



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



Carl V. Dominguez
Director
Jessie B. Palican
Deputy Director

March 21, 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Likeslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Senator Thomas C. Ada
Chairman, Committee on Public Safety, Infrastructure and Maritime Transportation
I Mina'trentai Dos Na Likeslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Madame Speaker and Senator Ada:

Pursuant to 21 GCA §15105(b), enclosed is a copy of draft legislation to authorize the condemnation of a small portion of Mr. Ignacio Bautista Cruz's (DOD: February 3, 2003) Lot No. 150-R3, Merizo, Guam. Mr. Cruz's lot is needed for the reconstruction and widening of Bile and Pigua bridges project (the "Project") in Merizo, Guam. The Department of Public Works (DPW), which successfully negotiated the purchase of all properties needed for the Project other than the Cruz lot, attempted in good faith to negotiate with Mr. Cruz's son, Mr. Rodney Cruz, who I understand occupies and was purportedly designated by his father to receive the parcel. Unfortunately, Mr. Rodney Cruz has refused all attempts to either meet or communicate with us. No specific action is requested at this time as the DPW is awaiting completion of a second appraisal. However, I want to submit the draft legislation in advance as it may later be necessary to request that the Legislature expedite its authorization.

The government needs to condemn an area of 240± square meters of Lot No. 150-R3, which is designated as Lot No. 150-R3-1R/W on the severance map that was recorded with the Department of Land Management on October 9, 2013, under Instrument No. 857237. A copy of the severance map is enclosed for your easy reference. The area of the parcel to be acquired is less than 5% of the main lot's 4,897± square meters. The department was originally looking to obtain a larger portion, however, owing to Mr. Rodney Cruz's lack of cooperation scaled back the taking to only those areas needed to meet safety and compliance requirements. In this respect the 240± square meters is needed for:

1434

32-14-1434
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date: 3.21.14
Time: 9:02 am
Received: [Signature]

2014 MAR 21 AM 10:08

[Handwritten mark]

- Removal of the existing highway improvements, including asphalt pavement and old guardrail
- New bridge elements including portions of the foundation, abutment, deck, bridge railing, and approach slab
- A portion of the asphalt-paved approach roadway, approximately 40 feet long by 6 to 14 feet wide (width flares at bridge)
- Approximately 60 linear feet of new steel guardrail (a safety requirement at the bridge approach area)
- A bio-swale providing natural water-quality treatment and directing stormwater runoff from the bridge approach area to the Pigua River (an environmental compliance requirement)
- A new concrete power pole replacing an existing pole which is in conflict with the new bridge

The DPW requires 2 appraisals to move forward with the condemnation. The first appraisal has been completed while the second one is expected to be completed shortly. I will supplement this letter to notify the Legislature as to the fair market value of the taking as soon as the second appraisal is completed. At that time, I'll also file copies of both appraisals with the Legislature.

Finally, as title to Lot No. 150-R3, Merizo, remains in the name of Ignacio Bautista Cruz, I have written to Mr. Rodney Cruz and his sister, Donna Mulliken, requesting that they open up a probate for their father's estate. If they fail to do so the government intends on petitioning the probate court for letters of special administration. This is needed so that a representative is appointed to represent the Estate in the condemnation proceedings. The probate court can then determine which of Mr. Ignacio Bautista Cruz's children is entitled to receive the condemnation proceeds.

