



Territory of Guam
Territorion Guam

OFFICE OF THE GOVERNOR
L'FSINAN I MAGA LAHI
AGANA, GUAM 96910 U.S.A.

AUG 22 1990

AG
Received
8/10/90

The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
155 Herman Cortez Street
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 577, which I have signed
into law this date as Public Law 20-212.

Sincerely,

Joseph F. Ada
JOSEPH F. ADA
Governor

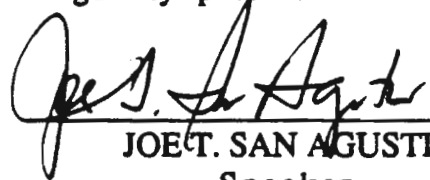
Attachment


Commonwealth Now!

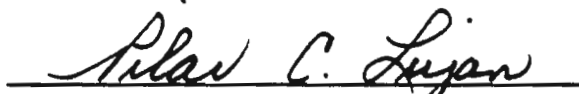
TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

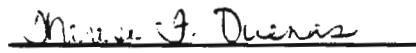
This is to certify that Substitute Bill No. 577 (LS), "AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED PROPERTY ADJACENT TO THE GUAM PENITENTIARY IN ORDER TO COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY," was on the 1st day of August, 1990, duly and regularly passed.


JOET. SAN AGUSTIN
Speaker

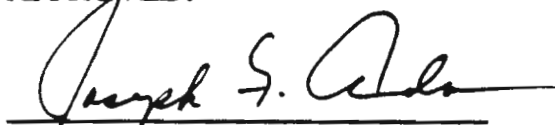
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 10th day of August,
1990, at 11:21 o'clock A.m.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: August 22, 1990

Public Law No. 20-212

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

Bill No. 577 (LS)
Substituted by the Committee
on Housing and Community
Development and the Committee
on Ways and Means

Introduced by:

F. R. Santos
T. S. Nelson
~~J. T. San Agustin~~
P. C. Lujan
E. P. Arriola
J. P. Aguon
J. G. Bamba
M. Z. Bordallo
D. F. Brooks
H. D. Dierking
E. R. Duenas
E. M. Espaldon
C. T. C. Gutierrez
M. D. A. Manibusan
F. J. A. Quitugua
E. D. Reyes
M. C. Ruth
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO
EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY
OWNED PROPERTY ADJACENT TO THE GUAM
PENITENTIARY IN ORDER TO COMPLY WITH THE
PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A
PROTECTIVE ZONE OF 500 FEET RADIUS OF THE
PENITENTIARY.

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

1 Section 1. Legislative findings. The effort to complete the Department
2 of Corrections Adult Correctional Facility in Mangilao has, to date, not been
3 completed. Although the Legislature has provided the statutory
4 authorizations and appropriations, where required, the work to complete the
5 facility has been delayed for a multitude of reasons. The Legislature finds
6 that this situation must be corrected and the Adult Correctional Facility must
7 be completed as soon as possible, inclusive of the five hundred foot (500')
8 radius protective zone. The Legislature also finds that landowners, whose
9 properties are adversely affected by the protective zone and which properties
10 would have and should have been exchanged with government of Guam land,
11 have been left in states of uncertainty, unable to improve their properties or
12 to build homes thereon and uncertain as to the final disposition of this matter.

13 This Act is intended to comply with the provisions of Public Law 17-54
14 to insure the orderly completion of the Adult Correctional Facility, to provide
15 for the five hundred foot (500') radius protective zone to insure greater
16 integrity of the security system of the facility, and to resolve the delays in
17 securing said zone which has caused much uncertainties with the affected
18 landowners.

19 Section 2. The Governor of Guam is hereby authorized to purchase for
20 the Department of Corrections the concrete residential structure owned by
21 Jose P. and Victoria C. Perez, located on Lot No. 5386-3, in the village of
22 Mangilao and adjacent to the Guam Penitentiary, for the sum of Ninety
23 Thousand Dollars (\$90,000), which sum is hereby appropriated from the
24 General Fund for such purpose.

25 Section 3. The Governor of Guam is hereby authorized to purchase for
26 the Department of Corrections the two (2) residential structures owned by
27 Ishmael C. and Ana P. Perez, located on Lot No. 5386-2, in the village of
28 Mangilao and adjacent to the Guam Penitentiary for Sixty Thousand Dollars
29 (\$60,000), which sum is hereby appropriated from the General Fund for such
30 purpose.

31 Section 4. The Governor of Guam is hereby authorized to exchange, on
32 an area for area basis 5,000 square meters of that government of Guam land
33 designated as Part of Lot No. 6, Block D, Tract No. 9 at Barrigada, and 4,851
34 square meters of Part of Lot No. 5403 in Mangilao, for that tract of land

1 owned by Jose P. and Victoria C. Perez, designated as Lot No. 5386-3,
2 containing an area of 9,851 square meters, located adjacent to the Guam
3 Penitentiary and recorded as Land Management Document No. 367-FY75,
4 Drawing No. D75-007.

5 Section 5. The Governor of Guam is hereby authorized to exchange an
6 area for area basis, for the following private properties, government of Guam
7 land designated as Lots Nos. 4 through 9, Block "D", Tract No. 9 at Barrigada
8 Heights:

9 Lot No. 5386-4, containing an area of 9,850 +/- square meters, owned
10 by Agnes P. Salas;

11 Lot No. 5386-7, containing an area of 3,720 +/- square meters, owned
12 by Antonio P. Perez;

13 Lot No. 5386-2, containing an area of 9,850 +/- square meters, owned
14 by Ishmael C. and Ana P. Perez;

15 Lot No. 5386-5, containing an area of 9,850 +/- square meters, owned
16 by Ishmael C. and Ana P. Perez;

17 Lot No. 5386-6, containing an area of 9,850 +/- square meters, owned
18 by Manuel P. Perez.

19 Section 6. The Governor of Guam is hereby authorized to exchange on
20 an area for area basis, for that private property owned by Antonio P. Perez,
21 designated as Lot No. 1110-1-New, Mangilao, containing an area of 4100+/-
22 square meters, government of Guam land within Lots Nos. 4 through 9, Block
23 "D" Tract No. 9 at Barrigada Heights.

24 Section 7. The Department of Land Management is hereby directed to
25 consolidate Lots Nos. 4 through 9, Block "D", Tract No. 9 at Barrigada Heights,
26 to provide for the land exchanges authorized herein.

27 Section 8. The Director of Land Management shall cause exchanges of
28 land authorized herein to be accomplished within one hundred twenty (120)
29 days from enactment of this Act.

30 Section 9. Notwithstanding any other provision of law, rule, or
31 regulation, the exchanges authorized in Sections 4 through 6 of this Act are
32 hereby approved by the Legislature.

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

ROLL CALL SHEET

Bill No. 577

Date: 8/1/90

Resolution No. _____

QUESTION: _____

	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
J. P. Aguon	✓			
E. P. Arriola			✓	
J. G. Bamba	✓			
M. Z. Bordallo	✓			
D. F. Brooks	✓			
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon				✓
C. T. C. Gutierrez	✓			
P. C. Lujan	✓			
G. Mailloux			✓	
M. D. A. Manibusan	✓			
T. S. Nelson	✓			
D. Parkinson			✓	
F. J. A. Quitugua	✓			
E. D. Reyes	✓			
M. C. Ruth	✓			
J. T. San Agustin	✓			
F. R. Santos	✓			
T. V. C. Tanaka	✓			
A. R. Unpingco	✓			

(17)

(3)

(1)



SENATOR GORDON MAILLOUX

CHAIRMAN, COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
TWENTIETH GUAM LEGISLATURE

May 30, 1990

Vice-Chairman on the committee on Health, Welfare and Ecology

Member of the Committees on:

- Tourism, Transportation and Communications
- General Governmental Operation
- Economic Development
- Justice, Judiciary & Criminal Justice
- Energy, Utilities and Consumer Protection
- Youth, Human Resources, Senior Citizen & Cultural Affairs

Ethics

Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
163 Chalan Santo Papa
Agana, Guam 96910

Dear Mr. Speaker:

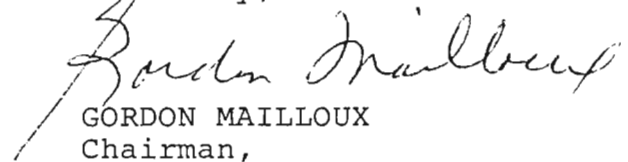
The Committee on Housing and Community Development jointly with the Committee on Ways and Means, to which was referred Bill No. 577, "AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED PROPERTY ADJACENT TO THE GUAM PENITENTIARY IN ORDER TO COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY," do recommend Bill No. 577, as Substituted, to Pass by the Twentieth Guam Legislature.


Votes of the Committee Members are as follow:

	COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT	COMMITTEE ON WAYS AND MEANS
To Do Pass	9	8
To Not Pass	0	0
To Report Out Only	2	1
To Place in Inactive File	0	0
Not Available	0	2

A copy of the Committee Report and other pertinent documents are enclosed for your perusal.

Sincerely,


GORDON MAILLOUX
Chairman,


CARL T. C. GUTIERREZ
Chairman
Committee on Ways and Means

Enclosures

GM/cq

COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
JOINTLY WITH
COMMITTEE ON WAYS AND MEANS

VOTE SHEET - BILL NO. 577, AS SUBSTITUTED

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO
EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED
PROPERTY ADJACENT TO THE GUAM PENITENTIARY IN ORDER TO
COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A
PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY.

