

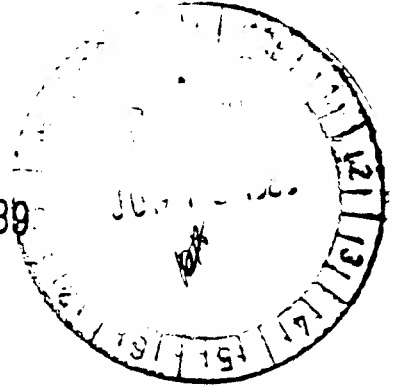


Territory of Guam

Territory of Guam

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

JUN 12 1989



The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 567, which the Governor signed into law on Saturday,
June 10, 1989 as Public Law 20-24.

Sincerely,

FRANK F. BLAS
Governor of Guam,
Acting

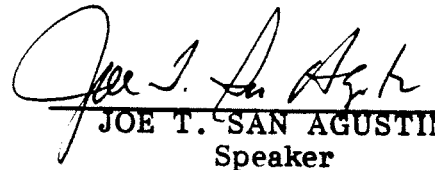
Attachment

200302


TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

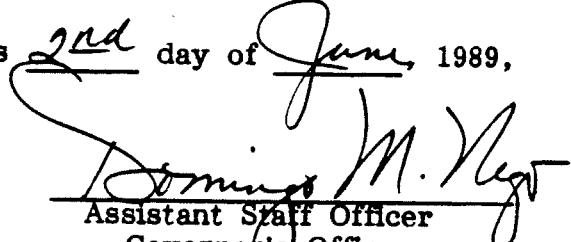
This is to certify that Substitute Bill No. 567 (COR), "AN ACT APPROVING THE LEASE OF CERTAIN REAL PROPERTY BY THE GOVERNMENT OF GUAM TO JAMES TOLAN FOR THE CONSTRUCTION OF A MUSEUM," was on the 31st day of May, 1989, duly and regularly passed.


JOE T. SAN AGUSTIN
Speaker

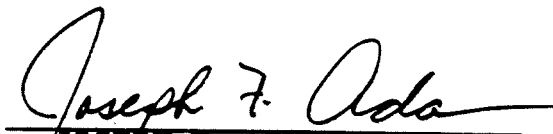
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 2nd day of June, 1989,
at 4:00 o'clock p.m.


Domingo M. Negt
Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: JUN 10 1989

Public Law No. 20-24

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 567 (COR)
As substituted on the floor

Introduced by:

Committee on Rules

At the request of the Governor in
accordance with the Organic Act

AN ACT APPROVING THE LEASE OF
CERTAIN REAL PROPERTY BY THE
GOVERNMENT OF GUAM TO JAMES TOLAN
FOR THE CONSTRUCTION OF A MUSEUM.

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

2 Section 1. That certain lease agreement between the Government of
3 Guam and James Tolan executed by the Governor on February 21, 1989
4 (hereinafter called the "proposed lease") for the following described
5 property:

6 Lot 12, Tract 111, containing an area of 2,548.71
7 square meters, Tumon, Municipality of Dededo, as
8 shown on Land Management Drawing No. C4-66T492
9 for an initial term of twenty-five years with options to extend is approved,
10 subject to the following matters being incorporated into the final version of
11 the lease:

12 (a) No building may be built on the property having a height of
13 over three (3) stories.

14 (b) The leasehold estate may not be assigned, transferred, sold,
15 or sublet to any person other than the immediate relatives of the
16 Lessee.

17 (c) The property may not be used for a nightclub, pornographic
18 bookstore, massage parlor or a bar, except for a beer and wine bar
19 open at the same time as the museum.

20 (d) If the property is used exclusively for museum related
21 activities (including collateral gift shop and snack bar) the rent shall
22 be as provided in the proposed lease.

1 (e) If the property is used for any other purpose, rent shall be
2 increased as follows:

3 The Department of Land Management shall appraise the
4 property on the basis of its highest and best use and the annual
5 rent shall be fixed at eight percent (8%) of such value for the
6 next three (3) years, at the end of which period the property
7 shall be reappraised and the rent adjusted at such eight percent
8 (8%) rate for the next three-(3-)year period, the property to be
9 so reappraised and the annual rate adjusted every three (3)
10 years for the balance of the term.

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

ROLL CALL SHEET

Bill No. 567

Date: 5/31/89

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	✓			

20

1



SENATOR GORDON MAILLOUX

CHAIRMAN, COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
TWENTIETH GUAM LEGISLATURE

May 22, 1989

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

Member of the
Committees on:

• General Govern-
mental Operation

• Economic Deve-
lopment

• Justice, Judiciary
& Criminal Justice

• Energy, Utilities
and Consumer Pro-
tection

• Youth, Human
Resources, Senior
Citizen & Cultural
Affairs

Ethics

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

VIA: Chairperson, Committee on Rules

Dear Mr. Speaker;

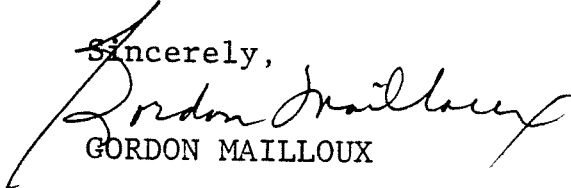
The Committee on Housing and Community Development to which Bill No. 567 "AN ACT APPROVING THE LEASE OF CERTAIN REAL PROPERTY BY THE GOVERNMENT OF GUAM TO JAMES TOLAN FOR THE CONSTRUCTION OF A MUSEUM" has had the same under consideration, and now wishes to report back the same, with the recommendation to do pass.

The Committee votes are as follows:

TO DO PASS	<u>9</u>
TO NOT PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO REPORT OUT ONLY	<u>1</u>
OFF-ISLAND	<u>1</u>

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

Sincerely,


GORDON MAILLOUX

Enclosures:

P.O. Box GL, Agana, Guam 96910 • (671) 472-3436/3498

PRINTED AT GOVERNMENT EXPENSE

COMMITTEE ON HOUSING & COMMUNITY DEVELOPMENT

VOTING SHEET

BILL NO. 567

AN ACT APPROVING THE LEASE OF CERTAIN REAL PROPERTY BY THE GOVERNMENT OF GUAM TO JAMES TOLAN FOR THE CONSTRUCTION A MUSEUM.

<u>Committee Members</u>	<u>To Do Pass</u>	<u>To Not Pass</u>	<u>Abstain</u>	<u>Off-Island</u>	<u>To Report Out Only</u>
<i>R. Mailloux</i> GORDON MAILLOUX Chairman	✓				
<i>Madeleine Z. Bordallo</i> MADELEINE Z. BORDALLO Vice-Chair	✓				
<i>John P. Aguon</i> JOHN P. AGUON Member	✓				
<i>E. P. Arriola</i> ELIZABETH P. ARRIOLA Member					✓
<i>Pilar C. Lujan</i> PILAR C. LUJAN Member	✓				
<i>Ted S. Nelson</i> TED S. NELSON Member			will be	making request	
<i>Don Parkinson</i> DON PARKINSON Member	✓				
<i>Eddie D. Reyes</i> EDDIE D. REYES Member	✓				
<i>Off Island</i> FRANCISCO R. SANTOS Member					
<i>J. George Bamba</i> J. GEORGE BAMBA Member	✓				
<i>Marilyn D.A. Manibusan</i> MARILYN D.A. MANIBUSAN Member	✓				

**Report on
Bill 567**

The Committee on Housing and Community Development conducted a public hearing Friday, April 14, 1989 at 9 a.m.. Present were Chairperson Gordon Mailloux, and Senators P.C. Lujan, T.S. Nelson, and F. R. Santos.

Those testifying were Mr. Joseph Cruz, representing the Dept. of Land Management, Mr. Cecil Edwards, and Mr. Frank Martin, private citizens.

TESTIMONY

Mr. Joseph Cruz, apologized for the absence of the Land Management Director but said in view of the fact that the bill was introduced at the request of the Governor, his presence before the committee is merely to reiterate the Governor's position in this regard. He said the Department fully supports the passage of the bill.

Mr. Edwards testified that he lives a little above the property in question and that residents in that area are concerned about the museum; how high the structure will be, and how big it would be. He said his neighbor, Frank Martin, is more concerned because his property is directly above the property and they all want to know exactly how this proposed museum will affect them.

Mr. Frank Martin, landowner directly above the land in question said his concerns are the same as Mr. Edwards. He wants to know exactly what is being planned for that area. He has no objections to someone building down there if it will not materially affect his view to the beach beyond and his property. He said he has no specific questions until he finds out more about what is going to happen with the property.

