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"I Erensia, Lina'la', Espiritu-la"

FILED
SUPERIOR COURT
Office of the Speaker
Judith T. Won Pat, Ed. D.
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62-13-226

Attorneys for Real-Party-In-Interest

SUPERIOR COURT OF GUAM

MARIA A. GANGE, JESUS CRUZ
CHARFAUROS, ANA A. CHARGUALAF,
JESUS G. AGUIGUI, for themselves and on
behalf of all others similarly situated,

Plaintiffs,

vs.

GOVERNMENT OF GUAM, GUAM
ANCESTRAL LANDS COMMISSION, by
and through its individual Commissioners
(for injunctive relief only to prevent a
transfer) and DOES One (1) through
Three hundred (300), inclusive.

Defendants.

CIVIL CASE NO. CV1461-10

REAL-PARTY-IN-INTEREST'S
POSITION OF THE ISSUES THE
COURT ORDERED BRIEFED
ON NOVEMBER 30, 2012

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Real-Party-In-Interest, Crawford agrees with the Government's position on the first two issues listed by the Government. Crawford's only exception is that in the event the Court finds the existing of a "taking," Plaintiffs' remedy is not an injunction but instead a lawsuit for damages (as with eminent domain and reverse condemnation cases) or possibly (but unlikely) the filing of a government claim. In any case, Plaintiffs do not have a right to enjoin the Government's election to utilize government property and resources in the manner chosen by the Guam Legislature.

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6 If Plaintiffs do in fact have claim to a "stream of income" they do not
7 thereby have a claim to a specific stream of income. Even at the Retirement Fund,
8 defined benefits participants (retirees) cannot dictate to the Government of Guam
9 the manner in which the Government of Guam fulfills similar obligations (funded
10 or unfunded). Crawford takes no position on whether Plaintiffs are entitled to a
11 stream of income funded by the Government of Guam or a specific agency within
12 the Government of Guam.

13 The Attorney General's office ventures into the province reserved by the
14 Organic Act exclusively for the Guam Legislature. The AG argues that should the
15 Court rule there is a taking, and the taking serves a public purpose, "the taking
16 should be enjoined." This conflicts with case law and is not logical. Under the
17 Organic Act, the Government may "take" it for a "public purpose" and as a result
18 of such taking (not as a condition precedent), claims for "just compensation" may
19 be filed and paid. The AG's Office may not agree with the legislative wisdom or
20 policy but unless such legislative action rises to a level violating the Organic Act
21 of Guam such policy must be honored and enforced.

22 Respectfully submitted this 1st day of February, 2013.

23 **PHILLIPS & BORDALLO, P.C.**

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By:


MICHAEL F. PHILLIPS