MEMBERS OF THE
COMMITTEE ON HOUSING
AND COMMUNITY DEVELOPMENT

TO DO
PASS

TO NOT
PASS

REPORT
OUT ONLY

INACTIVE FILE

G. Mailoux

GORDON MAILLOUX
Chairman

✓

Madeleine Z. Bordallo

MADELEINE Z. BORDALLO
Vice-Chairperson

✓

John P. Aguon

JOHN P. AGUON

✓

Elizabeth P. Arriola

ELIZABETH P. ARRIOLA

✓

Pilar C. Lejan

PILAR C. LEJAN

✓

Ted S. Nelson

TED S. NELSON

✓

Don Parkinson

DON PARKINSON

✓

Edward D. Reyes

EDWARD D. REYES

✓

Francisco R. Santos

FRANCISCO R. SANTOS

✓

George Bamba

GEORGE BAMBA

✓

Rilyn D.A. Manibusan

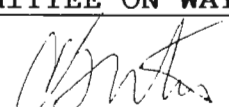
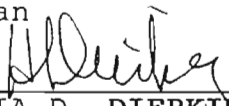
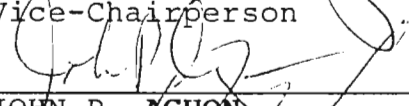
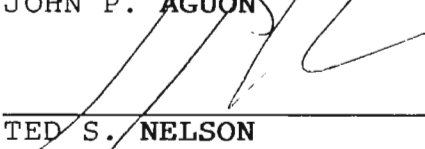


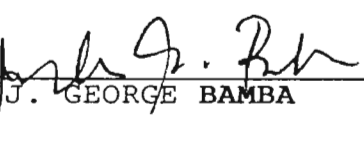
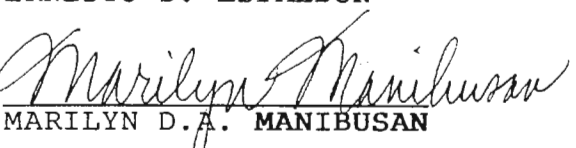

RILYN D.A. MANIBUSAN

✓ 5/28/90

COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
JOINTLY WITH
COMMITTEE ON WAYS AND MEANS

VOTE SHEET - BILL NO. 577, AS SUBSTITUTED

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO
EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED
PROPERTY ADJACENT TO THE GUAM PENITENTIARY IN ORDER TO
COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A
PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY.

<u>MEMBERS OF THE COMMITTEE ON WAYS AND MEANS</u>	<u>TO DO PASS</u>	<u>TO NOT PASS</u>	<u>REPORT OUT ONLY</u>	<u>INACTIVE FILE</u>
 CARL T.C. GUTIERREZ Chairman	✓			
 HERMINIA D. DIERKING Vice-Chairperson	✓			
 JOHN P. AGUON	✓			
 TED S. NELSON				
 DON PARKINSON			✓	
 FRANKLIN J.A. QUITUGUA	✓			
 J. GEORGE BAMBA	✓			
DORIS F. BROOKS				
ERNESTO S. ESPALDON				
 MARILYN D.A. MANIBUSAN	✓			
 MARTHA C. RUTH	✓			

5/25/90
mdm

5/14/90

COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
JOINTLY WITH
COMMITTEE ON WAYS AND MEANS

JOINT PUBLIC HEARING MINUTES ON BILL 577

"AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO
EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED
PROPERTY ADJACENT TO THE GUAM PENITENTIARY IN ORDER TO
COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE
A PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY"

DATE: AUGUST 16, 1989
TIME: 2:00 P.M.
PLACE: LEGISLATIVE SESSION HALL

Members Present: Chairperson Gordon Mailloux; Vice-Chairperson
Madeleine Z. Bordallo; Member Edward D. Reyes.

Witnesses Present: Mr. Joseph B. Cruz, representing Mr. Frank L.G.
Castro, Director, Department of Land Management (DLM) ; Mr. Nonito
"Nito" C. Blas, Commissioner of Mangilao; Mr. Teddy Llanes, resident
of Dededo; Mr. Ben C. Mesa, resident of Mangilao; Mr. Zosef P. Branch,
representing Fred and Remedio Cruz Natividad.

SUMMARY OF TESTIMONY

Except for the Department of Land Management, all other witnesses
supported passage of Bill No. 577, and requested to add two property
owners who are also affected by the Guam Penitentiary.

The Department of Land Management has no objections to Sections 1-3,
but objects to Sections 4-10 of the Bill. Properties mentioned under
Sections 4-10 are privately owned properties.

Commissioner Blas and Mr. Branch supported the Bill and requested an
amendment to include Mr. Llanes' and Mr. and Mrs. Fred Natividad's
properties. Under the existing law, the government cannot enter into
a land exchange with these individuals because they do not have any
buildings on their properties.

When questioned, Mr. Cruz replied that those people mentioned under
Sections 2 and 3 have not been contacted to verify whether or not they
agreed to the amount specified. However, appropriating money does
not necessarily mean that they have to exchange based on that amount.
The exchange can be negotiated.

FINDINGS/RECOMMENDATION

Bill No. 577 authorizes the Governor of Guam to purchase concrete
residential structures and to exchange government land, on an
area-for-area basis, with those individuals mentioned therein, whose
properties are located within the 500' radius protective zone of the
Guam Penitentiary.

While the Department of Land Management does not object to the intent of the Bill, it objects to the government properties noted for exchange because they are privately owned. The property owners identified in Bill No. 577 have met with DLM personnel, and have agreed to exchange their properties with other government land, different from those mentioned in the Bill.

The request to include Mr. Llanes' and Mr. and Mrs. Natividad's properties are not addressed at this time. Prior to Public Law 20-69, Mr. Llanes and Mr. and Mrs. Natividad were denied to exchange their properties with government land because Public Law 17-54 was specific that only properties with buildings are authorized for exchange. The enactment of Public Law 20-69 would address these problems.

Public Law 17-54 authorized the Governor of Guam to acquire private land within the 500-mile radius of the Guam Penitentiary, and authorized an area-for-area land exchange with individuals who have buildings on their properties. Public Law 20-69 amended the law to allow a value-for-value exchange, including those parcels where no homes exist.

It is the opinion of the Legislative Legal Counsel that Bills introduced, "outlining the specifics of certain land exchanges and sale in accordance with Public Law 17-54. . . which were "not consummated before the amendment of Public Law 20-69, are no longer consistent with the existing law." However, Bills heard, authorizing area-for-area exchange, prior to the enactment of Public Law 20-69 and contrary, are still valid hearings. The Bills may need technical amendments to reflect that they are not now consistent with current law.

During the course of research, it was found that Lot No. 5386-1, located adjacent to the Guam Penitentiary, belonging to Mr. Antonio P. Perez, was acquired by the government and exchanged with government land, more particularly described as Lot No. 1110-1-1-New, Mangilao, on an area-for-area basis.

Late 1988, Mr. Perez was approached by the Department of Agriculture, requesting to exchange Lot No. 1110-1-1-New back to the Government of Guam. The property has a potential value to the Department's future expansion of the Guam Rail Captive Breeding Facility (see letter from the Department of Agriculture to the Department of Land Management, dated January 20, 1989). The Department of Land Management, letter dated February 20, 1990, supported the request, and have identified government parcel in Barrigada Heights available for exchange.

The Committees desire to expedite the pending land transactions surrounding the expansion of the Guam Penitentiary, to allow the people affected within the area to continue with their livelihood without further interruption. Further, in that identification of government land for exchange is a time consuming process both for the DLM and the private property owners, the Committees consider it beneficial to all parties concerned to pass Bill No. 577.

However, the Committees must note that the area-for-area exchange is based on the concept that the values of the properties must be

somewhat comparable. A property in Barrigada Heights as compared with a property around the correctional facility in Mangilao differs tremendously in land value.

The Committee on Housing and Community Development and the Committee on Ways and Means, based on the information provided, hereby, recommends Bill No. 577, as Substituted, to Report Out Only to the Twentieth Guam Legislature.

ATTACHMENTS

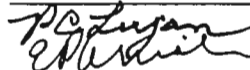
1. BILL 577, AS SUBSTITUTED BY THE COMMITTEE.
2. BILL 577, AS REFERRED TO THE COMMITTEE.
3. TESTIMONY OF THE DIRECTOR OF
DEPT. OF LAND MANAGEMENT W/ MAPS.
4. TESTIMONY OF MR. TEDDY LLANES.
5. TESTIMONY OF MR. BEN C. MESA.
6. LETTER FROM MR. A. PEREZ, DATED 12/5/89,
7. LETTER FROM DEPT. OF LAND MANAGEMENT, W/ATTACHMENTS, DATED
02/09/90, RE NEW LOTS IDENTIFIED FOR THE PEREZ FAMILY.
8. LETTER FROM DEPT. OF AGRICULTURE TO DLM, DATED 1/20/90,
RE REQUEST TO EXCHANGE BACK LOT 1110-1-1-NEW, MANGILAO.
9. LETTER FROM DEPT. OF LAND MANAGEMENT, DATED 2/20/90.
RE DEPT. OF AGRICULTURE'S REQUEST ON LOT 1110-1-1-NEW.
10. OPINION OF THE LEGISLATIVE LEGAL COUNSEL, DATED 2/5/90.
11. FISCAL NOTE FROM BBMR.
12. ATTENDANCE SHEET.

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) REGULAR SESSION

BILL NO. 577
Substituted by the Committee on
Housing and Community Development
and the Committee on Ways and Means

Introduced by:

F.R. SANTOS
T.S. NELSON
J.T. SAN AGUSTIN



AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO
EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED
PROPERTY ADJACENT TO THE GUAM PENITENTIARY IN ORDER TO
COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A
PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY.

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

2 Section 1. Legislative Findings. The efforts to complete
3 the Department of Corrections Adult Correctional Facility in
4 Mangilao has, to date, not been completed. Though the Guam
5 Legislature has provided the statutory authorizations and
6 appropriations, where required, the work to complete the
7 facility has been delayed for a multitude of reasons. The Guam
8 Legislature finds that this situation must be corrected and the
9 Adult Correctional Facility must be completed as soon as
10 possible, inclusive of the 500 feet radius protective zone. The
11 Guam Legislature also finds that land owners, whose properties
12 are impacted by the 500 feet radius protective zone and which
13 property would have and should have been exchanged with
14 Government of Guam land remain, have been left in states of
15 uncertainty, unable to improve their properties or to build
16 homes on said properties and uncertain as to the final
17 disposition of this matter.

1 This legislation is enacted with the Legislative intent to
2 comply with the provisions of Public Law 17-54 and to insure the
3 orderly completion of the Adult Correctional Facility, to
4 provide for the 500 feet radius protective zone to insure
5 greater integrity of the security systems of the facility, and
6 to resolve the delays in securing said zone which has caused
7 much uncertainties with affected land owners.

8 Section 2. The Governor of Guam is hereby authorized to
9 purchase for the Department of Corrections, the concrete
10 residential structure owned by Jose P. and Victoria C. Perez,
11 located on Lot No. 5386-3, in the village of Mangilao and
12 adjacent to the Guam Penitentiary for the sum of Ninety Thousand
13 Dollars (\$90,000.00). The sum of Ninety Thousand Dollars
14 (\$90,000.00) is hereby appropriated from the General Fund for
15 the purposes of this Section.

