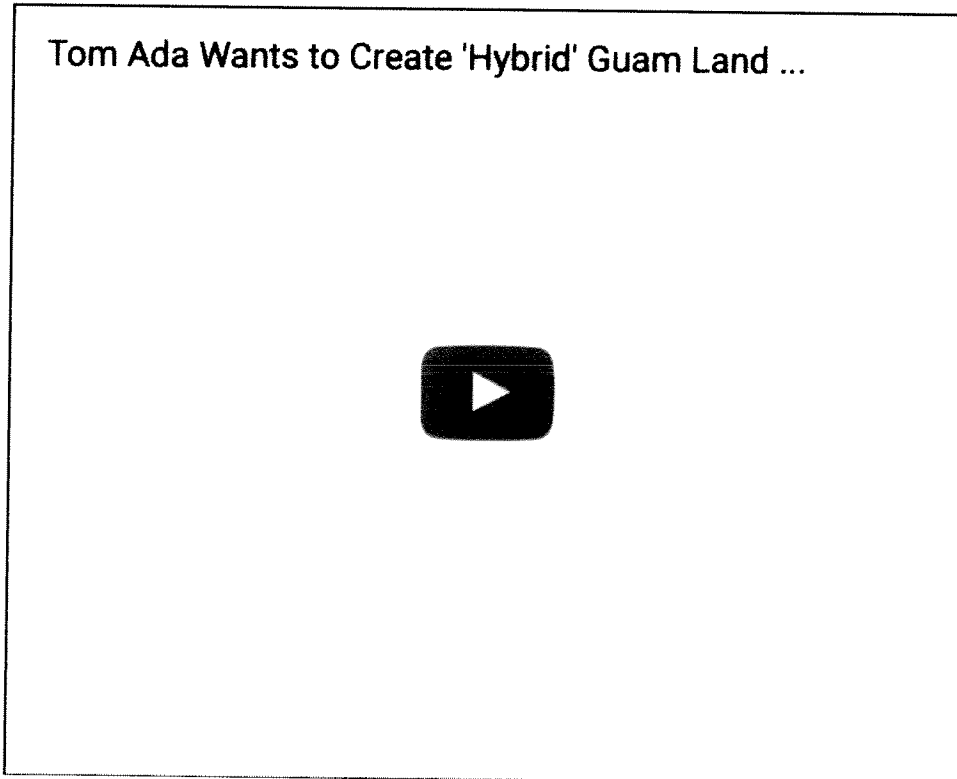
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Senator Frank Aguon Jr has also introduced legislation to require village approval before the GLUC can approve any future projects.

Guam - Senator Tom Ada has introduced a bill that would shuffle the Guam Land Use Commission to set aside four spots to represent Guam's villages.



Bill 335 proposes to expand the number of commissioners from seven to nine and reserves four spots

for 'hybrid commissioners.' Hybrid commissioners would only serve on the commission for a specific, single application and will represent the respective villages affected by the application. The first and second hybrid commissioners will consist of the mayor of the village affected by the application and a sworn member of that village municipal council. The remaining two hybrid commissioners will consist of mayors of the villages next to main village affected by the application. The terms of the hybrid commissioners will end at the conclusion of the application. The bill comes after public outcry against the current GLUC's decision to allow the development of two high rise condos in Pago Bay. Senator Frank Aguon Jr has also introduced legislation to require village approval before the GLUC can approve any future projects.

