



Territory of Guam
Territorion Guam

OFFICE OF THE GOVERNOR
I FISISAN UMAGA LAHI
AGANA, GUAM 96910 U.S.A.

ADA
received
4-29-93

APR 28 1993

The Honorable Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hessler Street
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 268, which has been designated as **Public Law**
No. 22-07.

Sincerely yours,

Joseph F. Ada
JOSEPH F. ADA
Governor

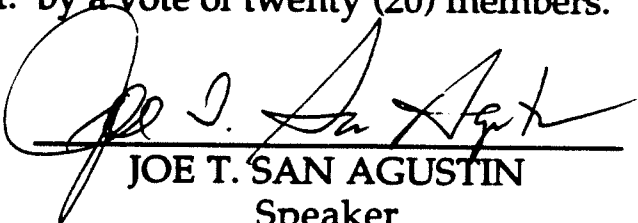
Attachment



TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

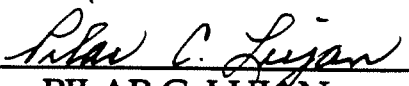
CERTIFICATION TO THE GOVERNOR OF PASSAGE OF AN ACT

This is to certify that Substitute Bill No. 268 (LS), "AN ACT TO AUTHORIZE THE GOVERNOR TO EXCHANGE GOVERNMENT LAND WITH PRIVATE LAND IN AGAT TO ESTABLISH A NEEDED PUBLIC ACCESS AND UTILITY EASEMENT," returned to the Legislature without the approval of the Governor, was, in accordance with the Organic Act of Guam, reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 13th day of April, 1993, agree to pass said bill notwithstanding the objection of the Governor by a vote of two-thirds or more of all the members thereof, to wit: by a vote of twenty (20) members.



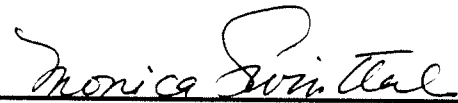
JOE T. SAN AGUSTIN
Speaker

Attested:



PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 15th day of April, 1993, at
8:55 o'clock 9 .M.



Assistant Staff Officer
Governor's Office

APPROVED:

JOSEPH F. ADA
Governor of Guam

Public Law No. 22-07

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 268 (LS)

As substituted by the Committee
on Housing and Community
Development and amended by
the Committee on Rules

Introduced by:

E. D. Reyes
C. T. C. Gutierrez
T. S. Nelson
T. C. Ada
J. P. Aguon
E. P. Arriola
M. Z. Bordallo
H. D. Dierking
P. C. Lujan
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
F. R. Santos
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
F. P. Camacho
M. D. A. Manibusan
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO AUTHORIZE THE GOVERNOR TO
EXCHANGE GOVERNMENT LAND WITH PRIVATE
LAND IN AGAT TO ESTABLISH A NEEDED PUBLIC
ACCESS AND UTILITY EASEMENT.

1 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**
2 **Section 1. Legislative statement.** Celestine Babauta, David Herrera, J.
3 Nededog and their families requested the Legislature to create a public

1 easement to properties situated in the Fenile area, Municipality of Agat, such
2 easement to allow the Babauta and Nededog families access to construct
3 homes on properties which they inherited from their parents. These
4 properties, Lots Nos. 186 and 188, each bordering the Umang River in Agat,
5 have been land-locked for nearly twenty years as a result of the approval of a
6 subdivision development in Fenile which inadvertently eliminated public
7 access to the Babauta and Nededog properties. The review of the Fenile
8 subdivision maps by the appropriate agencies of the government of Guam
9 failed to recognize the easement dilemma and their approval of the
10 subdivision created the problem. It is the sense of the Legislature that it is
11 high time that this error be corrected and these families be provided with
12 access to enter and build homes on their properties.

13 **Section 2. Land exchange authorized.** The Governor of Guam is
14 hereby authorized to exchange on a value-for-value basis, a portion or
15 portions of government of Guam Lots Nos. 189-B-1 and 189-B-R2, Agat, for
16 portions of privately-owned Lots Nos. 189-1NEW-4 and 189-1NEW-R6, to
17 establish a public access and utility easement forty feet (40') wide. Such
18 exchange shall consist of enough government and private property to permit
19 the proposed right-of-way shown on the Land Management sketch plan
20 attached hereto and incorporated herein by reference.

21 **Section 3. Appraisals, survey, mapping, and registration.** The
22 Department of Land Management (the "Department") shall have the
23 properties to be exchanged under this Act appraised by two (2) independent
24 appraisers licensed to do business in Guam. The averages of the two (2)
25 appraisals shall be used as the values for the basis of such exchange. The
26 Department shall have such properties surveyed, mapped and registered,

1 and all costs for appraisals, survey, mapping and registration shall be paid by
2 the government of Guam.

3 **Section 4. Terms and conditions of the exchange.** The land exchange
4 authorized by this Act shall be subject to the following terms and conditions:

5 (a) **No transfer.** The parties agree that there shall be no transfer
6 or conveyance of any portion of the land exchanged to any person not
7 of the immediate family of David B. Herrera for a period of ten (10)
8 years beginning on the date the applicable deeds for each parcel are
9 recorded.

10 (b) **Reversion clause.** The exchange document and applicable
11 deeds shall contain reversion clauses to the effect that non-compliance
12 or violation to any terms or conditions of the agreement shall render
13 the exchange void, and title to the exchanged lands shall revert to their
14 original owners.

15 (c) **Improvements permitted.** Nothing contained herein shall be
16 construed to prevent or prohibit the parties from improving or having
17 improved the exchanged properties or from building, erecting or
18 constructing structures approved in accordance with the building and
19 zoning codes of Guam.

20 **Section 5. Exclusion from Chamorro Land Trust.** The exchange of
21 government land authorized by this Act is found to be in the public interest,
22 and therefore the government of Guam land to be utilized in such exchange is
23 excluded from that government land available to the Chamorro Land Trust
24 Commission, (Chapter 75, Title 21, Guam Code Annotated).

61

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Date: 3/16/93

VOTING SHEET

Bill No. 268

Resolution No. _____

Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAN	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.				✓
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente C.	✓			
PARKINSON, Don				✓
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL 19 _____ 2



Territory of Guam
Territorio Guam

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

RECEIVED
OFFICE OF THE SPEAKER
DATE: 3/29/93
TIME: 4:10 PM
RECD BY: [Signature]

75-2

March 29, 1993

The Honorable Joe T. San Agustin
Speaker
Twenty Second Guam Legislature
155 Hesler
Agana, Guam 96910

[Handwritten signature]

Dear Mr. Speaker:

Enclosed herewith is Substitute Bill No. 268 which I have vetoed in its entirety.