16 Section 3. The Governor of Guam is hereby authorized to
17 purchase for the Department of Corrections, the two residential
18 structures owned by Ishmael C. and Ana P. Perez, located on Lot
19 No. 5386-2, in the village of Mangilao and adjacent to the Guam
20 Penitentiary for the sum of Sixty Thousand Dollars (\$60,000.00).
21 The sum of Sixty Thousand Dollars (\$60,000.00), is hereby
22 appropriated from the General Fund for the purposes of this
23 Section.

24 Section 4. The Governor of Guam is hereby authorized to
25 exchange, on an area for area basis, 5,000 square meters of that
26 Government of Guam land designated as Part of Lot No. 6,

1 Block D, Tract No. 9 at Barrigada, and 4851 +/- square meters of
2 Part of Lot No. 5403 in Mangilao, for that tract of land owned
3 by Jose P. and Victoria C. Perez, designated as Lot No. 5386-3,
4 containing an area of 9851 +/- square meters, located adjacent
5 to the Guam Penitentiary and recorded on Land Management
6 Document No. 367-FY75, Drawing No. D75-007.

7
8 Section 5. The Governor of Guam is hereby authorized to
9 exchange on an area for area basis, the following private
10 properties, with Government of Guam land designated as Lots
11 Nos. 4 through 9, Block "D", Tract No. 9 at Barrigada Heights.

12 Lot No. 5386-4, containing an area of 9850 +/- square
13 meters, owned by Agnes P. Salas

14 Lot No. 5386-7, containing an area of 3720 +/- square
15 meters, owned by Antonio P. Perez

16 Lot No. 5386-2, containing an area of 9850 +/- square
17 meters, owned by Ishmael C. and Ana P. Perez

18 Lot No. 5386-5, containing an area of 9850 +/- square
19 meters, owned by Ishmael C. and Ana P. Perez

20 Lot No. 5386-6, containing an area of 9850 +/- square
21 meters, owned by Manuel P. Perez

22 Section 6. The Governor of Guam is hereby authorized to
23 exchange on an area for area basis, private property owned by
24 Mr. Antonio P. Perez, designated as Lot No. 1110-1-New,
25 Mangilao, containing an area of 4100 +/- square meters, with
26 Government of Guam land within Lots Nos. 4 through 9, Block "D",
27 Tract No. 9 at Barrigada Heights.

1 Section 7. The Department of Land Management is hereby
2 authorized to consolidate Lots Nos. 4 through 9, Block "D",
3 Tract No. 9 at Barrigada Heights for the purpose of providing
4 for the most efficient accomplishment of the land exchanges
5 authorized herein.

6 Section 8. The Director of Land Management shall cause to
7 have the provisions relative to the exchange of land contained
8 herein accomplished within 120 days upon enactment hereof.

9 Section 9. Notwithstanding any other provisions of law,
10 rule, or regulation, the exchange as authorized in Sections 4
11 through 6 of this Act is approved by the Legislature.

TWENTIETH GUAM LEGISLATURE
FIRST REGULAR (1989) SESSION

APR 10 '89

Bill No. 577 (L.S.)

Introduced by:

F.R. Santos
T.S. Nelson
J.T. San Agustin

F.R. Santos

Handwritten notes:
H-2
D-1
G-1

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED PROPERTY ADJACENT TO THE GUAM PENITENTIARY IN ORDER TO COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Legislative Findings. The efforts to complete the Department of Corrections Adult Correctional Facility in Mangilao has, to date, not been completed. Though the Guam Legislature has provided the statutory authorizations and appropriations, where required, the work to complete the facility has been delayed for a multitude of reasons. The Guam Legislature finds that this situation must be corrected and the Adult Correctional Facility must be completed as soon as possible, inclusive of the 500 feet radius protective zone. The Guam Legislature also finds that land owners, whose properties are impacted by the 500 feet radius protective zone and which property would have and should have been exchanged with Government of Guam land remain, have been left in states of uncertainty, unable to improve their properties or to build homes on said properties and uncertain as to the final disposition of this matter.

This legislation is enacted with the Legislative intent to comply with the provisions of Public Law 17-54 and to insure the orderly completion of the Adult Correctional Facility, to provide for the 500 feet radius protective zone to insure greater integrity of the security systems of the facility, and to resolve the delays in securing said zone which has caused much

uncertainties with affected land owners.

Section 2. The Governor of Guam is hereby authorized to purchase for the Department of Corrections, the concrete residential structure owned by Jose P. and Victoria C. Perez, located on Lot No. 5386.3, in the village of Mangilao and adjacent to the Guam Penitentiary for the sum of NINETY THOUSAND DOLLARS (\$90,000.00). The sum of NINETY THOUSAND DOLLARS (\$90,000.00) is hereby appropriated from the General Fund for the purposes of this section.

Section 3. The Governor of Guam is hereby authorized to purchase for the Department of Corrections, the two residential structures owned by Ishmael C. and Ana P. Perez, located on Lot No 5386-2, in the village of Mangilao and adjacent to the Guam Penitentiary for the sum of SIXTY THOUSAND DOLLARS (\$60,000.00). The sum of SIXTY THOUSAND DOLLARS (\$60,000.00), is hereby appropriated from the General Fund for the purposes of this section.

Section 4. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9851 ± square meters of that Government of Guam land designated as Lot No. 12, Ipan, Talofof, as recorded on Land Management Document No. 129-FY85, Drawing No. 23-85-02, for that tract of land, owned by Joseph P. and Victoria C. Perez, designated as Lot No. 5386-3, containing an area of 9851 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 5. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9850 ± square meters of that Government of Guam land designated as Lot No. 4, Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for that tract of land owned by Agnes P. Salas, designated as Lot No 5386-4, containing an area of 9850 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 6. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 3720 ± square meters of that Government of Guam land designated as Lot No. 12, Ipan,

Talofofu, as recorded on Land Management Document No. 129-FY85, Drawing No. 23-85-02, for that tract of land owned by Antonio P. Perez, designated as Lot No. 5386-7, containing an area of 3720± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 7. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9850± square meters of that Government of Guam land designated as Lot No. 6, Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for that tract of land owned by Ishmael C. and Ana P. Perez, designated as Lot No. 5386-2, containing an area of 9850 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 8. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9850 ± square meters of that Government of Guam land designated Lot No. 5, Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for that tract of land owned by Ishmael C. and Ana P. Perez, designated as Lot No. 5386-5, containing an area of 9850 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 9. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9850 square meters of that Government of Guam land designated as Lot No. 3, Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for that tract of land owned by Manuel P. Perez, designated as Lot No. 5386-6, containing an area of 9850 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 10. The Department of Land Management is hereby authorized to consolidate Lots No. 6,5,4,3,2, and 1 of Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for the

purpose of providing for the most efficient accomplishment of the land exchanges authorized herein.

Section 11. The Director of Land Management shall cause to have the provisions relative to the exchange of land contained herein accomplished within 120 days upon enactment hereof.



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910

August 16, 1989

The Honorable Gordon Mailloux
Chairman, Committee on Housing and
Community Development
Twentieth Guam Legislature
Agana, Guam 96910

Subject: Legislative Bill No. 577 which is An Act to
exchange government lands for private properties
affected by the Guam Penitentiary site

Dear Mr. Chairman:

The Department of Land Management is herein submitting its
comments to Bill No. 577, on a section by section basis as
follows:

Section 1. No Objection.

Section 2. No objection.

Section 3. No objection.

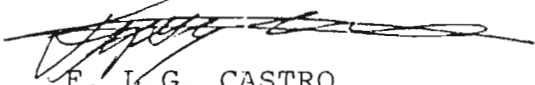
Section 4. Lot No. 12 at Ipan cannot be considered
for an exchange with Joseph and Victoria Perez because the
Government of Guam does not own the property. With that in
mind, another site must be considered and we recommend that
the family get together with Land Management to find another
parcel.

Section 5. Objection - Lot No. 4, Tract F, Barrigada,
is privately owned property. Alternate site must be sought
for the purpose mentioned herein.

Section 6. Same situation as given under Section 4 above.

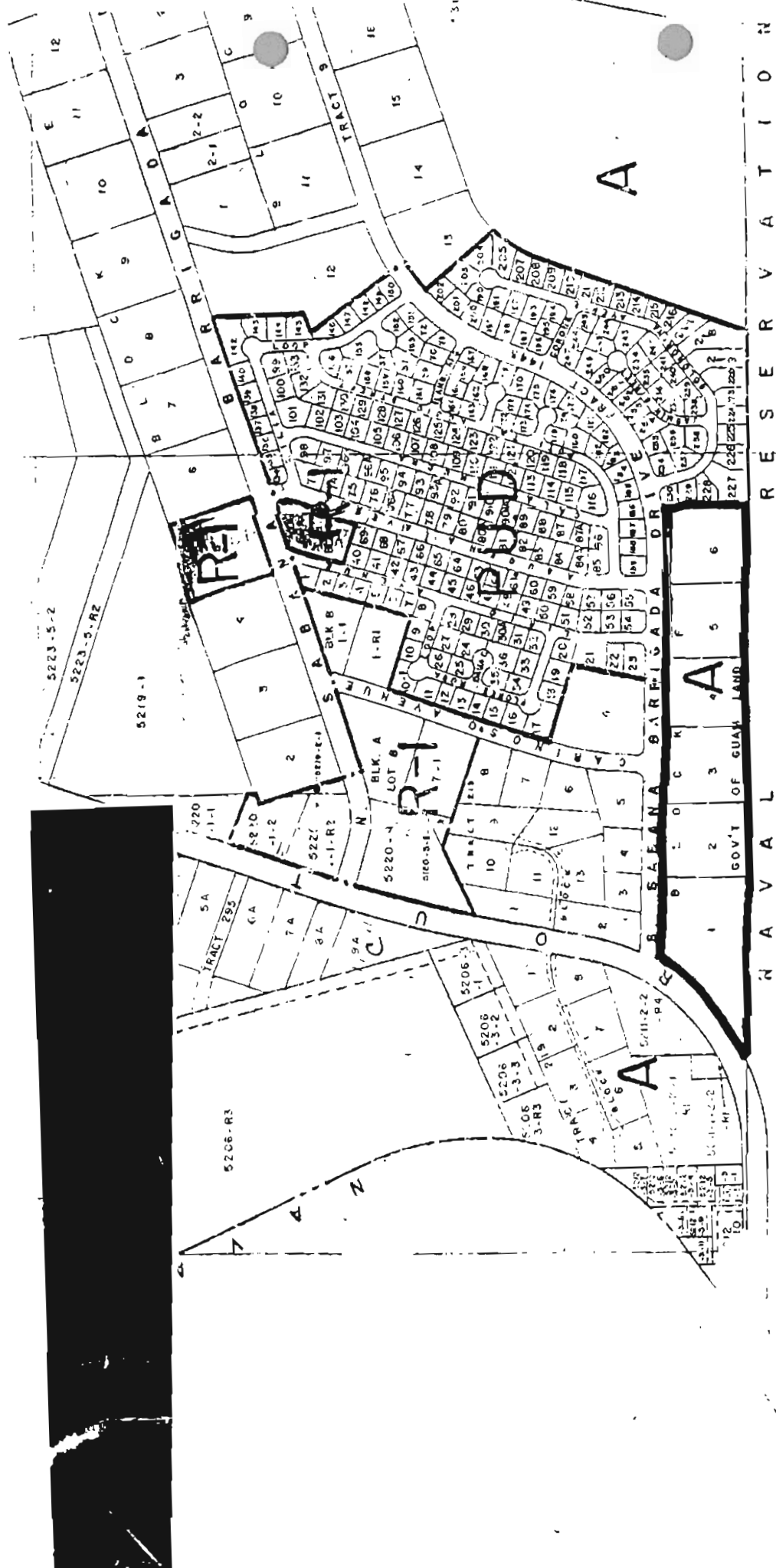
Sections 7 through 9. Objection. Properties mentioned
under these provisions are privately owned properties.
Alternate sites must be sought for the purpose stated herein.
With these in mind, Section 10 must also be amended to reflect
the appropriate votes for disposal upon determination.