QUESTIONS

The chairman asked Cruz about the legal height limitations. Cruz responded by saying if he is not mistaken, the building will be two story and anything beyond that would need to be approved by TPC. The chairman said his concern is in dealing with legal limitations, and if TCP would have to approve, then it would not be a legislative problem.

Mr. James Tolen said they are 90 feet down in a hole and at the present time, they propose a two-story building with a future potential for a third story, but that would still leave 60 to 70 feet above them to the cliffline and those living above would have to go to the edge of the cliff and look down to see the building.

The Chairman asked Tolen if he would be willing to put height limitations in the agreement. He responded "certainly".

Senator Lujan asked Cruz the status of Tolen's proposal in terms of available land and if TPC has looked into it. He replied that at the moment they are only dealing with the lease of the land, and the legislative concurrence. He said he is sure Mr. Tolen will adhere to any building requirements.

Lujan then asked Cruz if the Governor has cleared with the various agencies to see if any of them would need this property. Cruz answered that this had been done in a previous Bordallo administration.

Lujan asked Tolen if he will be excavating into the cliffline. He said he would meet all regulations and guidelines and construct necessary retaining walls for complete protection.

Lujan commented going back to Edwards and Martin and their property lines, if their property is out to the edge of the cliff. Martin said there was presently a bill in Committee to acquire the land that would take their property right up to the line adjoining Tolen's land, but that the bill is still pending.

Tolen said he had worked on clearing the land for about eight months but was told to cease, that it would be illegal to continue work on it at that point.. He said he will have another six months of clearing work on it to level off the area. He said it was an old Hawaiian Rock dump and is full of steel in concrete.

Lujan remarked to Cruz that everything seems clear as far as the government's concerned and there has been Governor's concurrence going back as far as 1985. She asked the lease agreement as to cost per month or per year. Cruz said the contract lease agreement is based on the land value determined in 1986. The value was set at the time of the Ypao road expansion and was an agreement reached by both parties.

Lujan then asked Tolen if his museum is to have artifacts and cultural materials of the island. Tolen said that many people have asked why he has so many guns in his museum, but that he wants to make sure he is giving the people enough for their money and he is going to have every time in it that he can possibly put in it

Senator Ted Nelson asked Tolen if he has a proposed sketch or preliminary plans. Tolen replied he does but not with him. He said he is going to wait to hire an architect when the lease is confirmed, because he spent so much money already. Nelson asked when he first applied. Tolen answered in 1984 in the Bordallo administration.

Nelson asked what happened to his flea market project in upper Tumon. Tolen said it went broke when the vendors refused to pay the tariff fee (the Japanese operator's \$10 fee to bring in the tourists with no guarantee of sales.) Tolen said 85 Mom and Pop market huts went broke. He said he was the only one who stayed solvent, but the leaseholder went broke and he had to move out.

Nelson said his concern is erosion of the cliff. That there is nothing to protect from a future landslide in that area. He is not sure how Public Works or why they were allowed to dig in that far into the cliff without any retaining wall to safeguard the people at the top. He said he fears that over the years, the weather, the rainfall, the erosion will send it tumbling down. He said it

bothers him that TPC has been issuing variances for businesses without requiring ample parking space.. He asked Tolen how many square meters are they talking about. Tolen said 26; 26 hundred square meters, but only 1800 is usable because they have to make a slope back into the cliffline.

Nelson asked Cruz what the current price per square meters in that area. Cruz said it ranges between \$225 to \$17 per Sq. meter. "If you're talking about property on the beach area the current market value is more like \$800 per Sq. meter. He said in some instances, Japanese investors are willing to pay \$200 per Sq. meter. On the other side where all the condos are, the current price is about \$425 per square meter. Nelson asked the price of the area that Tolen was trying to acquire. Cruz said the last transaction he recalls was James Moylan's property which sold for \$900 per square meter. Nelson asked if the current lease being proposed was based on 1986 market value. Cruz said that was the value determined at the time of the sale of the San Vitores road and that it is only fair and appropriate that it be negotiated at the price at that time. Nelson said that the document they have at the hearing is the lease agreement signed by Governor Ada. Cruz said that is the value based on the value issued by Public Works during the expansion of San Vitores Road.. The lease now being negotiated is not the one signed by former Governor Bordallo. Not in terms of value and escalation. Nelson told Tolen that these matters already came up when the bill was in the 18th and 19th legislatures and every time it came up, it was shut down. He thinks that this is the reason it never went through.

Senator Santos stated for the record that the proposed lease agreement between the government of Guam and Tolen was first referred to the Legislature in early 1986. Santos said he happened to be Chairman of Housing at that time, but six months later there was a switch and the committee went to Senator Bordallo. The bill was then in Bordallo's committee from '86 to '88. He said it appeared the problems at that time are the same as the ones encountered now; the cost factor and the problem with digging into the cliff and endangering the residents above.

Cruz admitted that was true but Tolen had been waiting all this time and the government had failed to act, and that it was only fair that the price agreed on at that time, still stand. This was fair market value in 1986.

Santos asked if he had provided the committee with the difference between the fair market value of 1986 and that of 1989, Cruz said he had not but that he is sure it is quadrupled at this point. He said he would provide the committee with that information and let them decide what is fair.

The Chairman asked Tolen what the original lease was negotiated for. Tolen said approximately \$4,500 a year, but it has now moved up to \$18,000. He said he had done quite a bit of excavating while the government was making up its mind and that his equipment has been sitting there all this time.

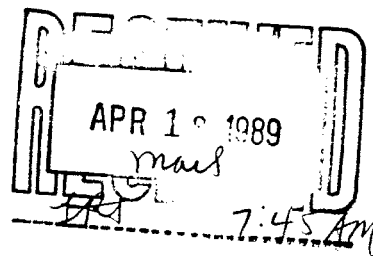
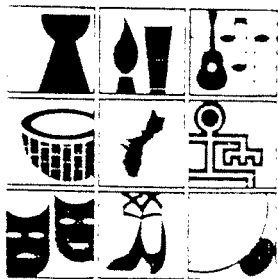
Chairman asked Tolen the estimated value of his collection. Tolen replied that an interest in Saipan which is trying to get him to take the collection there, has estimated it as in excess of 1 billion dollars.

Mr. Edwards remarked that Tolen was right.. the equipment has been sitting there all this time and it is unsightly. He said he would like to see the equipment moved even if it meant the leasing of the land.

The chairman said the big questions seems to be the buffer zone and the safety of the residents and buildings on top of the Cliff. Tolen answered that he would certainly not do anything that might bring down the cliff on top of his own enterprise.

Edwards said he would be satisfied if Tolen follows proper procedures.

There being no further questions, the Committee adjourned.



U A M
COUNCIL ON THE
ARTS AND
HUMANITIES
AGENCY

April 13, 1989

Senator Gordon Mailloux, Chairman
Committee on Housing
143 Chalan Santo Papa
Agana, Guam 96910

Dear Senator Mailloux:

This letter concerns the leasing of Government of Guam land in Tumon to Mr. James Tolan to construct the Guam Historical Museum. I support the proposal to lease the property only if certain stipulations are followed. I recently had the opportunity to visit the museum presently located at the Machine Shop in Adelup. Mr. Tolan is in possession of numerous Chamorro Artifacts as well as other artifacts of interest from around the world. First of all I recommend that Mr. Tolan rename the museum, with it's present name it sounds as if all the artifacts are from Guam, which in fact only a small portion of the artifacts in the museum are from Guam. Also with it's present name "Guam Historical Museum" it can easily be mistaken for as Guam's national museum by visitors to Guam. Secondly, there are presently laws that restrict the removal of local artifacts from historical sites, I would like to have the historical preservation officer acknowledge that all the Chamorro artifacts presently in the possession of Mr. Tolan were acquired within the boundaries of the laws that protect Guam's historical artifacts. Thirdly, that the lease agreement state that the land be used only for a museum and not for any other commercial venture.

If you have any further questions concerning this matter please call me at 477-7413.

Sincerely,

Alberto A. Lamorena V
Director, SCAHA



DEPARTMENT OF LAND MANAGEMENT
GOVERNMENT OF GUAM
AGANA, GUAM 96910

April 13, 1989

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

Reference: Bill No. 567 (Cor)

Dear Mr. Chairperson and Members of this Committee:

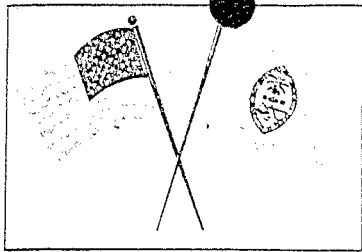
In view of the fact that the above referenced Bill is introduced at the request of the Governor, my presence before this Committee is merely to reiterate the position of the Governor in this regard. With this in mind, we fully endorsed passage of said Bill.