Pursuant to Public Law 20-221 §115 the Director of Land Management has the authority to grant an easement across government land to provide access to landlocked property. The Director has informed me that if the landowners apply for an easement he will grant an easement across Basic Lot 189-B-R2 or the area marked in green on the attached sketch. This will give the private landowners the opportunity to work out an arrangement to provide access to Lots 186 and 189. This solution will not cost the government of Guam any money and more importantly will not require the government to give up ownership of any valuable land.

The legislature could assist the landowners by reducing the required width of the right of way or easement from 40 feet to 20 feet. Thus, the landowners will not suffer any loss of usable land when they release the exiting right of way and create the new one.

On the other hand, this bill sets a dangerous and expensive precedent. First, the government gives up 1,564 square meters to create a public right of way [the area marked in yellow on the attached sketch] that benefits only 2 lots and at the same time enriches the owners of Basic Lot 189-1NEW-4, Basic Lot 189-1NEW-R6 and Lot 189-1NEW-3. The owners of these properties will be able to cancel the existing right of way into their lots and obtain a better entry at government expense.

For sometime now, the mother of one of the owners of these lots has sought to purchase Basic Lot 189-B-1 upon which she has constructed a dwelling under a land use permit. However, she is ineligible to purchase the lot since she is not landless. Under this bill her child will be able to acquire this lot at essentially no cost to the family and to the detriment of the people of Guam.



Commonwealth Now!

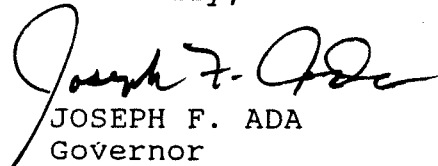
Mr. Speaker
March 29, 1993
Page Two

Second, this measure is extremely expensive to the government. In order to accomplish the exchange the government assumes responsibility for all costs associated with the exchange. In the past exchange agreements have required the benefitting party to pay all costs associated with the exchange.

The real cost to the government will be the construction of a road and bridge through the newly created public right of way. Although establishing a coral road could be done by the Department of Public Works, construction of a bridge across the Mamu River will require significant funds not only for design and construction but also for appropriate environmental studies and permits.

In the past when private landowners have come to the government for assistance the Department of Land Management has assisted them by trying to work out private agreements for access. That is the appropriate way to provide for rights of way across privately owned land.

Cordially,

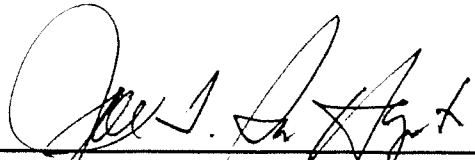

JOSEPH F. ADA
Governor

220131

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 268 (LS), "AN ACT TO AUTHORIZE THE GOVERNOR TO EXCHANGE GOVERNMENT LAND WITH PRIVATE LAND IN AGAT TO ESTABLISH A NEEDED PUBLIC ACCESS AND UTILITY EASEMENT," was on the 16th day of March, 1993, duly and regularly passed.



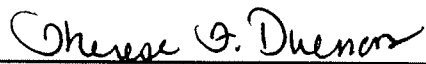
JOE T. SAN AGUSTIN
Speaker

Attested:



PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 17th day of March,
1993, at 4:30 o'clock P.M.



Theresa G. Duenos
Assistant Staff Officer
Governor's Office

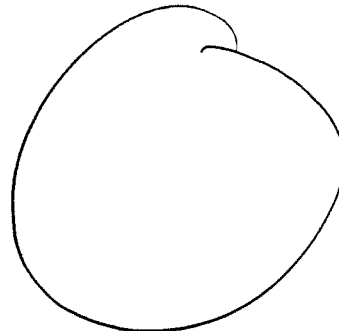
APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: _____

Public Law No. _____



Dalvin
4/13/93

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 268 (LS)
As substituted by the Committee
on Housing and Community
Development and amended by
the Committee on Rules

Introduced by:

- E. D. Reyes
- C. T. C. Gutierrez
- T. S. Nelson
- T. C. Ada
- J. P. Aguon
- E. P. Arriola
- M. Z. Bordallo
- H. D. Dierking
- P. C. Lujan
- V. C. Pangelinan
- D. Parkinson
- J. T. San Agustin
- F. R. Santos
- D. L. G. Shimizu
- J. G. Bamba
- A. C. Blaz
- D. F. Brooks
- F. P. Camacho
- M. D. A. Manibusan
- T. V. C. Tanaka
- A. R. Unpingco

AN ACT TO AUTHORIZE THE GOVERNOR TO
EXCHANGE GOVERNMENT LAND WITH PRIVATE
LAND IN AGAT TO ESTABLISH A NEEDED PUBLIC
ACCESS AND UTILITY EASEMENT.

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

2 Section 1. Legislative statement. Celestine Babauta, David Herrera, J.

3 Nededog and their families requested the Legislature to create a public

1 easement to properties situated in the Fenile area, Municipality of Agat, such
2 easement to allow the Babauta and Nededog families access to construct
3 homes on properties which they inherited from their parents. These
4 properties, Lots Nos. 186 and 188, each bordering the Umang River in Agat,
5 have been land-locked for nearly twenty years as a result of the approval of a
6 subdivision development in Fenile which inadvertently eliminated public
7 access to the Babauta and Nededog properties. The review of the Fenile
8 subdivision maps by the appropriate agencies of the government of Guam
9 failed to recognize the easement dilemma and their approval of the
10 subdivision created the problem. It is the sense of the Legislature that it is
11 high time that this error be corrected and these families be provided with
12 access to enter and build homes on their properties.

13 **Section 2. Land exchange authorized.** The Governor of Guam is
14 hereby authorized to exchange on a value-for-value basis, a portion or
15 portions of government of Guam Lots Nos. 189-B-1 and 189-B-R2, Agat, for
16 portions of privately-owned Lots Nos. 189-1NEW-4 and 189-1NEW-R6, to
17 establish a public access and utility easement forty feet (40') wide. Such
18 exchange shall consist of enough government and private property to permit
19 the proposed right-of-way shown on the Land Management sketch plan
20 attached hereto and incorporated herein by reference.