Sincerely yours,


F. L.G. CASTRO
Director, Department of
Land Management

Attachment: Map

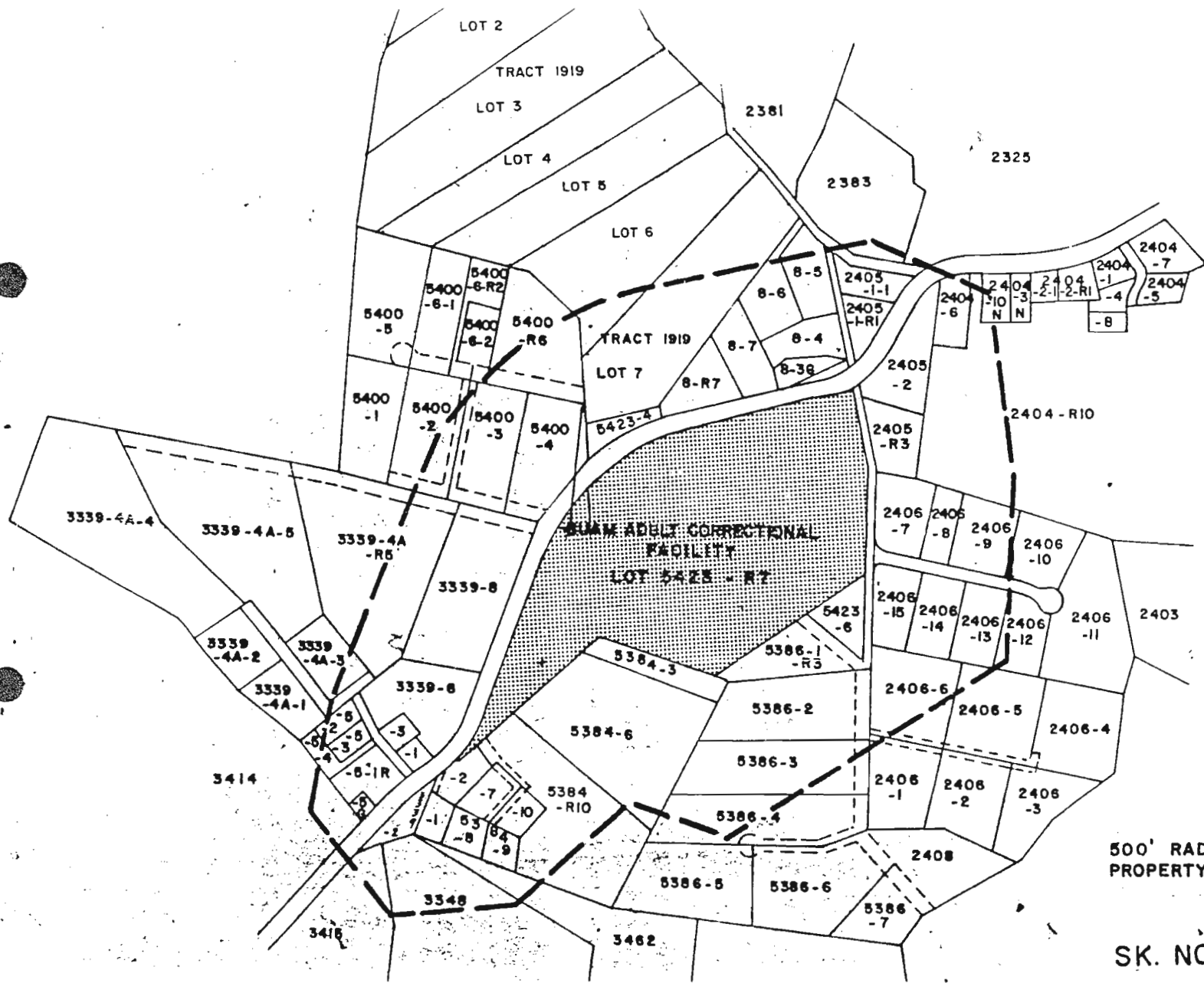
COMMONWEALTH NOW!!!
CLOSER PARTNERSHIP WITH AMERICA LONG OVERDUE



RESERVE V A T I O N

Bill 517, AS REFERRED

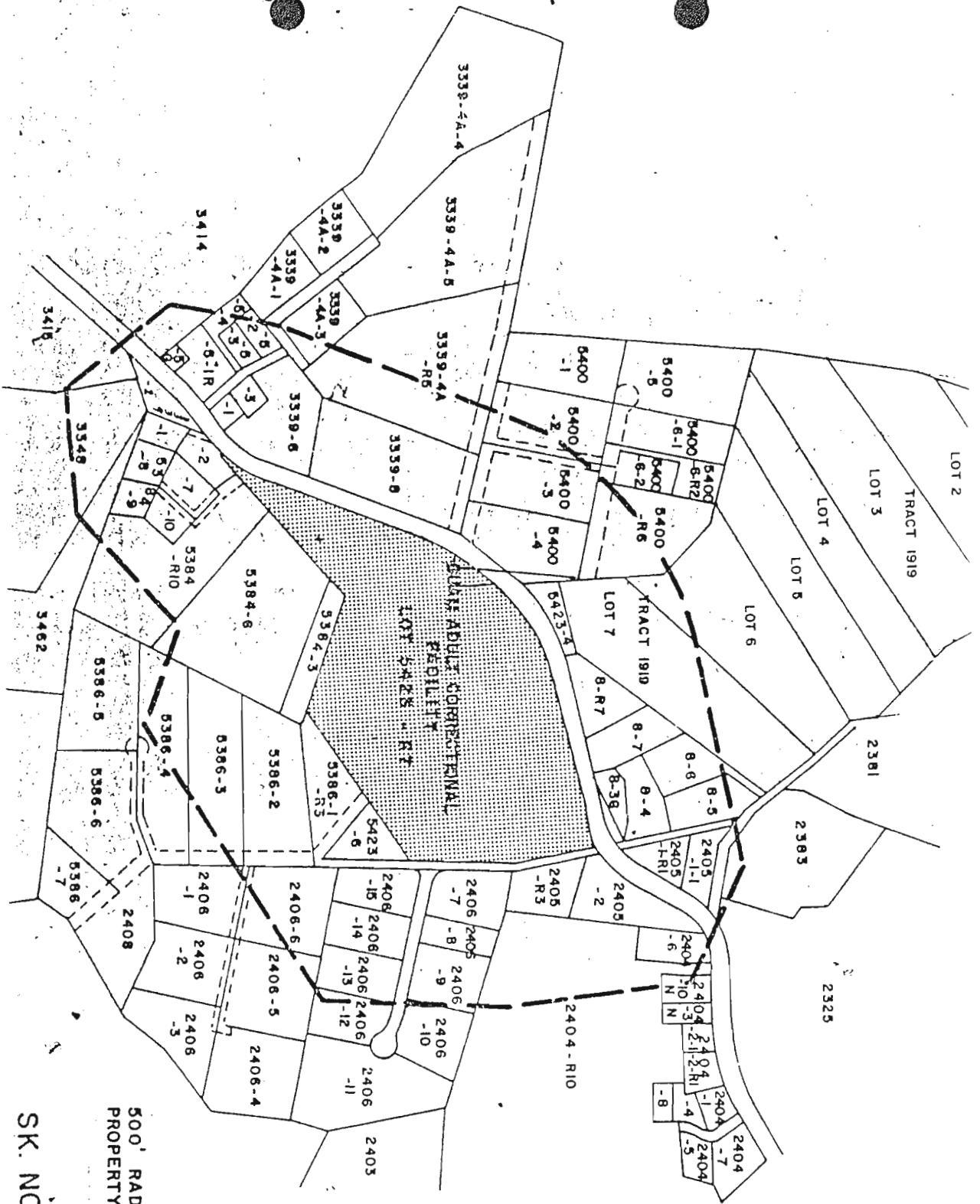




SCALE: 1" = 400'

500' RADIUS TO ADJACENT PROPERTY

SK. NO. 1586



500' RADIUS TO ADJACENT
PROPERTY

SK. NO. 1586

SCALE: 1" = 400'

August 16, 1989

Honorable Gordon Mailloux
Senator
Twentieth Guam Legislature
334 Soledad Avenue
2nd Floor, Quan's Building
Agana, Guam 96910

Dear Senator Mailloux,

Good afternoon to you and the members of the Committee on Housing and Community Development.

My name is Teddy Llanes and I am a resident of Dededo. I am married to the former Dolores W. Cruz, who is originally from the village of Chalan Pago. We have three (3) children who are now of voting age and are duly registered voters of Guam.

Many years ago when my children were very young, my wife and I inherited Lot 5400-R6, which is situated in the municipality of Sinajana, Guam. This property is located within close proximity of the present Adult Correctional Facility in Mangilao. We had hoped that this property would provide a place where my children can eventually build decent homes for their families in the future. At that time, it was rumored that an alternate location for the correctional facility was being considered by the Guam legislators.