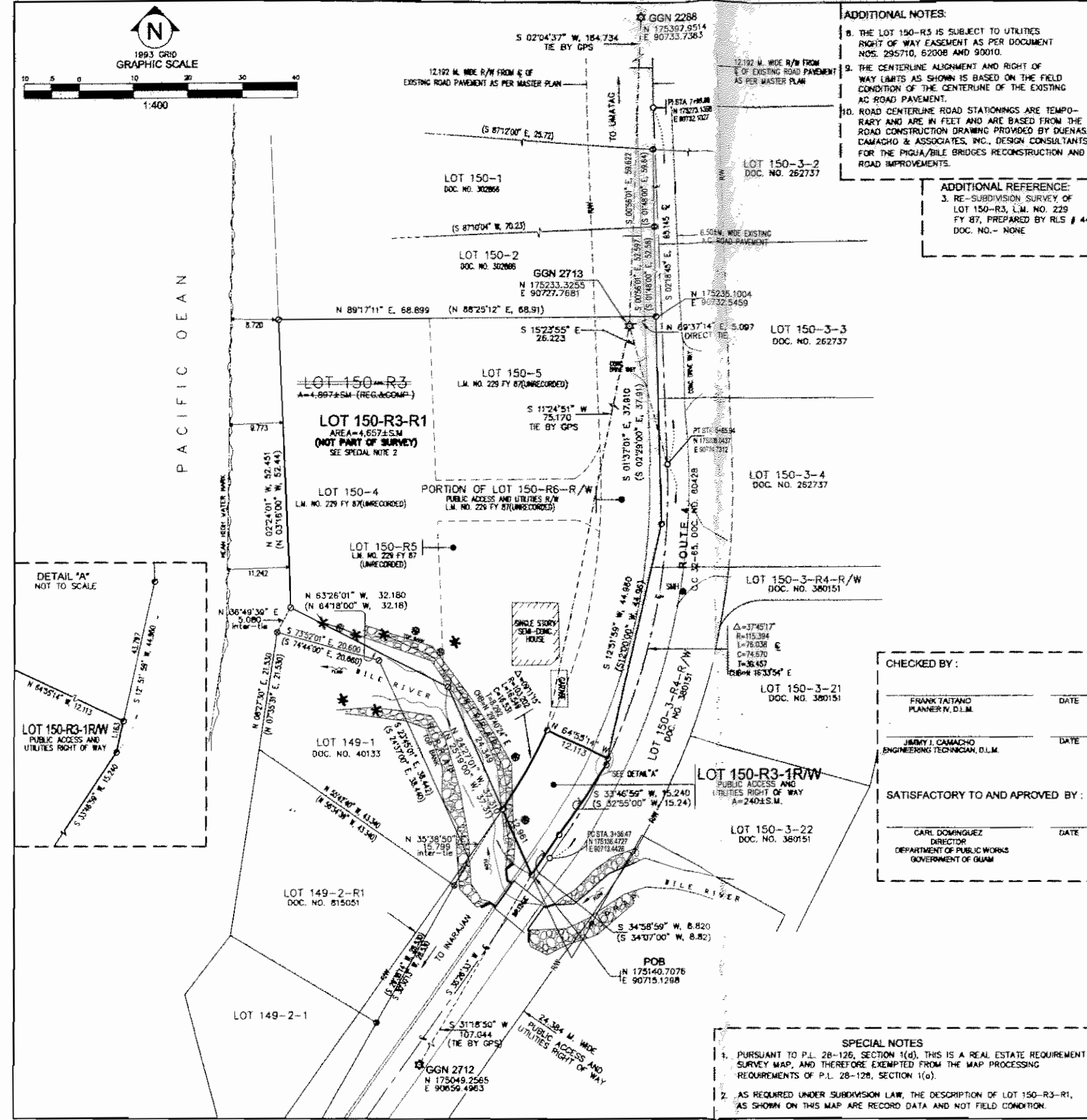
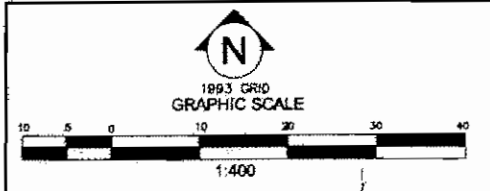
In closing, I am forwarding a draft Bill authorizing the condemnation of Lot No. 150-R3-1R/W, Merizo, Guam, in hopes that it can be reviewed in advance so that the required authorization can be acted upon, as deemed appropriate, once the appraisals are submitted to the Legislature.