21 **Section 3. Appraisals, survey, mapping, and registration.** The
22 Department of Land Management (the "Department") shall have the
23 properties to be exchanged under this Act appraised by two (2) independent
24 appraisers licensed to do business in Guam. The averages of the two (2)
25 appraisals shall be used as the values for the basis of such exchange. The
26 Department shall have such properties surveyed, mapped and registered,

1 and all costs for appraisals, survey, mapping and registration shall be paid by
2 the government of Guam.

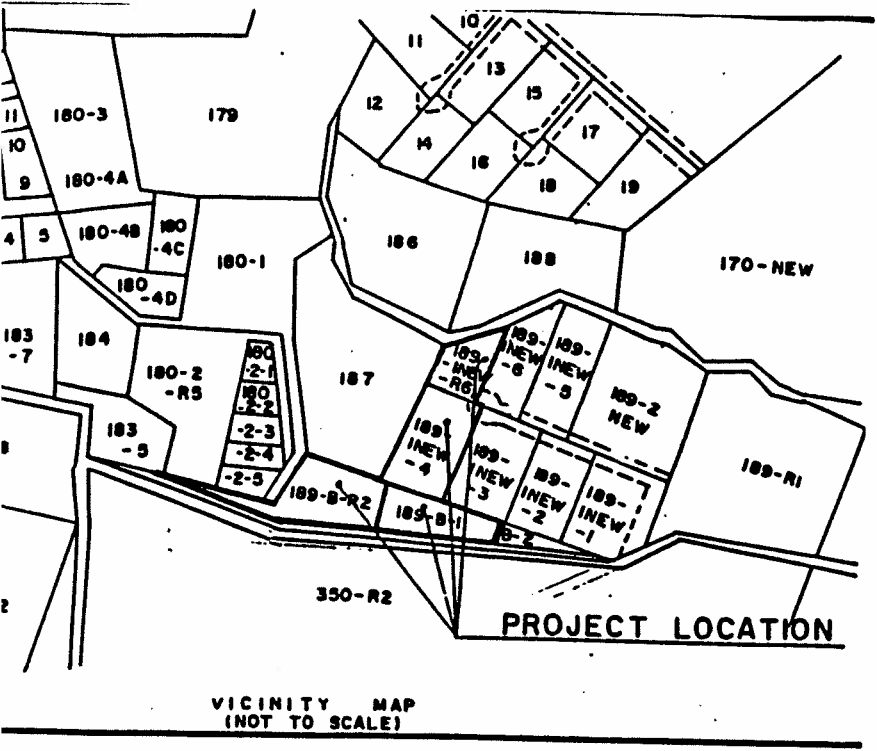
3 **Section 4. Terms and conditions of the exchange.** The land exchange
4 authorized by this Act shall be subject to the following terms and conditions:

5 (a) **No transfer.** The parties agree that there shall be no transfer
6 or conveyance of any portion of the land exchanged to any person not
7 of the immediate family of David B. Herrera for a period of ten (10)
8 years beginning on the date the applicable deeds for each parcel are
9 recorded.

10 (b) **Reversion clause.** The exchange document and applicable
11 deeds shall contain reversion clauses to the effect that non-compliance
12 or violation to any terms or conditions of the agreement shall render
13 the exchange void, and title to the exchanged lands shall revert to their
14 original owners.

15 (c) **Improvements permitted.** Nothing contained herein shall be
16 construed to prevent or prohibit the parties from improving or having
17 improved the exchanged properties or from building, erecting or
18 constructing structures approved in accordance with the building and
19 zoning codes of Guam.

20 **Section 5. Exclusion from Chamorro Land Trust.** The exchange of
21 government land authorized by this Act is found to be in the public interest,
22 and therefore the government of Guam land to be utilized in such exchange is
23 excluded from that government land available to the Chamorro Land Trust
24 Commission, (Chapter 75, Title 21, Guam Code Annotated)."



VICINITY MAP
(NOT TO SCALE)

- NOTES**
1. BEARING AND DISTANCES ARE RECORD DATA.
 2. ALL DISTANCES ARE IN METERS, UNLESS OTHERWISE NOTED.

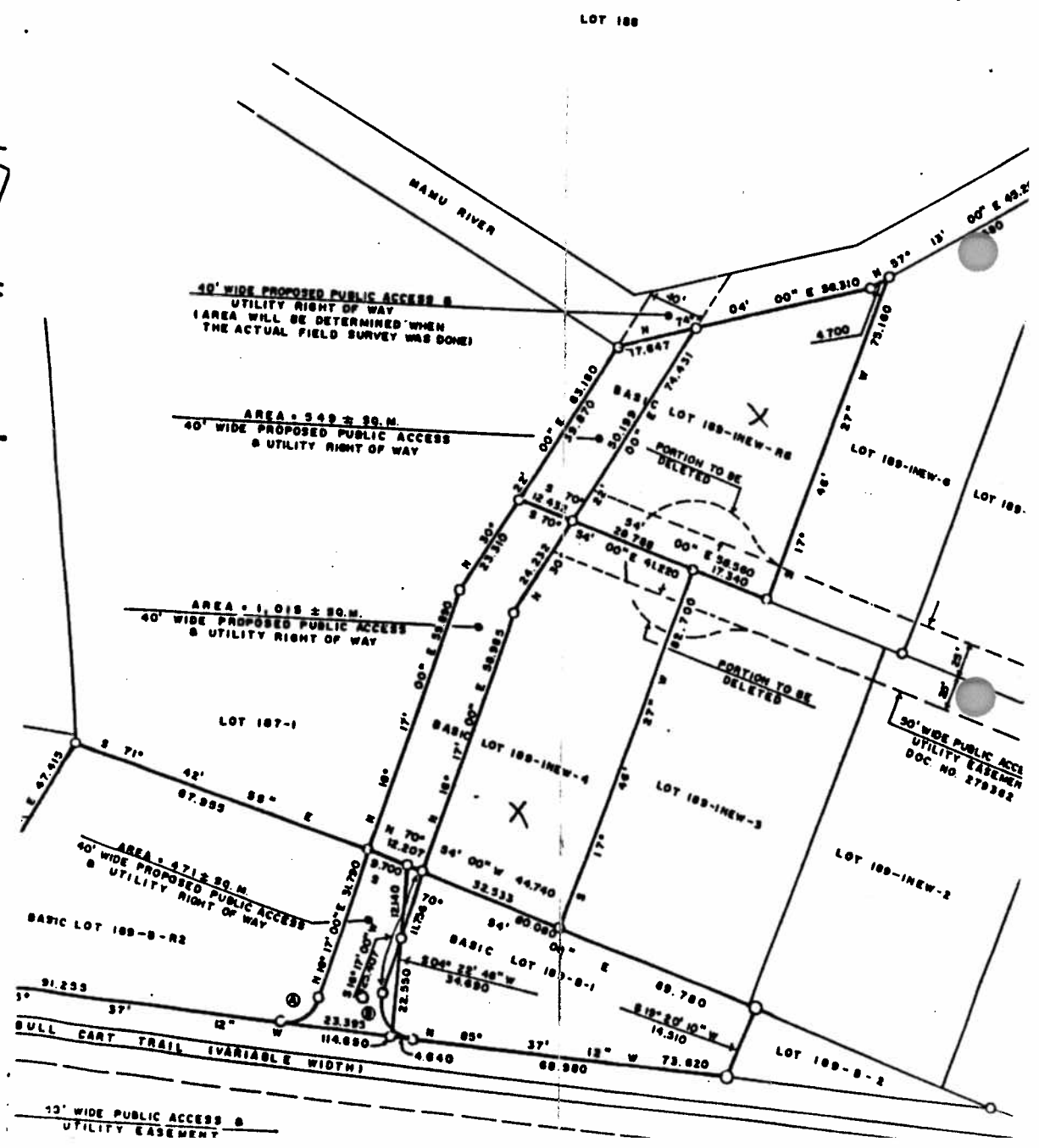
- REFERENCES**
1. DWG. NO. I4-04T 218, L.M. NO. 231FY84. DOC. NO. 346535.
 2. DWG. NO. A2-6-77A1, L.M. NO. 177FY79. DOC. NO. 301200.