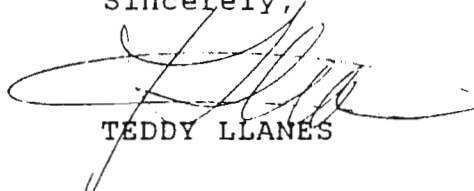
Much to my dismay, the correctional facility in Mangilao has since been renovated and expanded. There is every indication that the facility is there to stay, which is the reason why I come before you today to testify in support of Bill 577. This bill, if enacted into law, would allow for the exchange of privately- owned lots located near the Mangilao Adult Correctional Facility with Government- owned land that is equal or comparable in size. I am very much in support of this bill. All too often, we hear of clients of the Rosario Detention Facility and inmates of the Adult Correctional facility escaping. Decent, law- abiding citizens are exposed to the potential dangers of hardened criminals.

My children, who are now gainfully employed, have no desire to construct their homes on our family property in Mangilao and right-

fully so. The location is just not conducive to raising a family. I am hoping that the members of the Twentieth Guam Legislature will act expediently and favorably in support of Bill 577. With escalating construction costs, it is increasingly imperative that this legislative body act now.

On behalf of myself and the other families who are affected, I prevail upon you to assist us by voting in favor of passing Bill 577 into law. Thank you for giving me this opportunity to express my views in support of Bill 577.

Sincerely,



TEDDY LLANES

Agana Heights
P. O. Box 2694
Agana, Guam 96910

The Honorable Chairman *Senator Mulloy*
Bill No. 577

Dear Sir:

My name is Ben C. Mesa. I am in favor of Bill No. 577 inspite of the fact, that a portion of our land, Lot No. 5400-4, was already occupied by the Guam Penitentiary and the others within the 500 feet radius from the Guam Penitentiary as shown in the attached map.

In view of the above mentioned Bill, I am willing to exchange our land to Government of Guam Land for the following reasons:

1. That I could not develop our land because of I got scared of the prisoners.

2. That my family does not like to live in the said land, because in case some of the prisoners could escape they could take my family as a hostage.

3. That my family wants to live in a peaceful place.

I am hoping the approval of the said Bill.

Very respectfully yours,


BEN C. MESA

December 5, 1989

Antonio P. Perez
P.O. Box 20392
GMF 96921

The Honorable Gordon Mailloux
Chairman
Committee on Housing and Community Development
20th Guam Legislature
Agana, Guam

Dear Senator Mailloux,

When the plans for the expansion and improvement of the Adult Correctional Facility, the Department of Corrections, were completed it was learned that private property surrounding the facility would have to be secured in order to complete the requirements for a protective and buffer zone of 500 feet from the perimeter of the facility. Our families property was one of those affected.

In the early 1980's we were informed that the Government of Guam would initiate condemnation proceedings and a law was commensurately enacted to provide for the Declaration of Taking and the funds needed to purchase the property. For some of the adjoining property and their owners the process was efficient and expeditious. They were able to secure the agreement, were given GovGuam lands in exchange and were able to re-establish themselves. The story was different for our family and in our opinion we were subjected to a great deal of injustice simply because of the inefficiencies of the Government.

The controversy over one of the lots in question, belonging to myself, was settled relatively quickly because the Government immediately needed my residence for use as the female unit for DOC. Additionally, the outside perimeter fencing and one of the access roads ran right through one corner of my lot so the Government literally had to expedite that particular purchase.

However, the situation with the rest of my family, including my Mother, my brothers and sisters, is different. Because the Government was in no hurry, we have been suffering for the last several years. One particular case in point is my brother Jose, one of the co-signers of this letter. Jose has literally been in limbo for all these years. He cannot extend or improve his house because he knows it is eventually scheduled for condemnation and taking by the Government. Likewise, my Mother, other brothers and sisters cannot plan accordingly because they are all keenly aware of the inevitable taking of the land.

I also point out the fact that the unsettled property of my family exist within the 500 foot radius of the prison and the only access to that property is via the fence perimeter road of the prison and within the 500 foot buffer zone. If there are any problems within the prison and the perimeter road is closed, my brother and his family have no way of entering or exiting their home. The same is true with all the other lots and property of my family. My family has had to endure unimaginable injustices. They have been denied the full benefits of their property and they have suffered the stress and tension of being in such a proximity to the prison. This is not only unjust but inhuman.

In the 19th Guam Legislature, I sought the help of Senator Frank R. Santos. Senator Santos introduced a bill which would satisfy the situation while he was the Chairman of the Committee on Housing and Community Development. When he vacated that Chair the bill apparently died in Committee.

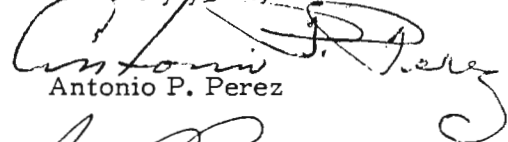
The measure was re-introduced in the 20th Guam Legislature, as Bill No. 577, and to date it is in your Committee. Land for the exchange has been identified and as far as we were concerned everything was in the process. Recently you conducted public hearings on the bill and despite the fact that the Department of Land Management testified in favor of the measure they noted that the land identified for exchange is private property. Because this caused us much concern, we conducted some research and learned that, in fact, that property is still under the title of the Government of Guam. The testimony of the Department of Land Management to your Committee may not have been totally accurate..

I am not here asking that you believe us in this matter. I ask that you have the matter researched by your staff. The property in Barrigada which is identified in the bill for exchange with our Mangilao property presently belongs to the Government of Guam. I do not understand why Land Management would inform the Committee that the property belongs to private individuals. Rather, information from knowledgeable individuals that the property has been reserved by officials in that department itself.

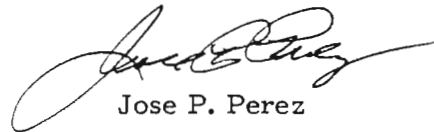
Senator Mailloux, we appeal to your compassion and understanding. We know that you can understand the stress and tension this has caused over the many years. My brother Jose is a medical retiree from the Government of Guam and is therefore on a fixed income. The longer this situation is allowed to exist and prices for homes continued to increase, the less opportunity he will have to purchase an adequate home for his family. We ask for no more than the opportunity to make a future for our families. We are being denied this by the Government.

If there are any questions, you may contact me at my place of employment, Telephone No. 333-2051 or my home at 632-9588. Likewise you may contact my brother Jose at his home phone no. 734-2104. Si Yu'os Ma'ase and may God bless you for any assistance you can afford us.

Sincerely yours,



Antonio P. Perez



Jose P. Perez

cc: All Senators

Bill 577
2m. claim private prop
is it or not. BOM
By
2. land back from you -
let's identify & exchange.
age.



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910

February 9, 1990

The Honorable Gordon Mailloux
Chairman, Committee on Housing and
Community Development
Twentieth Guam Legislature
Agana, Guam 96910

Subject: Proposed land exchange with the Perez Family

Dear Senator Mailloux:

This letter is to attest that in recent weeks, Mr. Tony Perez, who was speaking on behalf of himself and for his other members of his family, had met with me and wherein, he confirmed that the lots at Barrigada Heights which we pointed as being available for exchange are satisfactory to him and to the members of his family. With that in mind, on January 17, 1990, Land Management proceeded in releasing a letter to Agencies concerned for their inputs to the proposed exchange land. Attached for immediate reference, is a copy of the said letter.


On February 8, 1990, Mr. Joseph Perez met with both the Administrator of Land Management Programs and I, and in which meeting, Mr. Joseph Perez confirmed that a part of Lot No. 6, Block D, Tract No. 9 at Barrigada, and a Part of Lot No. 5403 in Mangilao are satisfactory to him for an exchange of his Mangilao property.

With regards to the other Perez family lots involved in the Mangilao Correctional Facility Site which has become a subject of Legislative Bill No. 577, please be advised that on the date of this letter, we again met with Mr. Tony Perez, the family spokesman, and we reconfirmed his acceptance for the exchange to a part of Lot No. 4 and Lots 5 through 9, Block "D", Tract No. 9 at Barrigada Heights.

The Honorable Gordon Mailloux
RE: Proposed land exchange with the Perez Family
February 9, 1990
Page 2 of 2 Pages

Accordingly, please consider the later mentioned lots or parts thereof as being available to address the exchange requirement for the Perez Family.