Sincerely,



CARL V. DOMINGUEZ

Attachment

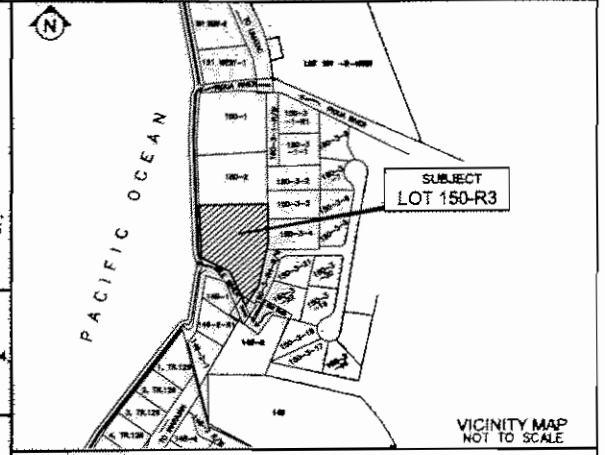


ADDITIONAL NOTES:

- THE LOT 150-R3 IS SUBJECT TO UTILITIES RIGHT OF WAY EASEMENT AS PER DOCUMENT NOS. 295710, 62008 AND 90010.
- THE CENTERLINE ALIGNMENT AND RIGHT OF WAY LIMITS AS SHOWN IS BASED ON THE FIELD CONDITION OF THE CENTERLINE OF THE EXISTING AC ROAD PAVEMENT.
- ROAD CENTERLINE ROAD STATIONINGS ARE TEMPORARY AND ARE IN FEET AND ARE BASED FROM THE ROAD CONSTRUCTION DRAWING PROVIDED BY DUENAS, CAMACHO & ASSOCIATES, INC., DESIGN CONSULTANTS FOR THE PIQUA/BILE BRIDGES RECONSTRUCTION AND ROAD IMPROVEMENTS.

ADDITIONAL REFERENCE:

- RE-SUBDIVISION SURVEY OF LOT 150-R3, L.M. NO. 229 FY 87, PREPARED BY RLS # 44, DOC. NO. - NONE



REFERENCES:

- DOCUMENT NO. 43433
- RETRACEMENT SURVEY MAP OF LOT 149-2-R1, PREPARED BY PLS 73, L.M. NO. 134 FY 2010, DOC. NO. 815051

NOTES:

- SURVEY WAS BASED ON FOUND PROPERTY CORNERS AS SHOWN ON THIS MAP.
- ALL DISTANCES ARE IN METERS.
- BEARINGS & DISTANCES IN PARENTHESES ARE RECORD DATA, ALL OTHERS ARE 1983 GRID VALUES.
- SUBJECT LOT IS ZONED "A", AGRICULTURAL PER 1967 OFFICIAL ZONING MAP, F367549.
- SUBJECT LOT IS OUTSIDE THE NORTHERN AQUIFER.
- AS-BUILTS ARE AS SHOWN AS OF APPROVAL OF THIS MAP.
- RIGHT OF WAY ROAD CENTERLINE STATIONING IS IN FEET.

SYMBOLS:

- GGN STATION
- COMPUTED CORNER/CORNER NOT SET
- ROAD & NOT SET
- FND. NO. 4 REBAR WITH CAP MARKED PLS 73, DOC. NO. 815051
- SET NO. 4 REBAR WITH CAP MARKED PLS 65
- FND. NO. 4 REBAR WITH CAP MARKED PLS 73, DOC. NO. - NONE
- SEWER MANHOLE (SMH)
- PLANT
- STREAM FLOW

CERTIFICATE OF GUAM CHIEF SURVEYOR

THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE WITH TITLE 21, GUAM CODE ANNOTATED CHAPTER 60, ARTICLE 3, UNIFORM TRIANGULATION SYSTEM AND REGULATIONS THEREUNDER ON _____ DAY OF _____, 2013.

PAUL L. SANTOS, P.L.S. NO. 68
GUAM CHIEF SURVEYOR / CHIEF OF CADASTRE

CERTIFICATE OF GUAM CHIEF PLANNER

APPROVAL PURSUANT TO TITLE 21 GUAM CODE ANNOTATED, CHAPTER 62, SUBDIVISION LAW.

MARVIN O. AGUILAR
GUAM CHIEF PLANNER

DATE _____

CERTIFICATE OF SURVEYOR

I, NESTORIO C. IGNACIO, HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION; THAT IT IS BASED ON A FIELD SURVEY MADE ON JUNE 18, 2011 IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. THAT I AM RESPONSIBLE FOR THE ACCURACY OF ALL DATA AND INFORMATION SHOWN HEREON. I FURTHER CERTIFY THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED ON THIS MAP.