We are certain at this point in time that all pertinent documents were forwarded to the attention of this Committee. Nevertheless, I stand ready to answer any questions with respect to the case of Mr. James Tolan.

Thank you for allowing us the opportunity to voice our views on this bill.

Sincerely yours,

JOSEPH B. CRUZ
Administrator, Land Management
Programs/Overseer of the
Department



Guam Historical Museum

P.O. BOX 3489
Agana, Guam USA 96910
Phone: (671) 477-8191/472-5611
Telex: 300-6319
Fax: (671) 472-8171

April 12, 1989

From the desk of:

Lynda Tolon

SEN. GORDON MAILLOUX
20th Guam Legislature
Agana, Guam 96910

HAND DELIVERED

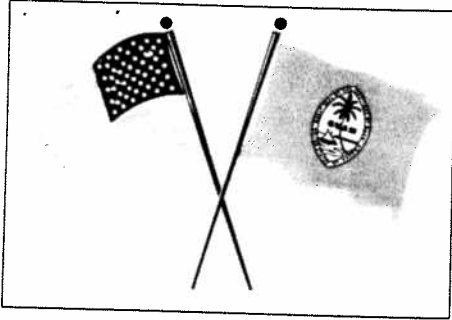
Dear Sen. Mailloux:

Sending you another copy of the lease agreement
per your request.

HAVE A GOOD DAY.

LAT
LYNDA A. TOLAN
Curator

Attachment



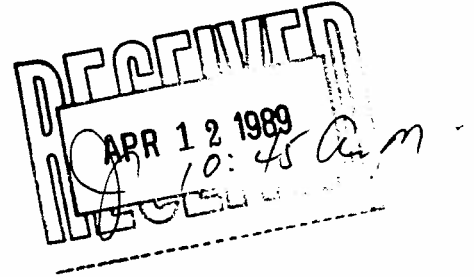
Guam Historical Museum

P. O. Box 3489
Agana, Guam USA 96910

April 12, 1989

477-2123
Phone: (671) 477-8191
~~646-9348~~
Telex: 300-6319
Fax: (671) 472-8171

SEN. GORDON MAILLOUX
Chairman
Committee on Housing & Community Development
20th Guam Legislature
Agana, Guam 96910



Dear Sen. Mailloux:

RE: BILL 567

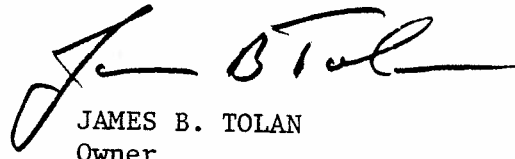
At the present, I do not intend to testify but I will be present along with the curator of the museum to answer any questions that may arise.

We do not anticipate any problems with this bill since it has been approved by three (3) attorney generals and three (3) times approved by governors (twice by Governor R. Bordallo and once by Governor Ada) and being submitted now by Governor Joe Ada.

I would like to include July 29th letter from AG, Ref: LEG 8700869 as a basic synopsis of the problems that we have had. Also we would like to include GVB's recommendation and the Dept. of Commerce recommendation. I'm working on recommendations from DOE and CAHA.

I thank you for your support on this bill.

Kind Regards in Conveyance,


JAMES B. TOLAN
Owner

Enclosures 3

MAR 3 1 1989

Guam Historical
Museum

The Honorable Gordon Mailloux
Chairman, Committee on Housing and
Community Development
Twentieth Guam Legislature
P. O. Box CB-1
Agana, Guam 96910

Dear Senator Mailloux:

It has been brought to our attention that Mr. James Tolan wishes to lease government land located across from Ipaos Beach for a "Guam Museum" to be operated as a private enterprise.

We applaud Mr. Tolan's efforts and concern for historic preservation and enhancement and support the granting of the lease. Especially in light of his agreement to allow all school tours into the museum free of charge.

In order to not create any confusion between Guam's national museum we request that Mr. Tolan give consideration to renaming his museum, which is now called the "Guam Museum". We also ask that the legislature request Mr. Tolan to include in the lease agreement a provision to allow reasonable access to the many important artifacts from Guam's past to historians, archaeologists, ethnologists and other scientists seeking to study our island's past.

Furthermore, if Mr. Tolan uses the word "museum" in the name of this enterprise, we ask that some provision be included to guarantee historic accuracy in the presentation of each artifact in terms of its place of origin, date, use and other explanations used in the interpretive displays. A proportion of items carried in Mr. Tolan's museum are not residents of Guam do not misinterpret those items as being part of Guam's past. The Micronesian Area Research Center, the Department of Parks and Recreation or the Guam Museum might be able to provide assistance to Mr. Tolan to insure that his displays are historically accurate.

We view Mr. Tolan's efforts as complementing the Guam Museum but in no way detracting from activities and funding to maintain and enhance the museum. At the same time we would like to utilize this opportunity to focus on the need for the development of a new national museum for Guam. In any country or state, the presence of a major national museum is considered an essential and primary attraction for visitors and residents. It is a source of pride and a means to educate people on the

development of a location and its people. Unfortunately, the current situation, whereby a private individual's museum is able to house more artifacts than the public museum is a sad state and a poor reflection of the importance we, as a people and as a government, place on preservation, respect and understanding of our past.

Historic preservation, enhancement and promotion has long been an area that should be given more emphasis in our visitor industry. Reconstruction of historic buildings, interpretive displays, accessible and highly visible historic sites provide the basis for a unique image for our island as a tourist destination and a unique identity for our people as a whole.

It is our hope that the legislature will give serious thought to committing funds for the construction of a new national museum for Guam to house the many artifacts from our past that are currently spread out in a variety of locations for lack of an adequate facility to display and study them under one roof. We have enclosed a copy of a proposal from the 1988 Overall Economic Development Plan entitled, Pre-War Governor's Palace Reconstruction Project which would provide the type of structure necessary to be both a major tourist attraction and an important catalyst for historic preservation. There has been talk in the past of utilizing the Tourist Attraction Fund to float a bond for this project. We fully support such a project as a means to strengthen our visitor industry and our identity.

Again, we support Mr. Tolan's lease and hope that the above concerns about his museum will be noted in your review. Moreover, we hope we have heightened the importance of a new national museum for Guam.

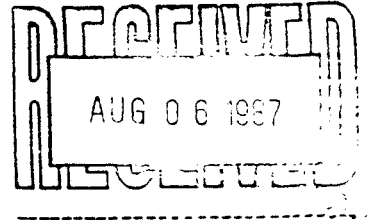
If you have any questions regarding the discussion in this letter please refer to O/LS/15, Tolan. Thank you for your time and consideration in these matters.

Sincerely,


Peter R. Bardin
Acting Director of Commerce

Enclosure

CC: Mr. Lee P. Webber
Publisher
Pacific Daily News
P. O. Box DN
Agana, Guam 96910



TERRITORY OF GUAM
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

ELIZABETH BARRETT-ANDERSON
Attorney General

Telephone: 472-6841-4
Telefax: (671) 472-2493

July 29, 1987

copy

Honorable Franklin Quitugua
Speaker, Nineteenth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Ref. LEG 87-0809

Dear Senator Quitugua:

We are in receipt of your memorandum dated July 8, 1987, in which you requested the following information:

1. What is the current status of Mr. James Tolan's commercial lease?

The commercial lease application of Mr. James Tolan for Lot 12, in the Municipality of Dededo was approved by our office and by the Governor in early 1985. Pursuant to statute, the lease was then submitted for concurrence to the Eighteenth Guam Legislature. The Eighteenth Guam Legislature did not assent, thus invalidating the commercial lease. Subsequently, Mr. Tolan submitted a new commercial lease agreement which was approved by this office on July 17, 1987 and sent to the Governor for his approval.

2. Does the Asanuma judgment affect parties not in the lawsuit? No As you are aware, Senator Santos brought suit against the Governor, the Director of the Department of Land Management; Franklin Leong, Inc., and Asanuma Construction Ltd. International to invalidate a commercial lease agreement because it had not been approved by the Guam Legislature.

In an agreement reached by all of the parties, the Commercial Lease Agreement was declared invalid and not binding; and the defendants in the matter agreed that they will not act in any manner that would indicate that the lease was in effect. I have attached a copy of this agreement for your information. The Judgment in that case affects only those parties to the lawsuit.