Sincerely,


F. L. G. CASTRO
Director, Department of
Land Management

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5351-6

5351-7-R9

NEW SITE

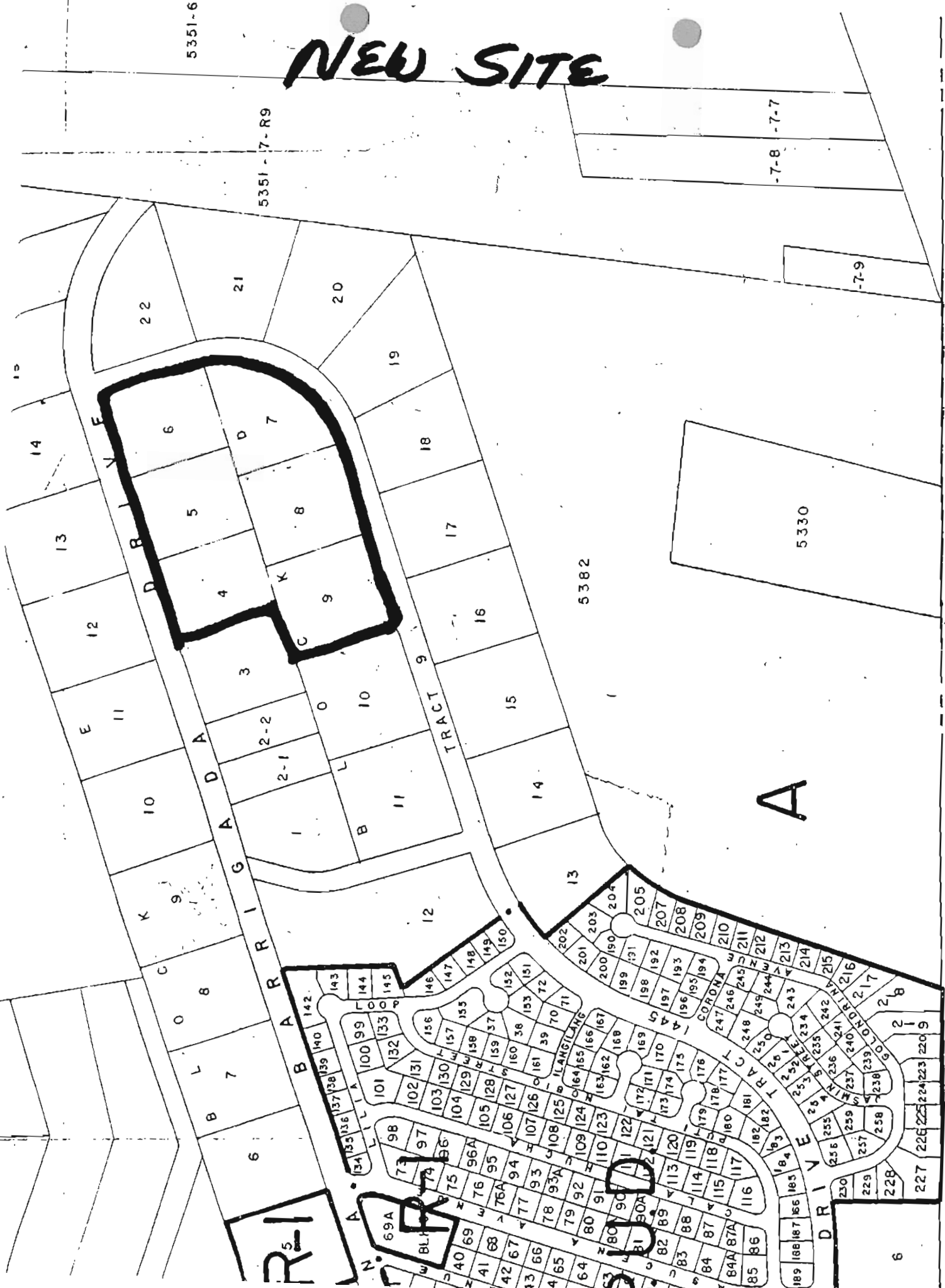
-7-8 -7-7

-7-9

5382

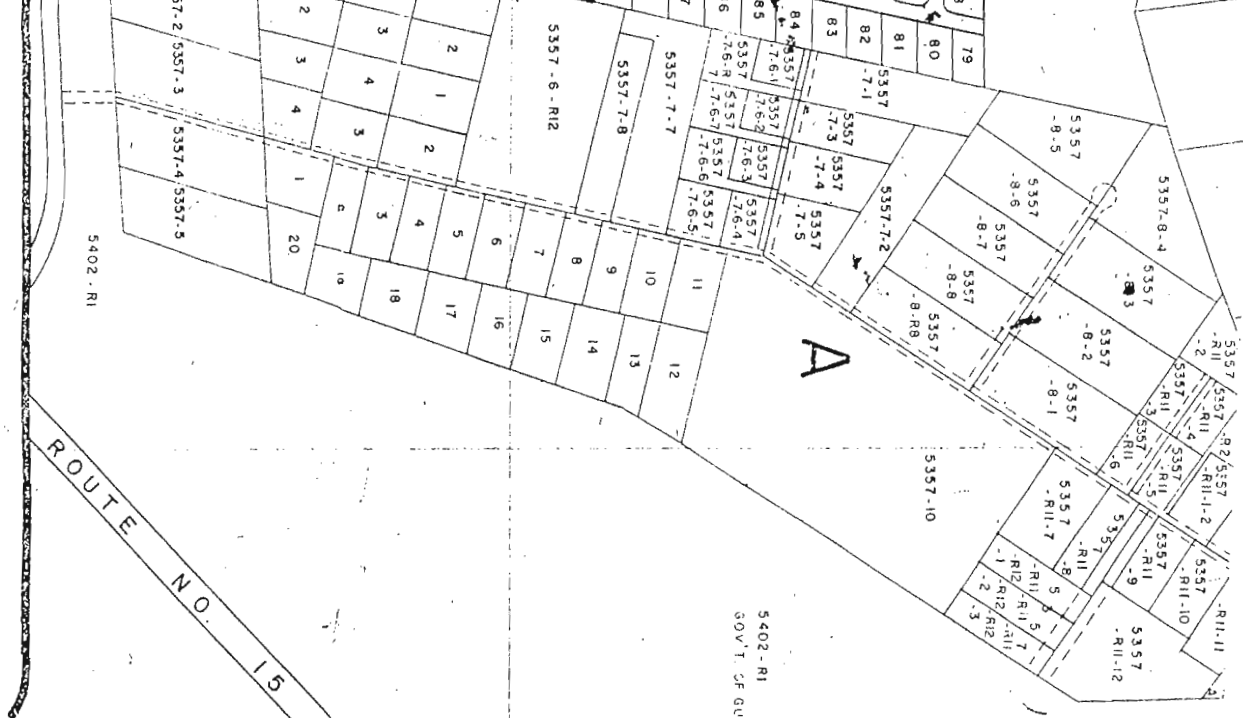
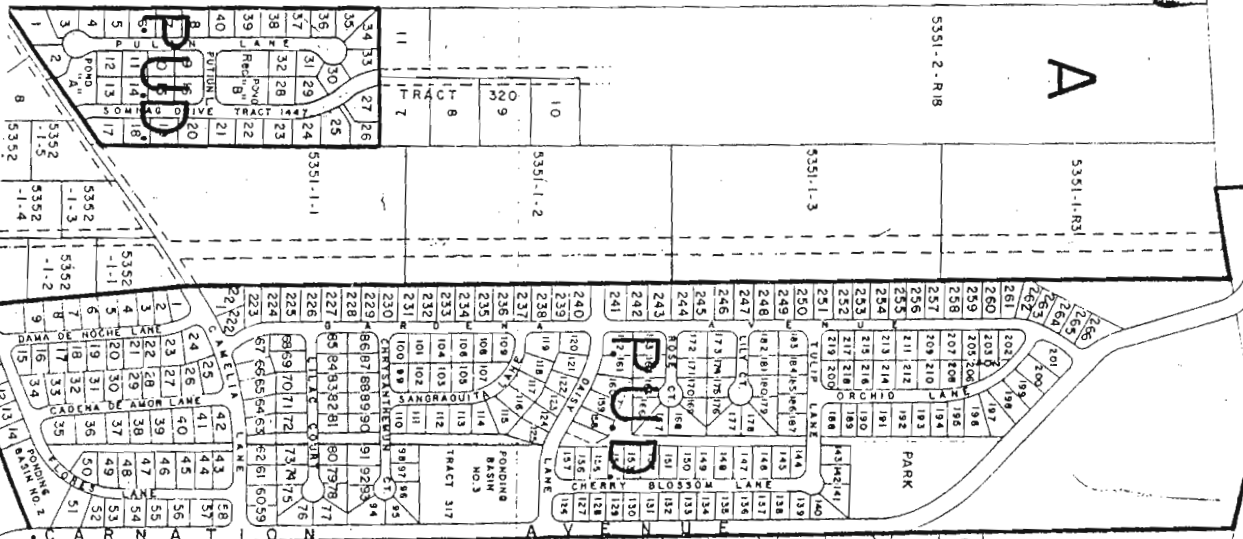
5330

A



R E F S E R V A T I O N B O U N D A R Y

5280
GOV'T. of GUAM
LAND



531-5

5351-4

5351-3

5351-2-R18

A

5351-1-R31

A

5402-R1
GOV'T. OF GUAM

ROUTE NO. 15

ROUTE NO. 6

ROUTE

OF

5402 - G

P.U.D.

5355 - 1 - 1B

COVERING MUNICIPALITY OF BARRIGADA

AND PORTION OF:

- A AGRICULTURAL ZONE
- R-1 ONE-FAMILY DWELLING ZONE
- R-2 MULTIPLE DWELLING ZONE
- C COMMERCIAL ZONE
- P.U.D. PLANNED UNIT DEVELOPMENT ZONE
- H HOTEL RESORT ZONE
- M-1 LIMITED INDUSTRIAL ZONE
- M-2 INDUSTRIAL ZONE

61,000' M.

PREPARED BY
PLANNING DIVISION
PLANNING AND MANAGEMENT



OCEAN



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA GUAM 96910

Telephone Number: (671) 472-8851/4
Telecopier Number: (671) 477-0883

TELECOPIER INFORMATION PAGE

Please deliver to:

Chilang Quinata
(Sen. Maillan's office)

From:

Sandoz

Their Telecopier Number:

477-8358

Total pages including this cover page

(3)

NOTICE: If you do not receive legible copies of all the pages, please call back as soon as possible: (671)472-8851/4 and ask for sender.

Sent by:

Sandoz

ON:

2/13/90

Time Sent:

11:57 a.m.

RE:

Memo to Agencies 1/17/90 re:
Antonio Perez

COMMENTS

COMMONWEALTH NOW!!!

CLOSER PARTNERSHIP WITH AMERICA LONG OVERDUE

DEPARTMENT OF LAND MANAGEMENT

January 17, 1990

Memorandum

To: Bureau of Planning
Department of Commerce
Department of Education
Department of Labor
Department of Parks and Recreation
Department of Public Health and Social Services
Department of Public Works
Guam Economic Development Authority
Guam Environmental Protection Agency
Guam Housing and Urban Renewal Authority
Guam Police Department
Guam Power Authority
Guam Telephone Authority
Mayor of Barrigada
Public Utility Agency of Guam

From: Director, Department of Land Management

Subject: Exchange Request

Reference: Applicant - Antonio Perez

This Department is currently reviewing the request to exchange privately owned land Lot No. 1110-1-1-New, Maimai, Municipality of Mangilao, for a portion of government land in Barrigada Heights, in the Municipality of Barrigada, as shown on the attached sketch shaded yellow.

This office found it difficult at this point in time to provide specifics other than the memo filed by the Department of Agriculture (attached).

We solicit your comments for the exchange of said lot as it affects your Department's plans and projects. For all intent and purposes of our request perhaps your Department should determine what type of use or activity be restricted within this lot or what type of development that are acceptable within this lot by your office.

Name: Agencio
Ref.: Antonio Peres
Exchange Request
Page 2 of 2

These and other requirements your office feels to impose or address are much more appropriate and thus confining within your Department's roles and functions.

Your Department's position is required regardless of whether or not an objection is being expressed on the proposed disposition.