CURVE DATA

$\Delta = 101^{\circ} 54' 12''$	$\Delta = 78^{\circ} 05' 48''$
$R = 7.620$	$R = 7.620$
$L = 13.553$	$L = 10.386$
$T = 9.394$	$T = 6.181$
$C = 11.834$	$C = 3.601$
$B = 334^{\circ} 40' 06'' E$	$CHB = S 55^{\circ} 19' 54'' W$

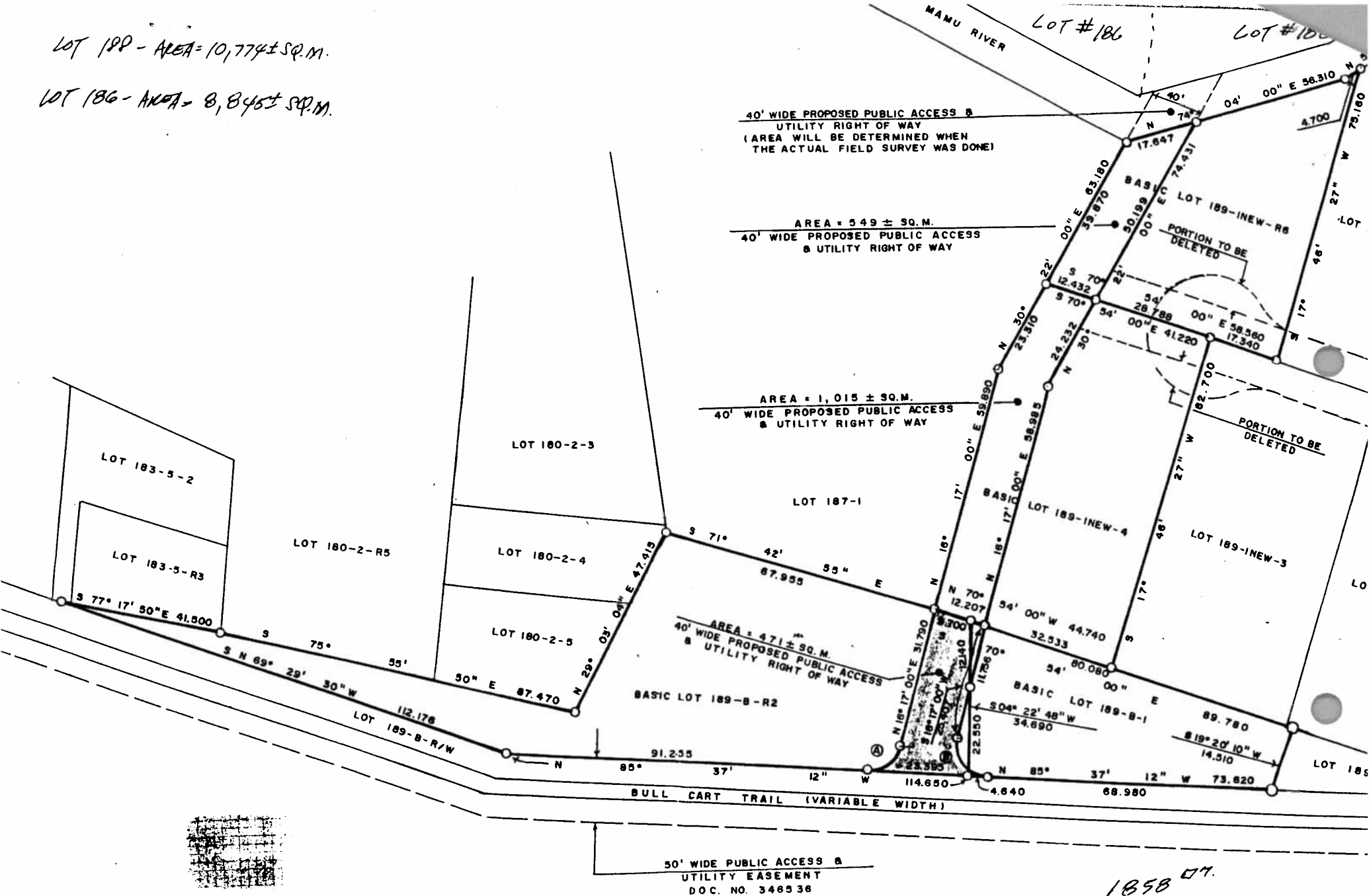
SKETCH PLAN ONLY OF PROPOSED
RIGHT OF WAY WITH IN
LOTS 189-B-1, 189-B-R2,
189-INEW-4 &
189-INEW-R6

MUNICIPALITY OF AGAT
LS. 31 SEC. 1



LOT 180 - AREA = 10,774 ± SQ.M.