3. Were all companies applying for leases informed of the Asanuma decision by the Attorney General's Office?

001749

The Attorney General's Office was not in the position to inform persons or companies applying for commercial leases of the effect of the Asanuma decision. This office receives lease applications after the lessee and the Department of Land Management have reached a tentative agreement on the location, the rate to be charged, and other items. This office does not have knowledge of those applications prior to this office receiving the information from DLM.

The agency that is in the best position then to inform the lessee of the requirements is the Department of Land Management.

Attached is a prior memorandum of this office (Ref: DLM 86-0200). We pointed out in that memorandum that while it is the responsibility of the prospective lessee to submit the commercial lease to the Legislature for approval, we recommended that the Department of Land Management prepare a transmittal memorandum and submit the commercial leases to the Legislature for those lessees who had not yet complied with this requirement.

4. What liability does the government of Guam face if it allowed construction on government property prior to legislative approval for those with commercial lease applications?

Your final question requires a great deal of speculation on legal theories as applied to facts not clearly in controversy. The government generally should not speculate or admit to liability in advance of an actual case. Therefore, Senator, I must respectfully decline to speculate as to the government's liability if the legislature refuses to approve a particular lease. May I just state for now that I share your concern regarding liability.

Sincerely,


ELIZABETH BARRETT-ANDERSON

190284

Enclosure

Rec'd Legal
8-11-87
4:45 p.m.
KC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FREDERICK J. HORECKY, Attorney at Law
Fourth Floor, Bank of America Building
P.O. Box 4112
Agana, Guam 96910
472-8275/472-8403

RECEIVED
AUG 7 1986
8:44
ATTORNEY GENERAL'S OFFICE

Attorney for Plaintiff

SUPERIOR COURT OF GUAM

IN AND FOR THE TERRITORY OF GUAM

FRANCISCO R. SANTOS,

Plaintiff,

vs.

RICARDO J. BORDALLO,
Governor of the Territory
of Guam,

RUFO J. LUJAN, Director of
the Department of Land
Management,

FRANKLIN LEONG INC., and
ASANUMA CONSTRUCTION LTD.,
INTERNATIONAL,

Defendants.

CIVIL CASE NO. 580-86

STIPULATED JUDGMENT

It is hereby stipulated by and between the parties hereto through their respective attorneys that:

1. The lease entitled "Commercial Lease Agreement" attached hereto as Exhibit "A" is invalid and not binding on anyone without duly enacted legislation specifically authorizing this particular lease pursuant to Government Code Section 13008.

2. Defendants agree that they will not lease, occupy, sub-lease, or otherwise use the real property described herein pursuant to the "Commercial Lease Agreement" attached hereto as Exhibit "A", nor will they pay or receive any rental amounts pursuant to the Lease Agreement, nor in any manner act pursuant

1 to or carry out the provisions of said agreement unless and un-
2 til it is approved by the Legislature in accordance with Govern-
3 ment Code Section 13008.

4 3. Each party hereto shall take nothing by this action and
5 each shall bear his own costs of suit.

7 DATED: 8/7/86

DATED: _____

8 Frederick J. Horecky
9 FREDERICK J. HORECKY
10 Attorney for Plaintiff

S/ J.B.
JAMES S. BROOKS
Attorney for Defendant & Cross-
Claimant Asanuma Construction
Ltd., Int'l. and Franklin Leong
Inc.

12 DATED: 8/8/86

13 Roland Fairfield
14 ROLAND FAIRFIELD
15 Assistant Attorney General
16 Attorney for Defendants
17 Ricardo J. Bordallo and
Rufo J. Lujan

18 SO ORDERED this _____ day of _____, 1986.

21 _____
JUDGE, Superior Court of Guam



Guam Visitors Bureau
Setbision Bisitan Guahan

March 28, 1989

The Honorable Gordon Mailloux
Senator and Chairman, Committee on Housing
and Community Development
Twentieth Guam Legislature
P. O. Box CB-1
Agana, Guam 96910

Dear Senator Mailloux:

This is to provide written testimony in support of seeking legislative approval of Mr. James Tolan's Commercial Lease Agreement with the Government of Guam. The lease agreement is for government property in Tumon for the purpose of constructing a museum.

As you know, we at the Guam Visitors Bureau acknowledge that we need unique tourist attractions. In addition to our clean air, pristine waters and sandy beaches, we need other complementary facilities which would make our island a more interesting tourist destination.

One of our on-going goals is to attract the more cultural-oriented market segment by showcasing our islands rich and diverse cultural heritage. One of the most effective means to accomplish this is through collections in a museum.

Mr. James Tolan is a private individual who wishes to display his extensive collections of Chamorro artifacts and other priceless memorabilia from the great war. A highlight is his collection of the "ganta" a standard of measurement made of various materials: brass; tin or wood inlaid with mother-of-pearl. Although the collections presently on display above his shop are impressive, much more are being stored away due to the lack of display space.

Since 1984, Mr. Tolan has worked towards securing a lease of government property in Tumon. The Administration has approved the lease and its execution is pending legislative approval.

P.O. Box 3520, Agana, Guam 96910
1220 Pale San Vitores Rd. Tumon, Guam 96911

• 671 646-5278/9

• Cable: GUAMTOUR

• Telex: 6432

• Fax: 671-646-8861

GOVERNMENT EXPENSE

The Honorable Gordon Mailloux
March 28, 1989
Page 2

Although we presently have a Guam Museum, there is no reason to prevent having a varied selection as is the case in many places. Any metropolitan center in the United States boasts many fine museums showcasing unique collections, mostly privately-endowed by philanthropic patrons. For Mr. Tolan to construct a museum on his own is indeed an unselfish act, comparable to benefactors of major museums. A nominal entrance fee would be charged for visitors, none for children and discounts for senior citizens.

— Until such time that a private foundation or philanthropic patron constructs a national museum for our island, it would be in our best interests to support Mr. Tolan's plans which could be realized in about two years. In this light, we wholly support Mr. Tolan's concept and ask for legislative approval.

Thank you for this opportunity to express my views.

Very truly yours,



JOEY B. CEPEDA
General Manager

IX. PROJECT PROPOSALS FOR THE 1989

OVERALL ECONOMIC DEVELOPMENT PLAN (OEDP)

A. TOURISM (CAPITAL IMPROVEMENT)

Prewar Governor's Palace Reconstruction Project

Project Description:

This project involves the reconstruction of the prewar Governor's palace, including the pre-construction excavation of the site, the architectural and engineering design, the actual construction of the building as it stood in 1888 and replications of the original palace furnishings. The building will house the Guam Museum, including the administrative and research activities, and will also depict "period rooms" as they were used in the early 1900's. It will serve to display, preserve and enhance a significant period in Guam's historical and cultural development for both the residents of Guam and the visitors and it will serve to further research and historical preservation efforts through the work and displays of the Guam Museum.

Schedule: FY 89, FY 90, FY 91, FY 92, FY 93
Estimated Cost: \$4,000,000
Funding Source: Tourist Attraction Fund, Federal
Lead Agency: Department of Parks and Recreation, Guam Visitors Bureau
Priority Level: High

Development of Underwater Trail

Project Description:

The purpose of this project is to establish an underwater nature trail to foster greater public awareness of marine life. Residents and visitors alike will gain a greater understanding of the coral reef ecosystem. Trails will be developed for novice and advanced swimmers. As a potential tourist attraction, the underwater nature trail will enhance the tourism industry economically, as well as diversify tourist-oriented services on Guam.

Schedule: FY 89
Estimated Cost: \$10,000
Funding Source: Sea Grant Marine Advisory Program, Guam Visitors Bureau
Lead Agency: Sea Grant Marine Advisory Program, Department of Parks and Recreation, Guam Visitors Bureau
Priority Level: Medium

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

Bill No. 567

Introduced by:

Committee on Rules *W. S. ...*
At the request of the
Governor

HD

AN ACT APPROVING THE LEASE OF CERTAIN REAL PROPERTY
BY THE GOVERNMENT OF GUAM TO JAMES TOLAN FOR THE
CONSTRUCTION OF A MUSEUM.