F. L.G. CASTRO

Attachment

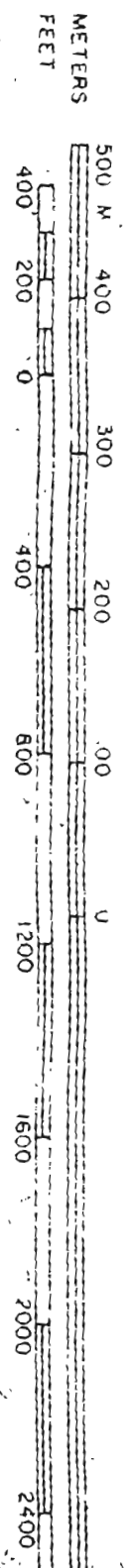
SJA:lp
1/16/90
cc: Dir's. Off.
Land Adm.
File

COMMONWEALTH NOW!!!
CLOSER PARTNERSHIP WITH AMERICA LONG OVERDUE

P

60,000 M

MAP PREPARED BY
PLANNING DIVISION
DEPARTMENT OF LAND MANAGEMENT
for the
TERRITORIAL PLANNING COMMISSION
GOVERNMENT OF GUAM



DEPARTMENT OF LAND MANAGEMENT

February 9, 1990

Mr. Tony Perez
P. O. Box 20392 GMF
Barrigada, Guam 96921

subject: Mangilao/Barrigada Heights Land Exchange
Proposal

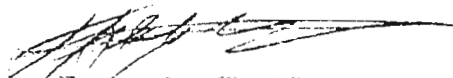
Dear Tony:

This letter is to reconfirm that the Government Land identified as Lot No. 5, Block D, Tract 9 at Barrigada Heights is available for an exchange and that we further understood that the said site is your choice for the exchange of your property at Mangilao. With this in mind, we then are considering that Lot No. 16, Block E, Tract 9 as priorly identified is now out of the question and we shall be centering our attention to Lot 5, Block D.

Relative to your concerned for the exchange of the other family lots mentioned under Legislative Bill No. 577, I had asked the Administrator, Mr. Joseph Cruz, to address the necessary exchange move with that of a part to Lot No. 4 and lots 6 through 9, Block D, Tract 9, and to a part of lot 5403, Mangilao.

If you have any further question, please contact Mr. Joseph B. Cruz. Thank you for your understanding.

Sincerely,



F. L.G. CASTRO
Director, Department of
Land Management

cc: The Honorable Gordon Malloux
Administrator, Land Management Programs

COMMONWEALTH NOW!!!
CLOSER PARTNERSHIP WITH AMERICA LONG OVERDUE

January 20, 1989

Memorandum

To: Director, Department of Land Management
From: Director, Department of Agriculture
Subject: Proposed Land Exchange

Mr. Antonio Perez, the owner of Lot 1110-1-1-New, Mangilao, desires to exchange it for some government-owned land elsewhere on the island. This lot comprises approximately 4100 sq.m. adjacent to the Department of Agriculture. As indicated on the attached map, this lot is adjacent to Maimai (Dairy) Road, and situated immediately behind the Wildlife Section office building and between the road and the Guam Rail Captive Breeding Facility. The lot was formerly a part of the Department of Agriculture and became Mr. Perez's property in a land exchange involved in the construction of the new prison facility for the Department of Corrections.

Mr. Perez now desires to exchange it back to the government. The Department of Agriculture believes that his proposal should be given serious consideration because of the potential value of this lot to the Department for future expansion of the Guam Rail Captive Breeding Facility. Even should the Rail Facility not expand into this lot, having it once again under Departmental control would serve to provide a valuable buffer and protect the captive Guam Rails from undue disturbance. Without this lot under Departmental ownership, there would be little control over the types of development that could take place. Certain types of development could create intolerable levels of disturbance that would adversely affect our captive breeding program. The Department of Agriculture, therefore, strongly supports the request of Mr. Perez to exchange this lot back to the government.

ANTONIO S. QUITUGUA
ANTONIO S. QUITUGUA
Acting

Attachments

cc: Mr. Antonio Perez

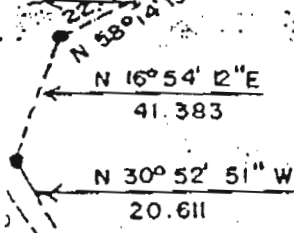
RDANDERSON/jcb

cc: File ✓
Chrono

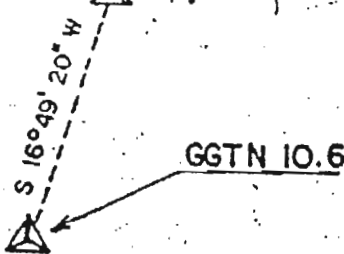
OCT 04 '89 17:02 DAWR

LOT 2323-2
NAVAL GOV'T. OF GUAM
C.T. # 12232

P.3
NAVAL GOV'T. OF GUAM
DOC. # 78620



GGTN 10.5/15.0
N 47,325.885
E 55,605.944



LINE SCHEME
TO SCALE

OLD
QUONSET
HUT

SC
NO

(N 12° 12' W)
9.774

86'

83'

50.316

34.904

N 89° 21'

E 65.220

N 00° 38'
70.254
40" W

LOT 1110-1-1-NEW
AREA = 4,100 ± SQ.M.

CONC.
HOUSE

71.581
(S 10° 20' 00" W)
S 10° 24' 20" W

POB
N 47,408
E 55,545

(N 86° 55' 00" W)

51.50

(S 89° 17' 00" W)
S 89° 21' 20" W

OF SABANAN MAAGAS ROAD



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910

February 20, 1990

Senator Gordon Mailloux
Chairperson, Committee on
Housing and Community Development
Twentieth Guam legislature
P.O. Box CB-1
Agana, Guam 96910


Dear Senator Mailloux:

I was informed that a statement is requested whether we support the intent of the Department of Agriculture's memorandum of January 20, 1989, relative to Mr. Antonio Perez desires to exchange his Lot No. 1110-1-New, Mangilao, with Government land in Barrigada Heights.

Please be informed that this office fully endorsed the desire of Mr. Antonio Perez and thus, catering the concerns of the Department of Agriculture. With this in mind, we have met with Mr. Antonio Perez thereby selecting the government parcel of his desire in Barrigada Heights. I have identified said lot in my letter of February 7, 1990. Copy of which is enclosed for your references.

I trust this letter is satisfactory in addressing the above matter.

Sincerely yours,


F. L.G. CASTRO
Director, Department of
Land Management

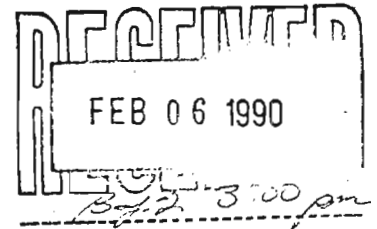
Enclosure

COMMONWEALTH NOW!!!
CLOSER PARTNERSHIP WITH AMERICA LONG OVERDUE



Twentieth Guam Legislature

163 Chalan Santo Papa
Agana, Guam 96910



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Senator

February 5, 1990

MEMORANDUM

To: Senator G. Mailloux,
Chairperson, Committee on Housing
and Community Development,

From: Legislative Counsel.

Subject: Government land leases.

In your memorandum of January 17, 1990, you asked three questions on the captioned subject. Those questions and the discussions therein follow.

Question No. 1.

"Can the government of Guam terminate a long-term agricultural lease before its term otherwise expires if the government needs the land for public purposes and is there any existing statute addressing this problem?"

DISCUSSION

Agricultural land leases are governed by Public Law 15-18. Section 1 of that law provides that land declared available for such leases must be suitable for agriculture and not required for public use or reserved for other purposes by any other provision of law.

Section 9 allows the government to cancel a lease at any time if the lessee is not using the land for the purpose for which it was leased, unless good cause for such failure can be shown, except that no lease can be cancelled without a hearing pursuant to the Administrative Adjudication Law.

Not explicit in Public Law 15-18 or in the administrative rules and regulations for agricultural leases is the authority for the government to cancel the lease upon a finding of its requirement for public use that arises after the lease was executed.

However, such authority is found in Section 13517 of the Government Code, which regulates, generally, all leases and sales of government property, and which provides:

"§13517. Same: reservations in deed or lease. In every deed or grant, lease or contract for sale of government real property, the government shall reserve such rights and easements as may be necessary or desirable for any public use or purpose, present or future, including water and mineral rights in the real property so conveyed." (emphasis added)

In Land Use Permit Agreements issued by the Department of Land Management, the rights discussed in §13517 are preserved by the following provision:

"The government of Guam has the right to terminate this permit whenever the government determines that the land subject to this permit is required for public use or purpose by the government; provided, that in such event, the government, shall give to the permittee, thirty (30) days notice in writing [before] such termination."

Similar provisions are also contained in commercial land leases and provisional agricultural land leases, often with additional safeguards for the lessee upon condemnation of the premises.

However, in the standard agricultural land lease form issued by the Department of Agriculture, a similar provision is markedly absent.

In the absence of such a provision in the lease, the government may not terminate the lease, except by condemnation proceedings.

Typically provided in commercial lease agreements is the following section limiting the government's power of eminent domain over the leasehold interests:

"§18. If at any time during the term of this lease, any portion of the premises should be condemned for public purposes by the government of Guam or any other governmental agency or subdivision thereof, the rental shall be reduced in portion to the value of the premises condemned. The LESSEE(S) shall be entitled to receive from the condemning authority the proportionate value of the LESSEE'S permanent improvements so taken in the proportion that it bears to the unexpired term of the lease, taking into account the depreciated value of the improvements; provided that the LESSEE(S) may, in the alternative, remove and relocate its improvements to the remainder of the lands occupied by the LESSEE(S). The LESSEE(S) shall not by reason of such condemnation be entitled to any claim against the LESSOR for condemnation of the leasehold interest and all compensation payable or to be paid for or on account of the leasehold interest by reason of such condemnation shall be payable to and be

the sole property of the LESSOR. The above rights of the LESSEE(S) shall not be exclusive of any other which LESSEE(S) may be entitled by law. Where the portion so taken renders the remainder unsuitable for the uses or use for which the land was leased, the LESSEE(S) shall have the option to surrender this lease and be discharged and relieved from any further liability, provided, that LESSEE(S) may remove the permanent improvements constructed, erected and placed by it within such reasonable period as may be allowed by the LESSOR or the condemning authority, whichever period is least."

In the absence of a similar provision, the government may condemn its own leasehold in accordance with general eminent domain procedures.

It is therefore our opinion that the government may ultimately end any long term agricultural land lease, either by a reserved right to do so or by eminent domain proceedings.

Question No. 2.