NESTORIO C. IGNACIO
PROFESSIONAL LAND SURVEYOR NO. 65

DATE _____



CHECKED BY:

FRANK TAITANO, PLANNER IV, D.L.M. DATE _____

JIMMY J. CAMACHO, ENGINEERING TECHNICIAN, D.L.M. DATE _____

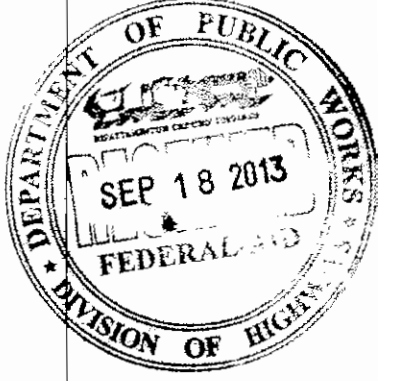
SATISFACTORY TO AND APPROVED BY:

CARL DOMINGUEZ, DIRECTOR, DEPARTMENT OF PUBLIC WORKS, GOVERNMENT OF GUAM. DATE _____

SPECIAL NOTES

- PURSUANT TO P.L. 28-126, SECTION 1(d), THIS IS A REAL ESTATE REQUIREMENT SURVEY MAP, AND THEREFORE EXEMPTED FROM THE MAP PROCESSING REQUIREMENTS OF P.L. 28-126, SECTION 1(a).
- AS REQUIRED UNDER SUBDIVISION LAW, THE DESCRIPTION OF LOT 150-R3-R1, AS SHOWN ON THIS MAP ARE RECORD DATA AND NOT FIELD CONDITION.

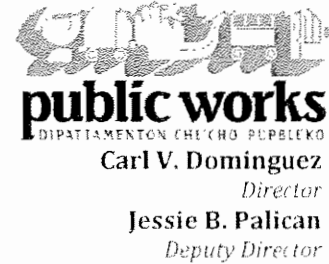
REV.	BY	DESCRIPTION	DATE
REAL ESTATE REQUIREMENT SURVEY MAP OF LOT 150-R3 (SEVERANCE OF ROAD RIGHT OF WAY)			
L.S. 38		MUNICIPALITY OF MERIZO	SEC. 2
SURVEY DATA			
DATE	5/18/11	LOT DATA	LOT NO.: 150-R3
FIELD MG and CREW		CERT. OF TITLE NO.:	12128
BOOK NO.	DCA/2206-03(LOT 149-2)	REGISTERED ON:	NOVEMBER 21, 1961
COMPUTED	TGS	DEC. 2011	IN THE NAME OF:
DRAWN	FSS	DEC. 2011	IGNACIO B. CRUZ
RESEARCHED	FDD	OCT., 2011	
CHECKED	NOI	DEC., 2011	
SATISFACTORY TO & APPROVED BY:			
DWG. NO.	DCAI-5-11-26	SCALE:	1:400
L.M. CHECKED NO.	064 FY 2012		





The Honorable
EDDIE BAZA CALVO
Governor

The Honorable
RAY TENORIO
Lt. Governor



Carl V. Dominguez
Director

Jessie B. Palican
Deputy Director

February 12, 2014

Via Regular Mail

Mr. Rodney B. Cruz
 P.O.Box 4724
 Hagatna, Guam 96932

Subject: Lot 150-R3, Merizo, Guam; Estate of Ignacio B. Cruz

Dear Mr. Cruz,

This is in furtherance of the Department of Public Works (DPW) efforts to negotiate a purchase price for a small portion of Lot No. 150-R2, Merizo, Guam. Which is needed as part of the Department's island-wide road construction program. To date our correspondence and communications have been directed to Mr. Rodney B. Cruz, as it is our understanding that your father designated that he inherit this particular lot.

In this respect, by letter dated October 28, 2013 DPW wrote Mr. Rodney B. Cruz requesting that he or another family member open probate proceeding for your late father's estate. It was requested that this be done on or before November 15, 2013. Unfortunately, we never received a response from either him or his counsel.