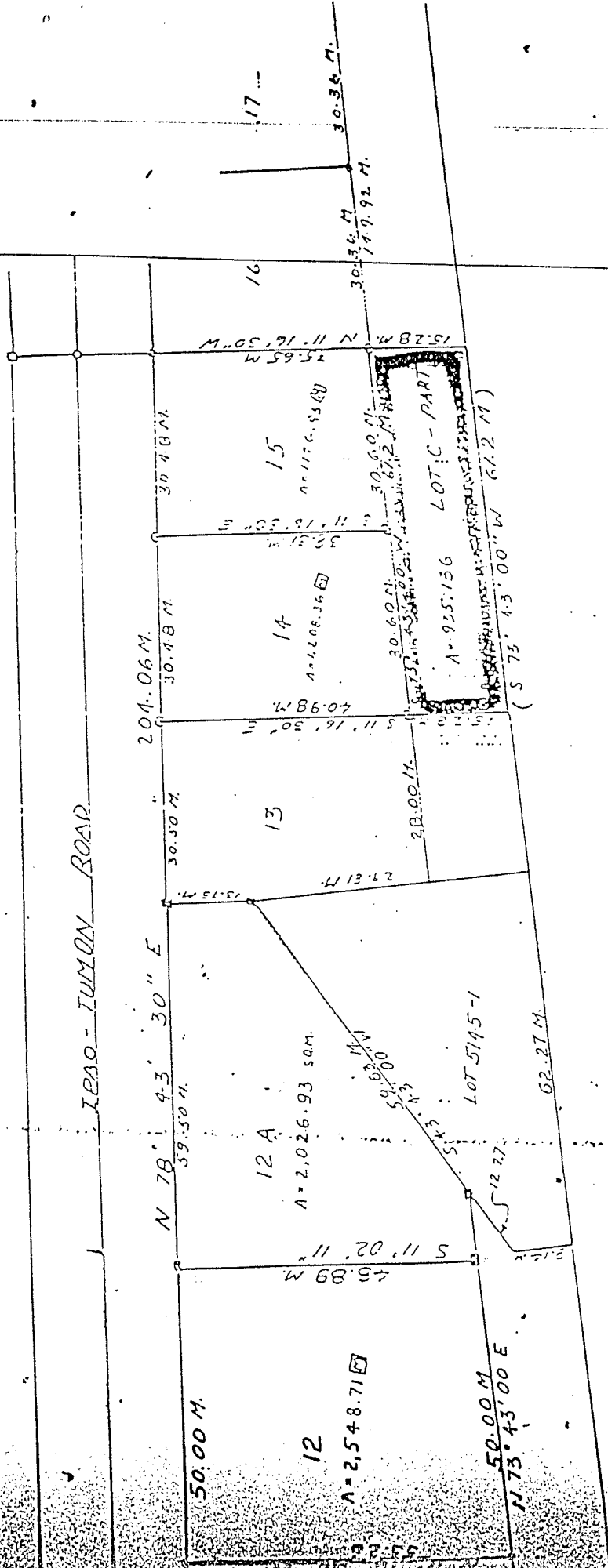
BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1 Section 1. That certain lease agreement between the
2 Government of Guam and James Tolan executed by the
3 Governor on February 21, 1989 for the following described
4 property:

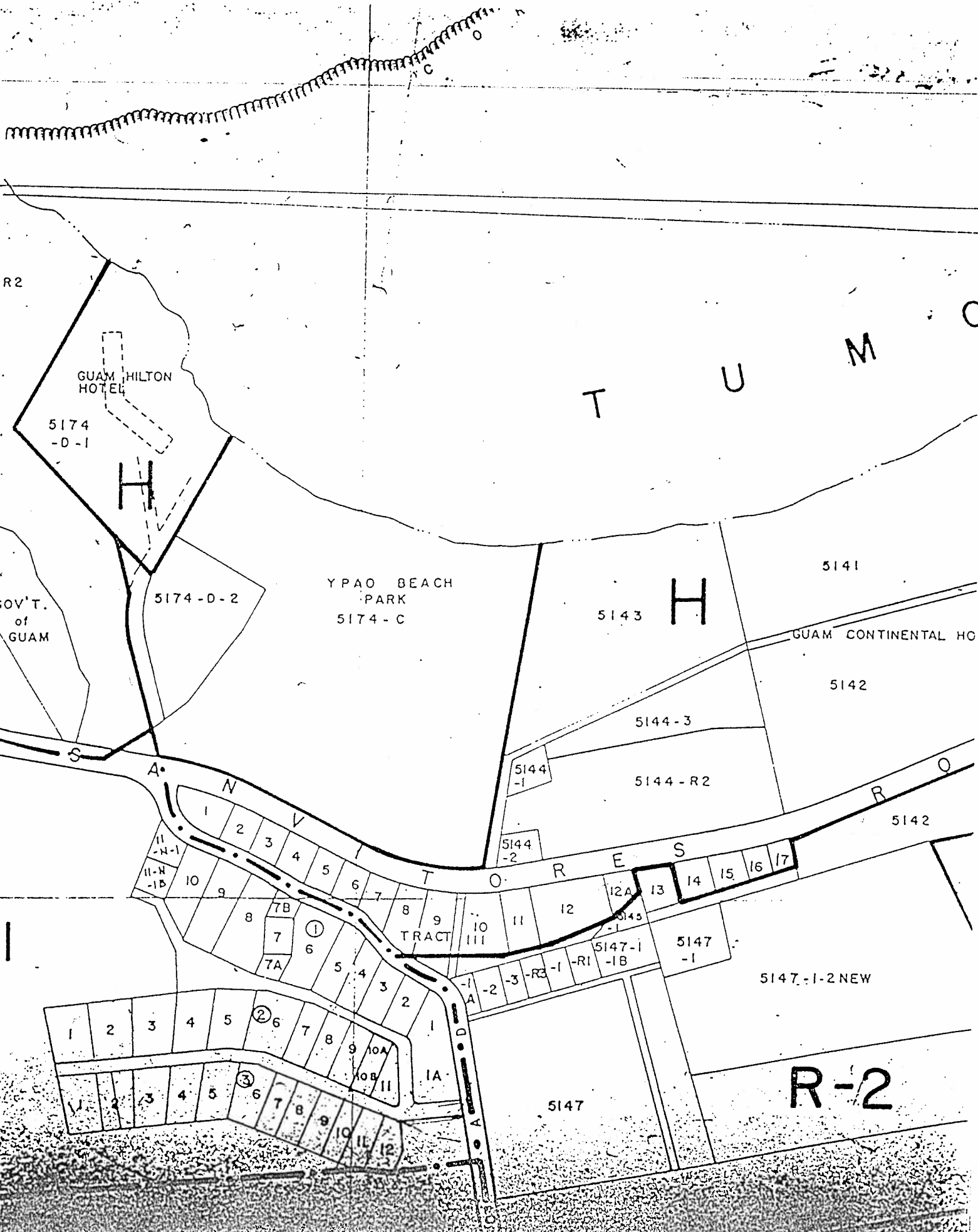
5 Lot 12, Tract 111, containing an area of 2,548.71
6 square meters, Tumon, Municipality of Dededo, as
7 — shown on Land Management Drawing No. C4-66T492
8 for an initial term of twenty-five years with options to
9 extend is approved.