"Is it still necessary to introduce and entertain piecemeal legislation, identifying particular government properties for exchange and appropriating a specific amount of money for the purchase of buildings, for certain individuals within the 500-foot radius of the government penitentiary who have yet to consummate land exchanges with the government?"

DISCUSSION

The original law authorizing the government to acquire the private land within a 500-mile radius of the Guam Penitentiary (Public Law 17-54) allowed for an area-for-area exchange basis, and authorized exchanges only for land on which homes existed.

Recently, Public Law 20-69 amended this law to allow value-for-value exchanges for all land in the vicinity, including those parcels where no homes exist.

Prior to Public Law 20-69, several bills were introduced outlining the specifics of certain land exchanges and sales in accordance with Public Law 17-54. Because these transactions were not consummated before the amendment of Public Law 20-69, they are no longer consistent with the existing law.

However, legislation may at any time be introduced for land exchanges not authorized by Public Law 20-69, if such is made clear as the intent of the author. Thus, those bills introduced prior to Public Law 20-69 and contrary to it are still valid. Land exchanges authorized by Public Law 20-69 do not require additional piecemeal legislation for each specific exchange, but such may be entertained as a means of speeding up the process.


Accordingly, only those transactions contrary to the provisions of the current law or requiring immediate attention need be entertained in specific legislation.

Question No. 3.

"Because of the enactment of Public Law 20-69, is it still necessary to complete the committee report on the previous bills, considering that the properties identified for exchange were based on an area-for-area basis?"

DISCUSSION

Hearings on those bills to allow specific property exchanges on an area-for-area basis are still valid hearings, although the bills may need technical amendments to reflect that they are not now consistent with current law.



ANDREW M. GAYLE

TMT:pjt

cc: Chilang Quinata



BUREAU OF BUDGET & MANAGEMENT RESEARCH
OFFICE OF THE GOVERNOR, Post Office Box 2950, Agana, Guam 96910



MICHAEL J. REIDY
Director

FEB 22 1990

Senator Gordon Mailloux
Chairperson
Committee on Housing &
Community Development
Twentieth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Senator Mailloux:

Transmitted herewith is a fiscal note on Bill No. 577.

Should I be of any assistance, please contact my office.

Sincerely,

MICHAEL J. REIDY

Enclosure

cc: Sen. Carl T. C. Gutierrez
Chairperson, Committee on
Ways and Means



Bill No. 577 Date Received 2/22/90
 Amendatory Bill Yes No Date Reviewed 2/22/90
 Department/Agency Affected: Department of Land Management
 Department/Agency Head: Francisco Castro
 Total Fiscal Year Appropriation: \$2,392,125

Bill Title (concise): AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED PROPERTY ADJACENT TO THE PENITENTIARY IN ORDER TO COMPLY WITH THE PROVISIONS OF P.L. 17-54 TO PROVIDE A PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY.

Change in Law: N/A

Bill Attempts to: Bill is for:
 Increase Program Funding Operations
 Decrease Program Funding Capital Improvement
 Reallocate Present Program Funding Other Land Exchange

FINANCIAL/PROGRAM IMPACT

PROGRAM CATEGORIES	Minimum Estimated Required Funds (For Five Years)		
	GENERAL FUND	FEDERAL	OTHER
Natural Resources, Recreation and Arts	See Comments		
GRAND TOTAL			

ESTIMATED MULTI-YEAR FUND REQUIREMENTS

SOURCES	1st	2nd	3rd	4th	5th
General Fund	See Comments				
Federal Fund					
Other Fund					
GRAND TOTAL					

ESTIMATED MULTI-YEAR REALIZED REVENUES

SOURCES	1st	2nd	3rd	4th	5th
General Fund	See Comments				
Federal Fund					
Other Fund					
GRAND TOTAL					

[Signature]
 THERINE U. LEON GUERRERO

PROGRAM MANAGER
[Signature]
 MICHAEL J. REIDY
 DIRECTOR

Date Review Terminated: 2/22/90

COMMENTS:

COMMENTS ON BILL NO. 577(LS)

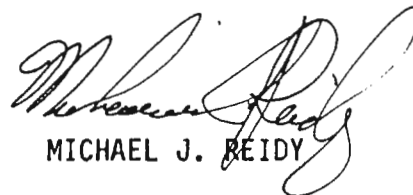
Bill No. 577 is, "An Act to authorize the Governor of Guam to exchange Government of Guam land for privately owned property adjacent to the Guam Penitentiary in order to comply with the provisions of Public Law 17-54 to provide a protective zone of 500 feet radius of the Penitentiary.

Enactment of Bill 577 would have a fiscal impact on the General Fund. Section 2 of the Bill would appropriate Ninety Thousand Dollars (\$90,000) to Jose and Victoria Perez for the concrete structure situated on Lot No. 5386.3.

Section 3 authorizes the amount of Sixty Thousand Dollars (\$60,000) to be paid to Ishmael and Ana Perez for two residential structures on Lot No. 5386-2.

Sections 4-10 authorizes the exchange of certain government land. However, it has not been ascertained by Land Management if the aforementioned exchanges are of a current fair market value.

Furthermore, it has not been confirmed if the abovementioned lots are actually available for such an exchange.


MICHAEL J. REIDY

ATTENDANCE SHEET

COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

DATE: August 16, 1989

BILL NO.: 577

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED PROPERTY ADJACENT TO THE GUAM PENITENTIARY IN ORDER TO COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENITENTIARY.

TESTIMONY

AGENCY/INTEREST GROUP

COMMENT

Written:

Oral:

Favor:

Against:

Print: JOSEPH B. CURZ

Signature: Joseph B. Curz

Written: ✓

Oral: ✓

AGENCY/INTEREST GROUP: DLM

COMMENT: ✓

Against: ✓

Print: Todd Alamo

Signature: Todd Alamo

Written: ✓

Oral: ✓

AGENCY/INTEREST GROUP: MARIANA

COMMENT: ✓

Against: ✓

Print: Josef P. Brunch

Signature: Josef P. Brunch

Written: ✓

Oral: ✓

AGENCY/INTEREST GROUP: MARIANA

COMMENT: ✓

Against: ✓

APR 10 '89

Bill No. 577 (LS)

Introduced by:

F.R. Santos
T.S. Nelson
J.T. San Agustin

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE GOVERNMENT OF GUAM LAND FOR PRIVATELY OWNED PROPERTY ADJACENT TO THE GUAM PENINTENTIARY IN ORDER TO COMPLY WITH THE PROVISIONS OF PUBLIC LAW 17-54 TO PROVIDE A PROTECTIVE ZONE OF 500 FEET RADIUS OF THE PENINTENTIARY.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Legislative Findings. The efforts to complete the Department of Corrcctions Adult Correctional Facility in Mangilao has, to date, not been completed. Though the Guam Legislature has provided the statutory authorizations and appropriations, where required, the work to complete the facility has been delayed for a multitude of reasons. The Guam Legislature finds that this situation must be corrected and the Adult Correctional Facility must be completed as soon as possible, inclusive of the 500 feet radius protective zone. The Guam Legislature also finds that land owners, whose properties are impacted by the 500 feet radius protective zone and which property would have and should have been exchanged with Government of Guam land remain, have been left in states of uncertainty, unable to improve their properties or to build homes on said properties and uncertain as to the final disposition of this matter.

This legislation is enacted with the Legislative intent to comply with the provisions of Public Law 17-54 and to insure the orderly completion of the Adult Correctional Facility, to provide for the 500 fee radius protective zone to insure greater integrity of the security systems of the facility, and to resolve the delays in securing said zone which has caused much

uncertainties with affected land owners.

Section 2. The Governor of Guam is hereby authorized to purchase for the Department of Corrections, the concrete residential structure owned by Jose P. and Victoria C. Perez, located on Lot No. 5386.3, in the village of Mangilao and adjacent to the Guam Penitentiary for the sum of NINETY THOUSAND DOLLARS (\$90,000.00). The sum of NINETY THOUSAND DOLLARS (\$90,000.00) is hereby appropriated from the General Fund for the purposes of this section.

Section 3. The Governor of Guam is hereby authorized to purchase for the Department of Corrections, the two residential structures owned by Ishmael C. and Ana P. Perez, located on Lot No 5386-2, in the village of Mangilao and adjacent to the Guam Penitentiary for the sum of SIXTY THOUSAND DOLLARS (\$60,000.00). The sum of SIXTY THOUSAND DOLLARS (\$60,000.00), is hereby appropriated from the General Fund for the purposes of this section.

Section 4. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9851 ± square meters of that Government of Guam land designated as Lot No. 12, Ipan, Talofof, as recorded on Land Management Document No. 129-FY85, Drawing No. 23-85-02, for that tract of land, owned by Joseph P. and Victoria C. Perez, designated as Lot No. 5386-3, containing an area of 9851 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 5. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9850 ± square meters of that Government of Guam land designated as Lot No. 4, Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for that tract of land owned by Agnes P. Salas, designated as Lot No 5386-4, containing an area of 9850 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 6. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 3720 ± square meters of that Government of Guam land designated as Lot No. 12, Ipan,

Talofofa, as recorded on Land Management Document No. 129-FY85, Drawing No. 23-85-02, for that tract of land owned by Antonio P. Perez, designated as Lot No. 5386-7, containing an area of 3720± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 7. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9850± square meters of that Government of Guam land designated as Lot No. 6, Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for that tract of land owned by Ishmael C. and Ana P. Perez, designated as Lot No. 5386-2, containing an area of 9850 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 8. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9850 ± square meters of that Government of Guam land designated Lot No. 5, Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for that tract of land owned by Ishmael C. and Ana P. Perez, designated as Lot No. 5386-5, containing an area of 9850 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 9. The Governor of Guam is hereby authorized to exchange, on an area for area basis, 9850 square meters of that Government of Guam land designated as Lot No. 3, Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for that tract of land owned by Manuel P. Perez, designated as Lot No. 5386-6, containing an area of 9850 ± square meters, located adjacent to the Guam Penitentiary and recorded on Land Management Document No. 367-FY75, Drawing No. D75-007.

Section 10. The Department of Land Management is hereby authorized to consolidate Lots No. 6,5,4,3,2, and 1 of Tract F, as shown on Land Management Document No. E4-53T210, File No. 1953-9, located in the municipality of Barrigada for the

purpose of providing for the most efficient accomplishment of the land exchanges authorized herein.

Section 11. The Director of Land Management shall cause to have the provisions relative to the exchange of land contained herein accomplished within 120 days upon enactment hereof.