As it is our understanding that your father left other real property that needs to be probated, we are requesting that one or more family members contact counsel to open a probate for your late father's estate. Also, as we only know your names and addresses but understand that there are two (2) additional siblings, we would appreciate your providing them a copy of this letter and enclosure.

Enclosed is a copy **DRAFT** petition for Letter of Special Administration that is currently being reviewed by the Attorney General's Office. We are not interested in filing the Petition however if the family does not open a probate or have legal counsel contact Mr. Keeler (see below) no later than **Friday, February 14, 2014**. DPW intends on proceeding with the filing the Petition with the Probate Court.

Please contact, or have your legal counsel contact Assistant Attorney General Thomas P. Keeler at 649-3152 if there sure are any questions regarding this matter.

CARL V. DOMINGUEZ

*In the Matter of the Estate of
Ignacio Barcuas Cruz*
Petition for Letters of Special Administration

No. 150-R3-1R/W, Merizo, Guam, a small portion of Lot No. 150-R3, Merizo, Guam, as needed to complete the Project.

6. In order to continue to pursue the Project, DPW requires a personal representative be appointed, so that the Government of Guam can file a formal Complaint to Acquire Property Through Eminent Domain.

7. 15 GCA §§ 1901 and 1903 govern the appointment of special administrators and provide in part.

15 GCA § 1901. Causes for Appointment of Special Administrators.

When there is delay in granting letters testamentary . . . or when no petition is filed praying for the grant of any such letters . . . and the circumstances of the estate require the immediate appointment of a personal representative, the Superior Court of Guam shall appoint a special administrator to take possession of the estate of the decedent and to exercise such other powers as may be necessary for the preservation of the estate

SOURCE: Probate Code of Guam (1970), § 460.

15 GCA § 1903. Notice; Appointment; Preference; Qualifications; Nonappealable Order.

The appointment of a special administrator may be made at any time, without notice or upon such notice to such of the persons interested in the estate as the Superior Court of Guam may deem reasonable. In making the appointment of a special administrator, preference must ordinarily be given to the person entitled to letters testamentary, letters of administration with the will annexed, or letters of administration. No person is competent to serve as a special administrator who has not the qualifications required of an executor as provided in Section 1701 of this Title. The order appointing a special administrator is not appealable.

8. Petitioner satisfies all the requirements to serve as special administrator pursuant to 15 GCA § 1701. Petitioner is over the age of majority, is a U.S. citizen, a resident of Guam, is physically present in Guam, has not been convicted of a felony, and is competent to act as special administrator.

*In the Matter of the Estate of
Ignacio Barcinas Cruz*
Petition for Letters of Special Administration

WHEREFORE, Petitioner prays for letters of special administration in the Estate of Ignacio Barcinas Cruz, and an order authorizing Petitioner to open a probate in order that the Government of Guam can proceed with filing a Complaint to Acquire Property Through Eminent Domain, and that security be waived.

JESSIE PALICAN

Date: February __, 2014

By: _____

THOMAS P. KEELER
Assistant Attorney General
Attorneys for Petitioner
Jessie Palican

VERIFICATION

I, _____, declare under penalty of perjury that the foregoing is true and correct, except those matters alleged upon information and belief, which matters are true and correct to the best of my knowledge

Executed February __, 2014

JESSIE PALICAN



The Honorable
EDDIE BAZA CALVO
 Governor

The Honorable
RAY TENORIO
 Lt. Governor



Carl V. Dominguez

Director

Jessie B. Palican

Deputy Director

February 12, 2014

Via Regular Mail

Donna Mullikin
 P.O. Box 8142
 Merizo, Guam 96916

Subject: Lot 150-R3, Merizo, Guam; Estate of Ignacio B. Cruz

Dear Ms. Mullikin,

This is in furtherance of the Department of Public Works (DPW) efforts to negotiate a purchase price for a small portion of Lot No. 150-R2, Merizo, Guam. Which is needed as part of the Department's island-wide road construction program. To date our correspondence and communications have been directed to Mr. Rodney B. Cruz, as it is our understanding that your father designated that he inherit this particular lot.