EXHIBIT A

IBAO - IUMON ROAD



TRACT III LOTFC
 REFERENCE: LMDWG.
 T 1-92 LOTS A, B, C



R2

GUAM HILTON HOTEL

5174-D-1

H

5174-D-2

YPAO BEACH PARK
5174-C

GOV'T. of GUAM

T U M C

5141

H

5143

GUAM CONTINENTAL HO

5142

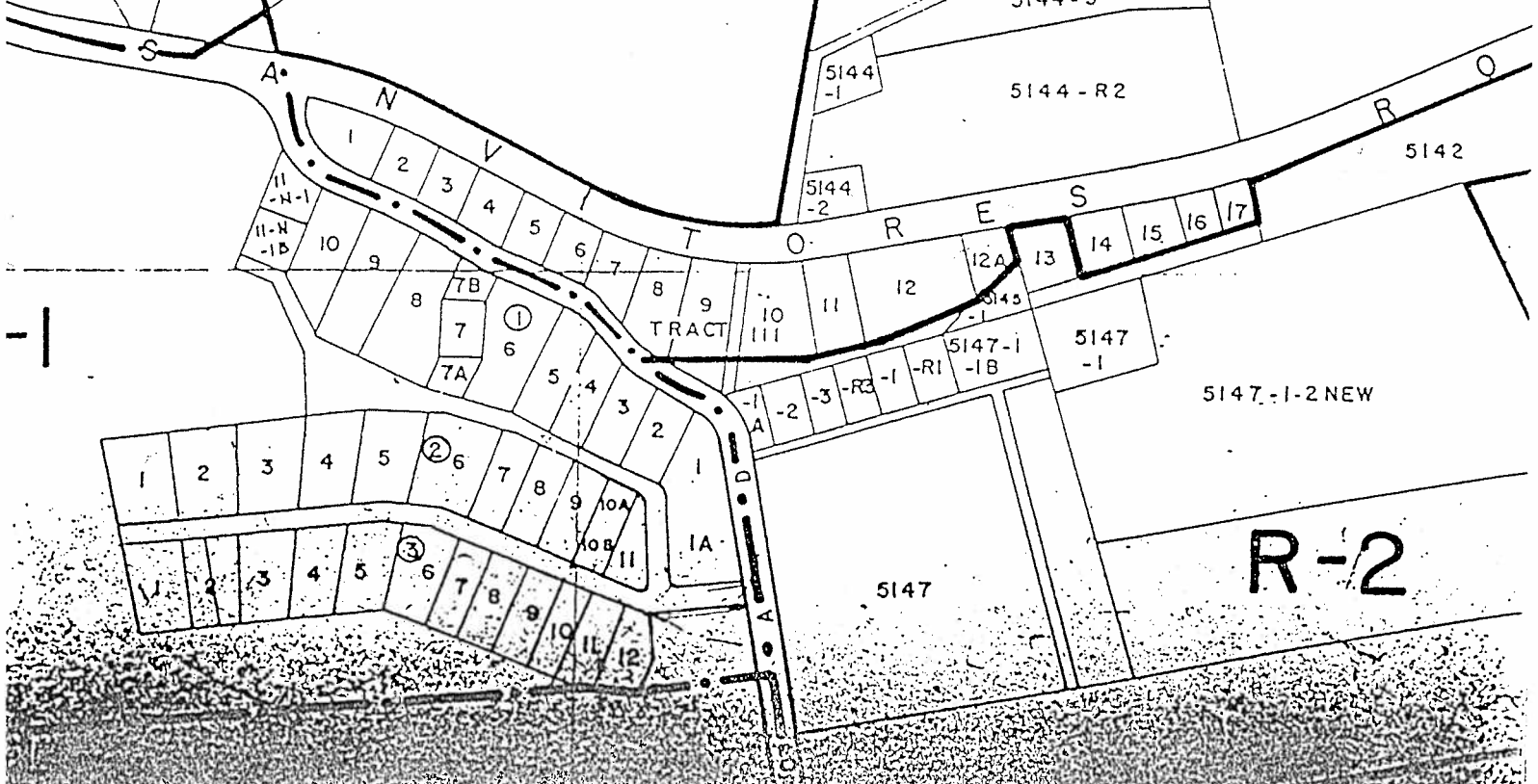
5144-3

5144-R2

5144-1

5144-2

5142



-1

11-N-1

11-N-1B

7B

7A

TRACT

5145

5147-1-1

5147-1-1B

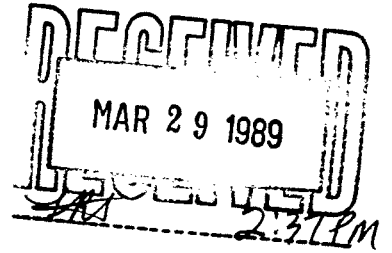
5147-1-2 NEW

5147

R-2



Guam Visitors Bureau
Setbision Bisitan Guahan



March 28, 1989

The Honorable Gordon Mailloux
Senator and Chairman, Committee on Housing
and Community Development
Twentieth Guam Legislature
P. O. Box CB-1
Agana, Guam 96910

Dear Senator Mailloux:

This is to provide written testimony in support of seeking legislative approval of Mr. James Tolan's Commercial Lease Agreement with the Government of Guam. The lease agreement is for government property in Tumon for the purpose of constructing a museum.

As you know, we at the Guam Visitors Bureau acknowledge that we need unique tourist attractions. In addition to our clean air, pristine waters and sandy beaches, we need other complementary facilities which would make our island a more interesting tourist destination.

One of our on-going goals is to attract the more cultural-oriented market segment by showcasing our islands rich and diverse cultural heritage. One of the most effective means to accomplish this is through collections in a museum.

Mr. James Tolan is a private individual who wishes to display his extensive collections of Chamorro artifacts and other priceless memorabilia from the great war. A highlight is his collection of the "ganta" a standard of measurement made of various materials: brass; tin or wood inlaid with mother-of-pearl. Although the collections presently on display above his shop are impressive, much more are being stored away due to the lack of display space.

Since 1984, Mr. Tolan has worked towards securing a lease of government property in Tumon. The Administration has approved the lease and its execution is pending legislative approval.

P.O. Box 3520, Agana, Guam 96910
1220 Pale San Vitores Rd. Tumon, Guam 96911

• (671) 646-5278/9

• Cable: GUAMTOUR

• Telex: 6432

• Fax: (671) 646-8861



GOVERNMENT ENTERPRISE

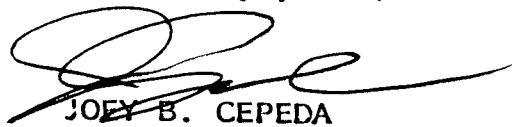
The Honorable Gordon Mailloux
March 28, 1989
Page 2

Although we presently have a Guam Museum, there is no reason to prevent having a varied selection as is the case in many places. Any metropolitan center in the United States boasts many fine museums showcasing unique collections, mostly privately-endowed by philanthropic patrons. For Mr. Tolan to construct a museum on his own is indeed an unselfish act, comparable to benefactors of major museums. A nominal entrance fee would be charged for visitors, none for children and discounts for senior citizens.

Until such time that a private foundation or philanthropic patron constructs a national museum for our island, it would be in our best interests to support Mr. Tolan's plans which could be realized in about two years. In this light, we wholly support Mr. Tolan's concept and ask for legislative approval.

Thank you for this opportunity to express my views.

Very truly yours,



JOEY B. CEPEDA
General Manager

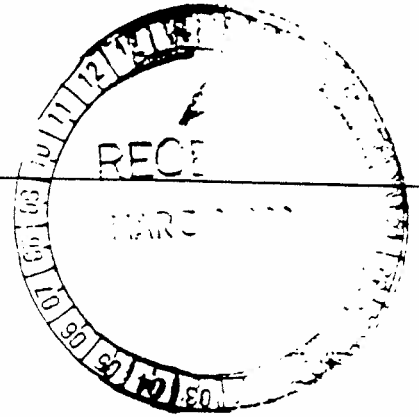


Territory of Guam
Territorio de Guam

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

Rec'd by Secy

MAR 30 1989



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

Dear Mr. Speaker:

Enclosed for the review of the Twentieth Guam Legislature is a bill relative to approving the lease of certain real property by the Government of Guam to James Tolan for the construction of a museum.

For the past several years, Guam resident, James Tolan has patiently waited to complete a lease agreement for Lot 12, Tract 111 in Tumon to construct a museum. A lease between Mr. Tolan and the Government of Guam was approved by a previous administration. However, due to litigation involving Government of Guam lease agreements, Mr. Tolan's request has never been fully expedited.

At the present time there does not exist a museum within the Tumon area that depicts Guam's history or culture. Mr. Tolan desires to construct a museum to display World War II memorabilia, Chamorro pottery, woven baskets, Spanish cannons and other items of interests to be viewed by our visitors and island residents. More importantly, under section 6 of the Commercial Lease Agreement, public and private school children will be permitted to tour the museum free of charge.

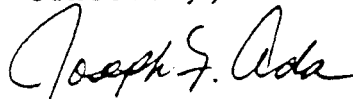
As you are aware, Tumon is the business nerve center of Guam's tourist industry. Unfortunately, a majority of equity positions in these businesses are held by off-island concerns. I am sure you will agree Mr. Speaker, that any opportunity to enhance local participation in Guam's tourist industry is welcomed, and that any assistance we can provide to enhance local ownership within our number one growth industry should be encouraged.

200158

Letter to the Honorable Joe T. San Agustin
page 2

I am confident that you share similar concerns with regards to Guam's tourism development. The expeditious action of the Guam Legislature on this measure will be greatly appreciated not only by myself, but also by many Guam residents who desire to directly involve themselves in the island's booming tourism market.

Sincerely,



JOSEPH F. ADA
Governor

TRANSACTION ANALYSIS OF PROPERTIES

(A) Legal Description.

Lot No. 12, Tract 111, containing an area of 2,548.71
s.m., Tumon, Municipality of Dededo, as shown on Land
Management Drawing No. C4-66T492.

(B) Approved Map.

Attached copy (L.M. Drawing No. C4-66T492)

(C) Reference Certificate of Title.

Attached copy of (Note: That Lot 12, Tract 111 is a part
of basic Lot 5146 as shown on the Certificate of
Guaranteed Claim.

(D) Proposed Commercial Lease Agreement.

Attached copy of proposed commercial Lease Agreement.

(E) Lease Price:

\$18,351.00 per annum, escalating every five (5)
years.

Required down payment:

-0-.

Current use of Property:

Vacant.

Current Fair Market Value:

\$305,845.20.