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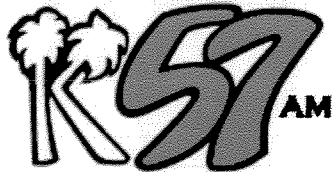
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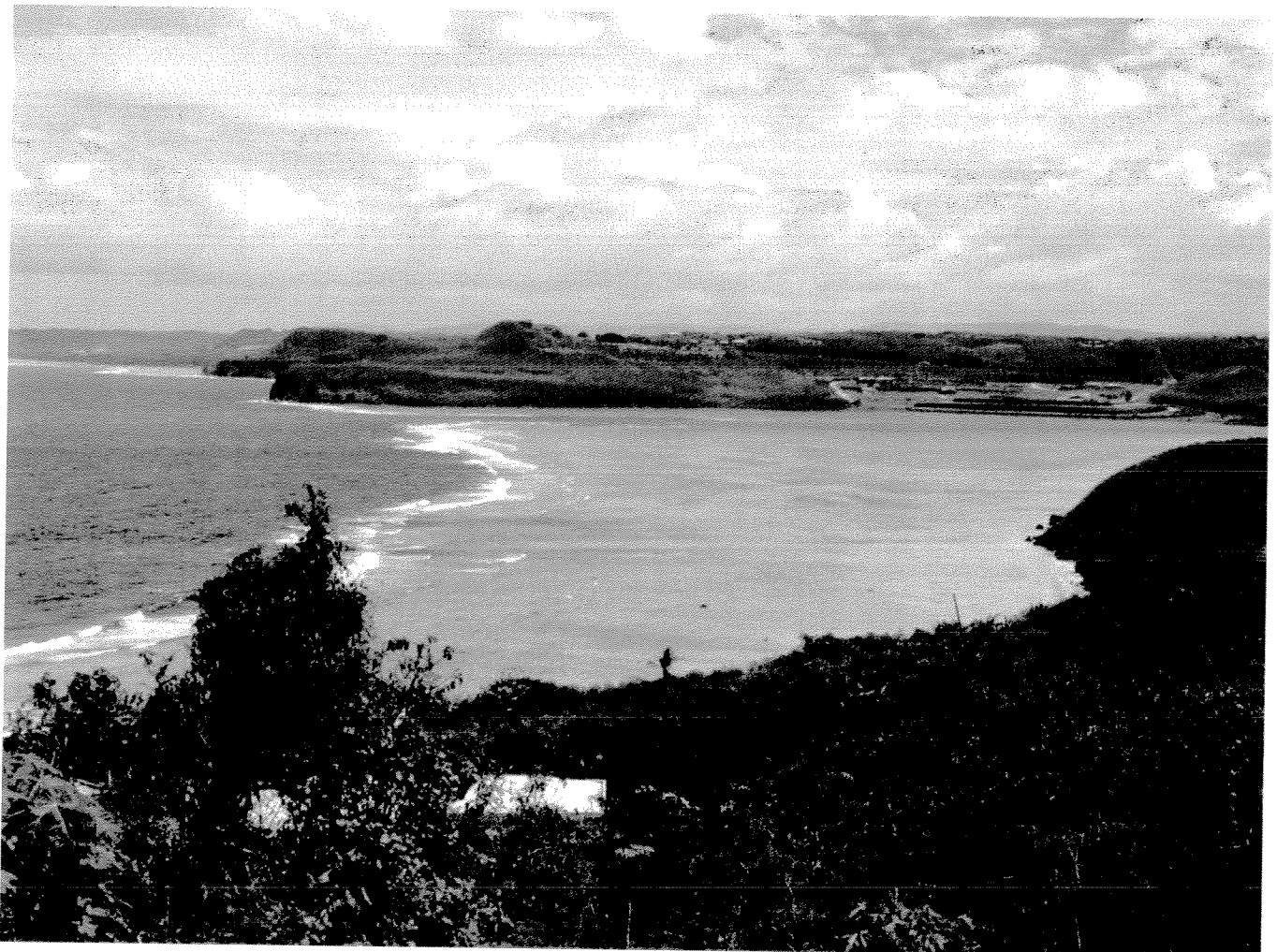
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GLUC hybrid model bill opposed by southern group

Louella Losinio | Post News Staff Jun 30, 2016



Matt Weiss

PROPOSED SITE: The mouth of the Pago River at Pago Bay, to the far right, is the proposed site of the Pago Bay Marina Resc

Concerned members of the community voiced opposition to Bill 335-33, a measure introduced Sen. Tom Ada, during a public hearing held last Monday at the Guam Legislature in Hagåtña.

The bill proposes to adopt a hybrid commission model to increase municipality representation on the Guam Land Use Commission.

The proponent said the bill would provide better community representation on the commission giving the affected municipalities a vote, adding that the body “may not be adequately represented of the community that is to be affected by a land use decision.”

But Dianne Strong, a Yona resident and member of Save Southern Guam Inc., expressed opposition to the measure, saying the bill is just a “band aid” measure.

Referencing the recent GLUC decision over the Pago Bay Marina Resort project, Strong said: “will the proposed 'hybrid commission' be the solution? It can't be. The whole system of planning in Guam is flawed by 'planning one variance at a time' and by a system that is not transparent and favors development over the quality of life of Guam's residents.”

Strong added: “We need to find a system that gives weight to the people who live next to a proposed development, and gives them transparency when their appointed government servants take actions that disregard overwhelming opposition.”

More villages affected

Jonita Q. Kerr, another member of Save Southern Guam, said the bill fails to recognize that more than four villages could be affected by a project, noting the example of the proposed Pago Bay development.

Kerr also said that the bill potentially could place too much power with the GLUC commissioner mentioned in the bill, the chairperson of the commission has the tie-breaking vote, and accordingly Kerr, this could go in favor of the appointed commissioners.

She suggested modifying the bill by incorporating a system similar to a Community Benefit Agreement. Kerr describes the CBA as a system that would allow residents to vet a project, ensure that a development provides benefits to a community, and ensure the developer delivers on its promises.

Membership

Ada said the proposed measure would increase the membership of the GLUC from seven to nine. Five of the members will be appointed by the governor with the advice and consent of the legislature. Four of the nine, will be "hybrid commissioners."

"Bill 335 proposes to change the process and be able to more directly incorporate the input of municipality," Ada said. The body will be created for applications costing \$1 million or more.

The hybrid commissioners will include the mayor of the respective municipality, an appointed municipal planning council member and mayors of the municipalities adjacent to the location of application.

The terms of the hybrid commissioners would end with the final disposition of the specific municipal application unless an appeal is made to the Superior Court, in which case their term would continue until final adjudication of the appeal.

Department of Land Management Director Michael Borja, who also serves as GLUC executive secretary, pointed out that based on existing rules governing the commission, a municipality may only become involved if the municipality is within a 500-foot radius of the subject property.

Borja said when the land use encompasses more than one municipality, then all of those municipalities may become involved.

He also suggested increasing the \$1 million threshold to \$5 million, noting that a proposed project of this cost would require significant changes to area utilities and other infrastructure.

Louella Losinio