LOT 186 - AREA = 8,845 ± SQ.M.



40' WIDE PROPOSED PUBLIC ACCESS & UTILITY RIGHT OF WAY
(AREA WILL BE DETERMINED WHEN THE ACTUAL FIELD SURVEY WAS DONE)

AREA = 549 ± SQ.M.
40' WIDE PROPOSED PUBLIC ACCESS & UTILITY RIGHT OF WAY

AREA = 1,015 ± SQ.M.
40' WIDE PROPOSED PUBLIC ACCESS & UTILITY RIGHT OF WAY

AREA = 471 ± SQ.M.
40' WIDE PROPOSED PUBLIC ACCESS & UTILITY RIGHT OF WAY

50' WIDE PUBLIC ACCESS & UTILITY EASEMENT
DOC. NO. 346536

1858 07.

Overridden

TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

Date: 4/13/93

VOTING SHEET

Bill No. _____

Resolution No. _____

Question: Retired Bill 268

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>NOT VOTING/ ABSTAN</u>	<u>ABSENT/ OUT DURING ROLL CALL</u>
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.				✓
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente C.	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

20 _____

Senator Edward D. Reyes
Chairman
Committee on Housing and Community Development
Twenty-Second Guam Legislature

228 Archbishop Flores St.
Agana, Guam 96910

Tel: (671) 472-3453-4
Fax: (671) 477-6338

March 12, 1993

SPEAKER JOE T. SAN AGUSTIN
Twenty-Second Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Housing and Community Development, to which was referred Bill No. 268 (An Act to Authorize the Governor Guam to Exchange Certain Government Lands with Private Landowners in the Municipality of Agat for the Purpose of Establishing Public Access, as Amended) wishes to report back to the Legislature with its recommendation **TO DO PASS** Bill No. 268, as amended by the Committee on Housing and Community Development. The voting record is as follows:

TO PASS	<u>7</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.


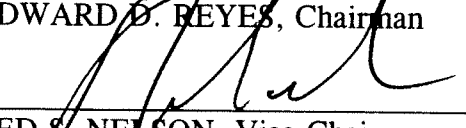
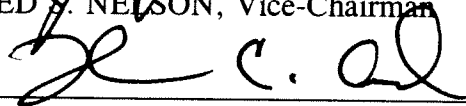

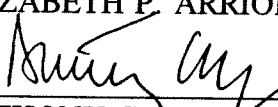

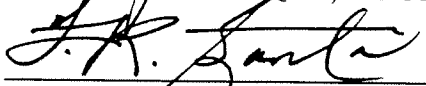
Your attention to this matter is greatly appreciated.


EDWARD D. REYES

Attachments

VOTING RECORD

BILL NO. 268 (AN ACT TO AUTHORIZE THE GOVERNOR GUAM TO EXCHANGE CERTAIN GOVERNMENT LANDS WITH PRIVATE LANDOWNERS IN THE MUNICIPALITY OF AGAT FOR THE PURPOSE OF ESTABLISHING PUBLIC ACCESS, AS AMENDED).

	<u>TO</u> <u>PASS</u>	<u>NOT TO</u> <u>PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE</u> <u>FILE</u>
 EDWARD B. REYES, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 TED S. NELSON, Vice-Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 THOMAS C. ADA, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 ELIZABETH P. ARRIOLA, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 ANTHONY C. BLAZ, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FELIX P. CAMACHO, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARILYN D.A. MANIBUSAN, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VICENTE C. PANGELINAN, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 JOE T. SAN AGUSTIN, Ex-Officio Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 FRANCISCO R. SANTOS, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Senator Edward D. Reyes

Chairman

Committee on Housing and Community Development Twenty-Second Guam Legislature

228 Archbishop Flores St.
Agana, Guam 96910

Tel: (671) 474
Fax: (671) 477-65

March 5, 1993

MEMORANDUM

TO: Members, Committee on Housing and Community Development

FROM: Chairman

SUBJECT: Committee Report - Bill No. 268 (An Act to Authorize the Governor Guam to Exchange Certain Government Lands with Private Landowners in the Municipality of Agat for the Purpose of Establishing Public Access, as Amended).

Transmitted herewith for your information and action is the Committee on Housing and Community Development's Report on subject bill.

The narrative report is accompanied by the following:

1. Bill 268
2. Committee on Housing and Community Development Voting Sheet;
3. Written Testimony and Sign-in Sheet.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

Your attention and cooperation in this matter is greatly appreciated.



EDWARD D. REYES

Attachments.

**COMMITTEE ON HOUSING AND
COMMUNITY DEVELOPMENT
Twenty-First Guam Legislature**

**COMMITTEE REPORT
ON BILL NO. 268**

"AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE CERTAIN GOVERNMENT LANDS WITH PRIVATE LANDOWNERS IN THE MUNICIPALITY OF AGAT FOR THE PURPOSE OF ESTABLISHING PUBLIC ACCESS AND UTILITY EASEMENT."

FEBRUARY 19, 1993

I. OVERVIEW

The Committee on Housing and Community Development scheduled a Public Hearing on Friday, February 19, 1993 at 9:30 a.m. in the Legislative Public Hearing Room, Temporary Legislative Building, Agana, Guam. The notice of public hearing was published in the Pacific Daily News on February 15, 1993 pursuant to the Standing Rules.

Members of the Committee present at the public hearing were:

Senator Edward D. Reyes, Chairman
Senator Ted Nelson, Vice-Chairman
Senator Tom Ada
Senator Felix Camacho
Senator Vicente Pangelinan
Senator Tony Blaz
Senator Marilyn Manibusan

Appearing before the Committee to testify on Bill 268 "AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE CERTAIN GOVERNMENT LANDS WITH PRIVATE LANDOWNERS IN THE MUNICIPALITY OF AGAT FOR THE PURPOSE OF ESTABLISHING PUBLIC ACCESS AND UTILITY EASEMENTS.