In this respect, by letter dated October 28, 2013 DPW wrote Mr. Rodney B. Cruz requesting that he or another family member open probate proceeding for your late father's estate. It was requested that this be done on or before November 15, 2013. Unfortunately, we never received a response from either him or his counsel.

As it is our understanding that your father left other real property that needs to be probated, we are requesting that one or more family members contact counsel to open a probate for your late father's estate. Also, as we only know your names and addresses but understand that there are two (2) additional siblings, we would appreciate your providing them a copy of this letter and enclosure.

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Please contact, or have your legal counsel contact Assistant Attorney General Thomas P. Keeler at 649-3152 if there sure are any questions regarding this matter.


CARL V. DOMINGUEZ

*In the Matter of the Estate of
Ignacio Barcinas Cruz*
Petition for Letters of Special Administration

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*In the Matter of the Estate of
Ignacio Barcinas Cruz*
Petition for Letters of Special Administration

WHEREFORE, Petitioner prays for letters of special administration in the Estate of Ignacio Barcinas Cruz, and an order authorizing Petitioner to open a probate in order that the Government of Guam can proceed with filing a Complaint to Acquire Property Through Eminent Domain, and that security be waived.

JESSIE PALICAN

Date: February __, 2014

By:

THOMAS P. KEELER
Assistant Attorney General
Attorneys for Petitioner
Jessie Palican

VERIFICATION

I, _____, declare under penalty of perjury that the foregoing is true and correct, except those matters alleged upon information and belief, which matters are true and correct to the best of my knowledge.

Executed February __, 2014

JESSIE PALICAN

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN

2014 (_____) Regular Session

Bill No.

Introduced by: _____

AN ACT TO AUTHORIZE THE DEPARTMENT OF PUBLIC WORKS, GOVERNMENT OF GUAM, TO CONDEMN LOT NO. 150-R3-1R/W, MERIZO, GUAM, FOR THE BILE/PIGUA BRIDGE RECONSTRUCTION PROJECT.

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

2. **Section 1. History.** The Department of Public Works (“DPW”), Government of
3. Guam, has prepared plans for the reconstruction and widening of Bile and Pigua bridges
4. in Merizo, Guam, which is an integral part of the islandwide road improvement plan that
5. is being funded by Federal Highway Administration (“FHWA”). DPW has successfully
6. negotiated the purchase of required lots from all private landowners required of the
7. Bile/Pigua Bridge Reconstruction Project (the “Project”) other than the purported
8. successor in interest of Lot No. 150-R3, title to which remains in the name of Ignacio
9. Bautista Cruz, who died on February 3, 2003.

10. **Section 2. Authorization of DPW to Condemn Lot No. 150-R3-1R/W.** The

11. power of eminent domain may be exercised by the Government of Guam upon the
12. authorization and appropriation of funds by the Congress of the United States for public
13. use within Guam. Pursuant to 21 G.C.A. § 15105 (b), the appropriation by the Congress
14. of the United States for a specific public use must also include a “corresponding
15. authorization by the Guam. Legislature via duly *enacted* legislation.” See 21 G.C.A. §
16. 15105 (b) (emphasis in original). Accordingly, DPW is hereby authorized to condemn
17. Lot No. 150-R3-1R/W, Merizo, Guam, containing an area of 12. 240± square meters,
18. as shown on Drawing No. DCAI-S-11-26, prepared by registered land surveyor Nestorio
19. C. Ignacio, PLS#65, of Duenas-Camacho & Associates, Inc., a copy of which was
20. recorded with the Department of Land Management, Government of Guam, on October
21. 9, 2013, under Instrument No. 857237; provided, however, that as a condition to this
22. approval Lot No. 150-R3-1R/W the property shall be used for the Project and, subject
23. further, to FHWA providing 100% of the condemnation funds needed to fund the
24. condemnation.

25. **Section 3. Interest Condemned.** The interest taken in the Lot No. 150-R3-
26. 1R/W, Merizo, Guam, is fee simple absolute.

27. **Section 4. Fair Market Value.** Upon information and belief, based on
28. appraisals of the property, the sum of money estimated to be just compensation for the

29. fee simple interest taken in Lot No. 150-R3-1R/W is _____ Thousand _____ Hundred
30. and 00/100 Dollars (\$_____.00).