(F) Narrative Justification.

The prospective Lessee is offering a business project in
Tumon that will cater to the interests of Japanese
tourists and island residents alike. The Lessee intends
to construct a museum to display World War II
memorabilia, Chamorro pottery, woven baskets, Chamorro
kitchen utensils, Spanish cannons, Spanish betelnut boxes
and Sumurai swords, along with a number of other
interesting items. A museum of this type does not
currently exist in the Tumon area and will add to the
list of tour sights for our island visitors and residents.

Original
Duplicate

CERTIFICATE OF GUARANTEED CLAIM

UNITED STATES OF AMERICA
NAVAL GOVERNMENT OF GUAM

No legal claims rest against this estate in the record of the Island Court, this **seventeenth** day of **January**, 192**9**.

CERTIFIED:

J. Heck
J. C. Heck
Attorney General

J. C. Manibusan
J. C. Manibusan
Chief Clerk of Courts

BY THESE PRESENTS BE IT KNOWN THAT **THE UNITED STATES OF AMERICA**

having complied with all legal requirements to entitle **it** to claim full ownership in FEE SIMPLE for property designated by official survey as lot **No. 5146, Agana, Suburban** said property being described and title having been recorded as Estate No. **3925** in Vol. **Twenty one** of **Agana** Page **559** Department of Records and Accounts, Naval Government of Guam, on the **twenty seventh** day of **December**, 192**8**, and examination and verification of title showing that the right in equity to ownership of said property truly vests in the above named persons.

THE NAVAL GOVERNMENT OF GUAM hereby undertakes to defend said right of ownership of the above named ~~persons~~ **owner, its heirs**, assigns, etc., against all claimants whomsoever, except such liens as may hereafter be incurred.

Given under my hand and seal this **seventeenth** day of **January** A. D., nineteen hundred and **twenty nine** in Agana, Guam.

L. S. Shapley
L. S. Shapley
Governor of Guam

THIS CERTIFICATE is entered as number **3004** in Vol. **Eight** of the Record of Guaranteed Claims, Department of Records and Accounts, Naval Government of Guam.

Agana, Guam, this **seventeenth** day of **January**, 192**9**

G. G. Parker
G. G. Parker
Auditor - Registrar

Memorial of Estates, Assessments, Liens, Charges and Encumbrances on the land described in the above and within Guaranteed Claim, other than Taxes, for non-payment of which said property has not yet been sold.

DOCUMENT No.	KIND OF INSTRUMENT	REGISTRATION		AMOUNT	IN FAVOR OF CED. No.	SIGNATURE OF Auditor-Registrar
		DATE	TIME			
32407	Disposition of Land	1-22-57	8:30 AM		Govt of Guam	<i>F. J. Sant Thomas</i>
34265	Notice of Lis Pendens	3-12-58	11:20 AM		u. s. a.	<i>F. J. Sant Thomas</i>
34290	Declaration of Taking	3-18-58	9:30 AM		u. s. a.	<i>F. J. Sant Thomas</i>
34824	Disclaimer	7-8-58	1:55 PM		u. s. a.	<i>F. J. Sant Thomas</i>
34896	Judgment	7-29-58	8:30 AM		u. s. a.	<i>F. J. Sant Thomas</i>
36009	Deed 5146 pt	3-25-59	3:15 PM	\$85.00	<i>Edith P. ...</i>	<i>F. J. Sant Thomas</i>

COMMERCIAL LEASE AGREEMENT

THIS AGREEMENT, made by and between the GOVERNMENT OF GUAM, the LESSOR, and the LESSEE or TENANT, JAMES TOLAN, U.S. citizen(s), legal resident(s) of the United States, licensed to do business on Guam, whose address is:

P.O. Box 3489, Agaña, Guam 96919

WITNESSETH:

WHEREAS, the LESSEE(S), in accordance with the provisions of Public Law 15-6:3 which provides:

Section 3. (a) Notwithstanding any provision of law, rule or regulation to the contrary, the Government of Guam is authorized to lease government-owned property for a term not exceeding fifty (50) years for commercial purposes.

(b) No portion of the leased land shall be sub-leased without the written consent of the Governor, approved as to form by the Attorney General and approved by the Legislature as provided in Section 3 of P.L. No. 12-61.

(c) All leases shall be executed by the Governor, attested by the Lieutenant Governor and be approved as to form by the Attorney General.

(d) A copy of every executed lease shall be filed with the Department of Administration.

(e) The lease shall be approved by the Legislature as provided in Section 3 of Public Law No. 12-61, and Executive Order No. 85-6.

WHEREAS, the Lessee, did submit on the 15th day of October, 1984, to the Government of Guam, an application to lease government real property described as follows:

Lot 12, Tract 111, containing an area of 2,548.71 square meters, Tumon, Municipality of Dedede, as shown on Land Management Drawing No. C4-66T492. Water and power is immediately available within 100 feet of the property.

NOW THEREFORE, in consideration of the terms, covenants and conditions set forth in this lease, the parties agree as follows:

1. The Lease shall be for a term beginning on _____ and ending on _____, with an option to renew the lease for another twenty-five (25) years upon the same terms and conditions contained in this lease, excepting the payment of rent which shall be adjusted every five (5) years as stated in Paragraph 2.

COMMERCIAL LEASE AGREEMENT - JAMES POLAN

LESSEE shall give ninety (90) days prior notice to the LESSOR by registered mail of LESSEE'S decision to exercise the option to renew.

2. The initial annual rental amount is \$18,181.00 based on the 1986 fair market rental value of the property. The Department of Land Management reviewed and determined the fair market value of the property to be \$305,845.20 (\$120.00 per square meter). Based on this determination, the annual rental shall be as follows:

First Five Years - 60 of FMV stated above

Second Five Years - 80 of FMV stated above

Third Five Years - 100 FMV stated above

Fourth Five Years - 100 of Annual Rental reflected on the Third Five Years

Fifth Five Years - 100 of Annual Rental reflected on the Fourth Five Years

Commencing with the installment of rent due on _____ and continuing for the next five (5) yearly installments, the annual rental shall be Eighteen Thousand Three Hundred Fifty-One Dollars (\$18,181.00) per yearly installment.

a. Commencing with the installment of rent due on _____ and continuing for the next five (5) yearly installments, the annual rental shall be Twenty-Four Thousand Four Hundred Sixty-Eight Dollars (\$24,468.00) per yearly installment.

b. Commencing with the installment of rent due on _____ and continuing for the next five (5) yearly installments, the annual rental shall be Thirty Thousand Nine Hundred Eighty-Five Dollars (\$30,985.00) per yearly installment.

c. Commencing with the installment of rent due on _____ and continuing for the next five (5) yearly installments, the annual rental shall be Thirty Three Thousand Six Hundred Forty-Three Dollars (\$33,643.00) per annual installment.

d. Commencing with the installment of rent due on _____ and continuing for the next five (5) yearly installments, the annual rental shall be Thirty-Seven Thousand and Seven Dollars (\$37,007.00) per annual installment.

Annual rental may be paid in monthly installments with payments made by no later than the 15th of each month.

3. LESSEE shall pay without abatement, deduction or offset the following:

All real personal property taxes, general and special assessments, and other charges of every description levied on or assessed against the premises, improvements, the leasehold estate, or any subleasehold estate, to the full extent of installments falling due during the term. LESSEE shall make all such payments directly to the charging authority at least five (5) days before delinquency and before any fine, interest, or penalty shall become due or be imposed by operation of law for their nonpayment. If, however, the law expressly permits the payment of any or all of the above items in installments (whether or not interest accrues on the unpaid balance), LESSEE may, at LESSEE'S election, utilize the permitted installment method, but shall pay each installment with any interest before delinquency.

4. The purpose of this lease is for LESSEE to construct
museum and tourist related activities

in the premises. All improvements constructed on the premises by LESSEE as permitted by this lease shall be owned by LESSEE until expiration of the term or sooner termination of lease. LESSEE shall not, remove any improvements from the premises nor waste, destroy, or modify any improvements on the premises, except as permitted by this lease. The parties covenant for themselves and all persons claiming under them that the improvements are real property. LESSEE shall not use the premises in any unlawful, improper, or offensive manner and shall comply with and observe all existing laws enforced or to be enforced. The use of the premises shall be for the specific commercial purpose approved by the LESSOR. LESSEE, with the approval of the Governor and the Legislature, may make additional improvements to the premises but only if such improvements are related to the initial purpose approved by the lease.

5. LESSEE shall complete construction within two (2) years, as required and by Executive Order No. 88-6, as amended, for the purpose mentioned under paragraph 4 of this agreement. LESSOR agrees to assist LESSEE in securing permits to the extent allowed by law and regulations.