Mr. David B. Herrera, Landowner
Mr. Ray Aflague, Representative,
Department of Land Management
Mr. Celestin Babauta, Representative Babauta Family
Ms. Avelyn Sequito, Representative Babauta Family
Mr. Joseph N. Nededog, Representative Nededog Family
Mr. Joaquin G. Topasna, Vice Mayor, Agat
Mr. John Nededog, Representative Nededog Family

II. SUMMARY OF TESTIMONY

Mr. David B. Herrera, Landowner

Mr. David Herrera presented written testimony to the Committee. He is the owner of Lot 189-1NEW-4 and representative of Lot 189-1NEW-R6. Mr. Herrera testified that he will allow access to land-locked residents Mr. Celestin Babauta and Joseph Nededog, Lot no. 186 and 188. In the event of a successful transaction of the proposed land exchange, Lot No. 189-B-1 which Mrs. Joaquina Babauta Herrera has been occupying for thirty-four (34) years will finally become hers. In addition tried to purchase this property for the past nine (9) years. Mr. Herrera asked that the property be given to Mrs. Herrera. Mr. Herrera noted that a provision in Bill 268 section 4 "TERM AND CONDITIONS" stated that no transfer or conveyance, in any manner or form, of the land exchanged herein for the period of ten (10) years. Mr. Herrera stated that this clause would not serve the family's intent for the land exchange the committee to waive section 4. or to add a clause that may allow them to convey the property to his mother.

Mr. Ray Aflague, Land Administrator of the Land Administration Division of the Department of Land Management

Mr. Aflague presented oral testimony to the Committee stating. landlocked residences of properties Lot No. 186 and 188 bordering the Umang River in Agat for 20 years was over looked by the approval of a subdivision development in Finele. This Government action eliminated all potential public accessed to said properties. Mr. Aflague agrees with Mr. David Herrera's solution and sees no problem with the proposed. Mr. Aflague further stated that the Department is in full support of Bill no. 268.

Mr. Celestin Babauta, Owner of Lot no. 188

Mr. Celestin Babauta presented oral testimony to the Committee. He is the owner of lot no. 188, property land-locked for 20 years. Mr. Babauta's parents have tried to get access into their property so that his children can build their homes on the land. Mr. Babauta stated that during the time that the subdivision was proposed he and his brothers were serving in the Military and were unable to look after their family land. He also stated that his parents are both deceased and he is left to fullfill his parents wishes. He ask the Legislature to act quickly and favorably on this bill.

Mrs. Avelyn Sequito, Representative of the Babauta Family

Mrs. Avelyn B. Sequito presented oral testimony to the Committee. She briefly told the committee that its been years that her parents had fought to get access to their property. She is respectfully requesting the legislature to act quickly on Bill 268.

Mr. Joseph N. Nededog, Administrator of lot no. 186

Mr. Joseph N. Nededog presented written testimony to the Committee. Greeted the Chairman of the Committee and the Members and thanking them for taking the time to hear Bill 268. Most of all special thanks to Mr. David Herrera and his family for finding a solution to enable them to legally enter there presently land-locked property. Mr. Nededog further added that his late brother Sgt. Emilio Nededog who gave the ultimate sacrifice in Vietnam had left his 23 year old son who is deaf-mute as his sole desendent. Mr. Nededog and his brothers were in the Service and were unaware of the developments that had left them land-locked in the beginning. He asked the Legislature to approve Bill 268 so homes can be built for the Nededog's and their families.

Mr. Joaquin G. Topasna, Vice Mayor, Agat

Mayor Joaquin G. Topasna presented written testimony to the Committee. Thanked the Chairman and the Committee members who took the time to hear this crucial Bill. Mayor Topasna tesified on behalf of the People of Agat on support of Bill 268 for eastment. He further stated that the proposed easement will solve the problems of two families whose properties are land-locked and will also provide access for needed infrastructure. In addition, the safety and security of these people living in this section will be enhanced as well as maintenance and service by the Government Agencies will be made easier or simplier by the passage of this Bill. He asked the Legislature to pass Bill 268.

Mr. John Nededog, Representative Nededog Family

Mr. John Nededog presented oral testimony to the Committee. He thank the Chairman of the Committee for hearing Bill 268 which affected his family for years and ask the Committee to please support this bill so he and his brothers can build homes on their property.

III. FINDING AND RECOMMENDATION

The Chairman of the Committee commended Mr. David Herrera for finding a suitable solution to the land-locked families of Mr. Joseph Nededog and Celestin Babauta owners of Lot No. 186 and 188 in the Municipality of Agat. Other members of the Committee joined the Chair in thanking Mr. Herrera for allowing these families to have access to their presently land-locked properties.

The Committee on Housing and Community Development to which was referred **Bill No. 268** - " An Act to Authorize the Governor to Exchange Certain Government Lands with Landowners in the Municipality of Agat for the purpose of Establishing Public Access and Utility Easement" does hereby submit its findings and unanimous recommendation to the Twenty-Second Guam Legislature **"TO DO PASS" Bill No. 268 As Amended by the Committee.**

TWENTY SECOND GUAM LEGISLATURE
FIRST(1993) REGULAR SESSION

Bill No. 268

As Substituted by the Committee on
Housing and Community Development

Introduced by:

E.D. Reyes
I.S. Nelson

**An Act to Authorize the Governor to Exchange Government
Land with Private Land in the Municipality of Agat for the
Purpose of Establishing Public Access and Utility Easement.**

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

3 **Section 1. Legislative Statement.** Messrs. Celestine Babauta, David
4 Herrera, J. Nededog and their families approached the Legislature in search of a
5 solution toward the creation of a public easement to properties situated in the
6 Finele area, Municipality of Agat; a public easment that would allow the
7 Babauta and Nededog families to access and construct homes on properties which
8 were passed on to them by their parents. Said properties identified as Lot Nos.
9 186 and 188 bordering the Umang River in Agat, have been land-locked for
10 nearly 20 years as a result of government of Guam's approval of a sub-division
11 development in Finele which inadvertently eliminated all potential public accesses
12 to the Babauta and Nededog properties (Lot 186 and 188 respectively). In effect,
13 the government's review of the Finele sub-division maps failed to recognize the
14 easement dilemma and subsequent to the subdivision's approval, a problem was
15 created. It is the sense of the Legislature that it is time to correct this error and
16 provide these families with the means to legally enter and build homes on their
17 properties.