6. LESSEE agrees to permit all public and private school tours organized and sanctioned by their school to be admitted free of charge. Walk-in school children and mananho (senior citizens) be admitted at

COMMERCIAL LEASE AGREEMENT - JAMES TOLAN

half rates; possibly no admission fees, if museum turns out to be a success.

7. At the normal expiration of term, provided LESSEE is not then in default, LESSEE shall have the right to remove any or all fixtures or improvements, or both, provided all resultant injuries to the premises and remaining improvements are completely remedied and LESSEE complies with the LESSOR'S reasonable requirements respecting the resultant appearance. All fixtures or improvements remaining on the premises after LESSEE'S election to remove has expired shall become the property of LESSOR. Any lien claim or security interest in such property shall remain the obligation of the LESSEE. LESSEE agrees to indemnify and hold harmless against any lien or claim against such property remaining on the premises.

8. LESSEE shall hold harmless LESSOR from and against all attachments, lien charges, and all expenses resulting from this lease.

9. LESSEE shall not sell, assign, mortgage or transfer in anyway this leasehold or any rights or interest therein or create a security in the public land leased. The LESSEE may sublet, provided it receives the approval of both the Governor and Legislature.

10. There shall be no discrimination against the use and enjoyment of the leased premises nor shall there be any policy which supports or discriminates against anyone according to race, color, creed, national origin or religion.

11. LESSEE shall indemnify, defend and hold the LESSOR harmless against any claim or demand by third persons for loss, liability or damage, including claims for property damage, personal injury or wrongful death arising out of any accident on the leased premises.

12. Throughout the term, at LESSEE'S sole cost and expense, LESSEE shall keep or cause to be kept enforced, for the mutual benefit of LESSOR and LESSEE, comprehensive broad form general public liability insurance against claims and liability for personal injury, death, or property damage arising from the use, occupancy, disuse, or condition of the premises, improvements, or adjoining areas or ways, providing protection of

COMMERCIAL LEASE AGREEMENT - JAMES TOLAN

at least One Hundred Thousand Dollars (\$100,000.00) for bodily injury or death to any one person, at least Fifty Thousand Dollars (\$50,000.00) for any one accident or occurrence, and at least Fifty Thousand Dollars (\$50,000.00) for property damage.

13. In case the LESSOR shall, without any fault on its part be made a party to any litigation commenced by or against the LESSOR, all costs and expenses incurred by the LESSOR shall be paid by the LESSEE, its heirs and/or assigns.

14. The LESSOR shall have a lien on all the buildings and improvements placed on the said premises by the LESSEE, on all property kept or used on the premises, whether the same is exempt from execution or not and on the rents of all improvements and buildings situated on said premises for all such costs, attorney's fees, rent reserved, for all taxes and assessments paid by the LESSOR on behalf of LESSEE and for the payment of all money as provided in this lease to be paid by LESSEE, and such lien shall continue until the amounts due are paid.

15. If the LESSEE shall fail to yield or pay such rent at the time and in the manner described in Paragraph 2 or shall become bankrupt, or shall abandon the said premises, or if this lease and the premises shall be attached or otherwise be taken by operation of law, or if any assignment be made of the LESSEE'S property for the benefit of creditors, or shall fail to observe or perform any of the covenants, terms and conditions herein contained and on its part to be observed and performed, LESSOR shall so notify by personal service, registered mail or certified mail to the LESSEE at its last known address. If such breach or default shall continue for a period of ninety (90) days, upon notification, LESSOR may at once re-enter such premises or any part thereof and upon or without such entry, at its option, terminate this lease without prejudice to any other remedy or right of action for arrears or rent or for any proceeding or other breach of contract. In the event of such termination, all building and improvements thereon shall remain and become the property of the LESSOR.

16. 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

COMMERCIAL LEASE AGREEMENT - JAMES TOLAN

rental shall be reduced in proportion to the value of the premises condemned. The LESSOR 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 may, in the alternative, remove and relocate its improvements to the remainder of the lands occupied by LESSEE. The LESSEE shall not by reason of such condemnation be entitled to any claim against the LESSOR for the condemnation of the leasehold interest and all compensation shall be 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 shall not be exclusive of any other to which LESSEE 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 shall have the option to surrender this lease and be discharged and relieved from any further liability, provided, that LESSEE 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.

17. The LESSOR shall have the right to itself and to the agents and representatives of the Government, in which said leased premises are situated, to enter and cross any portion of said leased land for the purpose of performing any public or official duties; provided, however, in the exercise of such rights, the LESSOR shall not unreasonably interfere with the LESSEE'S use and enjoyment of the premises.

18. LESSOR reserves the right to enter the LESSEE'S leased property for the purpose of maintaining or adding public utilities.

19. Acceptance of said land, shall constitute a waiver of any breach by the LESSEE of any term, covenant or condition of this lease, nor of the LESSOR'S right to declare and enforce a forfeiture for any such breach by the LESSEE of any term, covenant or condition of this lease, and for the failure of the LESSOR to insist upon strict performance of any such term, covenant or condition or to exercise any option

COMMERCIAL LEASE AGREEMENT - JAMES TOLAN

herein conferred in any one or more instances, shall not be construed as a waiver or relinquishment of any term, covenant, condition or option.

19. Notwithstanding any provision contained in this lease to the contrary, wherever applicable, the LESSOR may for good cause shown in writing, allow additional time beyond the time or times specified herein to the LESSEE in which to comply, observe and perform any of the terms, conditions and covenants contained herein.

21. LESSEE shall annually submit to the Department of Land Management on the anniversary of this lease a financial statement and report setting forth in detail the use, improvements and income derived from the property in a form as prescribed by the LESSOR.

22. All of the above terms, conditions and covenants, including the provisions of Executive Order No. 25-6, as amended, shall be enforced by the Director of Land Management or his authorized representatives.

DEPARTMENT OF LAND MANAGEMENT:


F. L.G. CASTRO, Acting Director

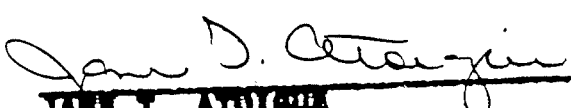
Date: 1/25/89

ACKNOWLEDGMENT

TERRITORY OF GUAM }
CITY OF AGANA }

On this 25th day of January, 19 89, before me, JANE T. ATOIGUE, a Notary Public, personally appeared F. L.G. CASTRO, Acting Director of Land Management, known to me to be the person whose name is subscribed to the within instrument; and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto affixed my name and official seal in Agana, Guam, the day and year first above written.


JANE T. ATOIGUE
Notary Public
In and for the Territory of Guam
My Commission Expires: 11/19/90

COMMERCIAL LEASE AGREEMENT - JAMES TOLAN

LESSEE:

James B. Tolan
JAMES TOLAN

Date: 1-23-89

ACKNOWLEDGMENT

TERRITORY OF GUAM }
CITY OF AGANA } **SS**

On this 23rd day of January, 19 89, before me, **JANE T. ATOIGUN**, a Notary Public, personally appeared **JAMES TOLAN**, known to me to be the person whose name is subscribed to the within instrument; and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto affixed my name and official seal in Agana, Guam, the day and year first above written.

Jane T. Atoigun
JANE T. ATOIGUN
Notary Public
In and for the Territory of Guam
My Commission Expires: 11/19/90

LESSOR:

Joseph F. Ada
JOSEPH F. ADA
Governor of Guam
Date: FEB 21 1989

ATTESTED:

Frank F. Blas
FRANK F. BLAS
Notary Public
Date: Jan 24 1989

APPROVED:

E. Barrett-Anderson
ELIZABETH BARRETT-ANDERSON
Notary Public
Date: 2-10-89

Introduced

TWENTIETH GUAM LEGISLATURE
1989 (FIRST) Regular Session

APR 10 '89

Bill No. 567

Introduced by:

Committee on Rules *Advent*
At the request of the
Governor

AN ACT APPROVING THE LEASE OF CERTAIN REAL PROPERTY
BY THE GOVERNMENT OF GUAM TO JAMES TOLAN FOR THE
CONSTRUCTION OF A MUSEUM.

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

1 Section 1. That certain lease agreement between the
2 Government of Guam and James Tolan executed by the
3 Governor on February 21, 1989 for the following described
4 property:

5 Lot 12, Tract 111, containing an area of 2,548.71
6 square meters, Tumon, Municipality of Dededo, as
7 shown on Land Management Drawing No. C4-66T492
8 for an initial term of twenty-five years with options to
9 extend is approved.