18
19 **Section 2. Land Exchange Authorized.** The Governor of Guam is
20 hereby authorized to exchange on a value for value basis, portion or portions of
21 Lot No. 189-B-1 and Lot No. 189-B-R2 for the purpose of establishing a forty-
22 foot (40 ft.) wide public access and utility easement. Said exchange shall be

1 between the government of Guam and the owner or owners of Lot No. 189-
2 1NEW-4 and Lot No. 189-1NEW-R6, Municipality of Agat whereby said
3 exchange shall be in accordance with Land Management sketch of proposed
4 right-of way within Lot Nos. 189-B-1, 189-B-R2, 189-1NEW-4 and 189-
5 1NEW-R6.

6
7 **Section 3. Appraisals, survey, mapping, and registration.** The
8 Department of Land Management shall have the properties to be exchanged
9 herein appraised by two independent appraisers licensed to do business in Guam.
10 The average of the two appraisals shall be utilized as the value for the basis of
11 the exchange authorized herein. The Department of Land Management shall
12 have the properties herein surveyed, mapped and registered. All costs for
13 appraisals, survey, mapping and registration shall be for the account of the
14 government.

15
16 **Section 4. Terms and Conditions.** The Land exchange authorized
17 herein shall be governed by the following terms and conditions:

18 a. The parties agree that there shall be no transfer or conveyance to any
19 person or individuals not of the immediate family of Mr. David B. Herrera, of
20 the land exchanged herein for a period of ten (10) years beginning on the date the
21 parties accept the applicable deeds for each parcel.

22 b. The parties agree to incorporate, into the exchange document and
23 applicable deeds, reversion clauses to the effect that non-compliance or violation
24 to any terms or conditions of the agreement shall render the exchange void, and
25 the subject properties or exchanged lands shall be reverted to the original
26 owners.

27 c. Nothing contained herein shall be construed to prevent or prohibit
28 the parties from improving or having improved the properties or from building,
29 erecting or constructing structures approved in accordance with the building and
30 zoning codes of Guam.

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

Bill No. 268

Introduced by:

E. D. Reyes *R*

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE CERTAIN GOVERNMENT LANDS WITH PRIVATE LANDOWNERS IN THE MUNICIPALITY OF AGAT FOR THE PURPOSE OF ESTABLISHING PUBLIC ACCESS AND UTILITY EASEMENT.

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

2 Section 1. **Legislative Statement.** Messrs. Celestine Babauta, David
3 Herrera, J. Nededog and their families approached the Legislature in search of a
4 solution toward the creation of a public easement to properties situated in the
5 Finele area, Municipality of Agat; a public easement that would allow the Babauta
6 and Nededog families to access and construct homes on properties which were
7 passed on to them by their parents. Said properties identified as Lot Nos. 186 and
8 188 bordering the Umang River in Agat, have been land-locked for nearly 20
9 years as a result of government of Guam's approval of a subdivision development
10 in Finele which inadvertently eliminated all potential public accesses to the Babauta
11 and Nededog properties (Lot 186 and 188, respectively). In effect, the
12 government's review of the Finele subdivision maps failed to recognize the

1 easement dilemma and subsequent to the subdivision's approval, a problem was
2 created. It is the sense of the Legislature that it is time to correct this error and
3 provide these families with the means to legally enter and build homes on their
4 properties.

5 Section 2. **Land Exchange Authorized.** The Governor of Guam is hereby
6 authorized to exchange on a value for value basis, portion or portions of Lot No.
7 189-B-1 and Lot No. 189-B-R2 for the purpose of establishing a forty-foot (40 ft.)
8 wide public access and utility easement. Said exchange shall be between the
9 government of Guam and the owner or owners of Lot No. 189-1NEW-4 and Lot
10 No. 189-1NEW-R6, Municipality of Agat, whereby said exchange shall be in
11 accordance with Land Management sketch of proposed right-of-way within Lot
12 Nos. 189-B-1, 189-B-R2, 189-1NEW-4 and 189-1NEW-R6.

13 Section 3. **Appraisals, Survey, Mapping, and Registration.** The
14 Department of Land Management shall have the properties to be exchanged herein
15 appraised by two independent appraisers licensed to do business in Guam. The
16 average of the two appraisals shall be utilized as the value for the basis of the
17 exchange authorized herein. The Department of Land Management shall have the
18 properties herein surveyed, mapped and registered. All costs for appraisals,
19 survey, mapping and registration shall be for the account of the government.

20 Section 4. **Terms and Conditions.** The Land Exchange authorized herein
21 shall be governed by the following terms and conditions:

22 a. The parties agree that there shall be no transfer or conveyance, in any

1 manner or form, of the land exchanged herein for a period of ten (10) years
2 beginning on the date the parties accept the applicable deeds for each parcel.

3 b. The parties agree to incorporate, into the exchange document and
4 applicable deeds, reversion clauses to the effect that any part thereof, the exchange
5 land shall be reverted to the original owners.

6 c. Nothing contained herein shall be construed to prevent or prohibit the
7 parties from improving or having improved the properties or from building,
8 erecting or constructing structures approved in accordance with the building and
9 zoning codes of Guam.

Committee on Housing & Community Development
SENATOR EDWARD D. REYES
Chairman

Twenty-Second Guam Legislature
Public Hearing

TIME : 9:30 A.M.
PLACE: PUBLIC HEARING ROOM
GUAM LEGISLATURE, AGANA
DATE: FEBRUARY 19, 1993

AGENDA

Bill No. 112 - An act to rezone Lot No. 3272-4, Chalan Pago-Ordot from Multi-Family Dwellings (R2) to Commercial (C); by F.R. Santos.

Bill No. 113 - An act to rezone Lot No. 11, Block 16, Tract 232, Sinajana, from Single-Family Dwelling (R1) to Commercial (C); by F.R. Santos.

Bill No. 120 - An act to authorize the Governor of Guam to approve a long term lease for agricultural purposes; by F.R. Santos.

Bill No. 187 - An act to rezone Lot No. 1-1, Tract 2621, containing an area of 3,176.07 s.m. in the Municipality of Yona from Agricultural (A) to Single-Family Dwelling (R-1); by E.D. Reyes.

Bill No. 267 - An act to rezone Lot No. 10135-1-7, containing an area of 13,253 s.m. in the Municipality of Dededo from Agricultural (A) to Single-Family Dwelling (R-1); by E.D. Reyes.

Bill No. 268 - An act to authorize the Governor of Guam to exchange certain government lands with private landowners in the Municipality of Agat for the purpose of establishing public access and utility easement; by E.D. Reyes.

TESTIMONY

Bill 268

TO: Committee on Housing and Community Development

ATTN: Mr. Chairman and Senators of the Committee

FR: David B. Herrera, Lot owner of 189-1NEW-4 and Representative of
Lot 189-1NEW-R6

RE: Bill No. 268, Twenty-Second Legislature 1993 First Session

DT: 19 February 1993

Good morning Mr. Chairman and Senators of the Committee. My name is David Babauta Herrera and I am the private land owner of Lot 189-1NEW-4 and representative for Lot 189-1NEW-R6 in the municipality of Agat.

There is basically three (3) elements and recommendation that I would like to express in relation to this act.

FIRST: Taking into consideration the effectiveness of the proposed entry via Lot 189-1NEW-4 and 189-1NEW-R6 will lead you into the center line that separates Lot 186 and 188. This approach will certainly minimize the loss of valuable area during the subdivision process for the owners of these properties. Additionally, the current topography of the proposed access is in a gradual sloping terrain that will positively assist in the gravitational flow of the waste water.

Considering these factors, I strongly support Bill 268.

SECOND: In reference to Section 4.a. under Terms and Conditions. It states that there shall be no transfer or conveyance, in any manner or form, of the land exchanged for a period of ten yrs. Personally, I identify this as a basis for discrimination or

CON'T.

SECOND: disparate treatment. I feel that it is not proper for the government to deny the people of this Territory the right to exercise equal and free choice to convey what is lawfully owned. In this regards, I oppose this section of the Bill.

THIRD: In the event that this proposal is successful, we would like to convey all or a portion of the exchanged parcel immediately to our mother.

She is 79 years old and has occupied Lot 189-B-1 for over thirty-four years. In the last nine (9) years, she has tried to purchase this parcel to no avail.

The least that I could possibly do is to convey this lot that has sentimental value to my mother.

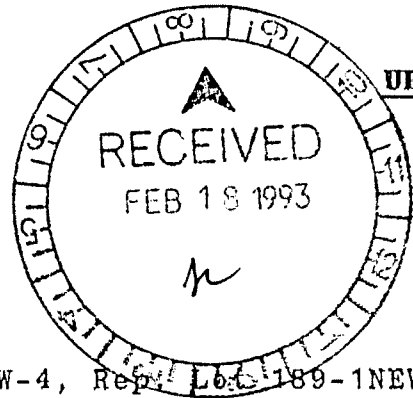
I respectfully request this committee to consider waiving Section 4.a. or to add a clause that may allow us to convey to our immediate family.

Thank you Mr. Chairman and Senators of this Committee.

URGENT

FAX MEMO

COPY



URGENT

TO: The office of Sen. E.D. Reyes
 ATTN: Mr. H. Cruz or Mr. J. Roberto
 FR: Dave B. Herrera, Lot owner of 189-1NEW-4, Rep. Lot 189-1NEW-R6
 RE: Bill 268 Sec. 4. a. & Sec. 4. b.
 DT: 17 Feb. 93 21:30 Hrs.

Dear Sir,

Upon reviewing Bill 268 sec. 4.a. we discovered that in the event of a successful transaction of the proposed exchange, we the private land owners are restricted to convey said lot or portion thereof for a period of ten (10) years.

Our primary concern is that we would like to convey a portion there to our mother Mrs. Joaquina Babauta Herrera as soon as all exchange transaction are consummated. Our mother who is 79 years of age is currently occupying the said lot since 1959. Additionally, our forty-four (44) year old brother who is mentally and physically incapable of taking care of himself is currently under our mothers care.

We respectfully request your assistance in allowing us to transfer or convey all or a portion of said lot to Mrs. Joaquina B. Herrera upon completion of the exchange process. Please advise.

Additionally, in ref. to sec. 4. b. we kindly request a clarification of the reversion clause.

In conclusion, we would like to thank you and the staff for working hard in seeking a solution to an aging dilemma in this section of Agat.

Please fax correspondence to 565-4543 prior to public hearing day

Best regards,

David B. Herrera
 David B. Herrera

GOOD MORNING MR CHAIRMAN & SENATORS

MY NAME IS JOSEPH NINAISEN NEDEDOG AND I AM ~~PRESENTLY~~^{PRESENTLY} RESIDING IN YONA. I AM THE ADMINISTRATOR FOR LOT # 186, AGAT, GIVEN TO US BY OUR PARENTS, TAN MARIA AND TUN KIKO EMILIO NEDEDOG OF AGAT VILLAGE.

(2)
MY FAMILY AND I HUMBLLY JOIN THE BABAUTAS AND HERRERAS IN PETITIONING THIS COMMITTEE TO GRANT AND ACCOMPLISH THE NECESSARY ACTIONS TO ENABLE US TO LEGALLY ENTER OUR PRESENTLY LANDLOCKED PROPERTIES WITHOUT ENCUMBRANCE. WE ARE CONFIDENT THAT THIS COMMITTEE CAN CORRECT THE SHORTCOMINGS OF PAST LAWS AND PRACTICES THAT ALLOWED THIS SITUATION TODAY.

(3)
I ALSO SPEAK FOR MY 23 YEAR OLD DEAF-MUTE NEPHEW, EMILIO NEDEDOG. HE IS THE SOLE DESCENDANT OF MY LATE BROTHER, SGT EMILIO N. NEDEDOG, WHOM GAVE THE ULTIMATE SACRIFICE IN VIETNAM ON 27 FEB 1971. I BELIEVE MY LATE BROTHER WOULD EXPECT THIS GOVERNMENT TO PROVIDE BASIC ASSISTANCE AS NECESSARY TO HIS SON.

MY BROTHERS AND I SERVED IN THE ARMED FORCES OF OUR GREAT COUNTRY, IN WAR AND IN PEACE. AS MEMBERS OF THE SERVICE WE WERE HANDICAPPED IN NOT KEEPING ABRABST OF DEVELOPMENTS AND IN A SENSE PLACED THE "FAMILY RANCH" IN A STATE OF LIMBO PENDING OUR RETURN FROM SERVICE. NEEDLESS TO SAY AND NO PUN INTENDED, WE CAME BACK AND OUR PROPERTIES REMAIN IN LIMBO. WE HAVE PRIVATELY SOUGHT OUR NEIGHBORS AND OFFERED LAND EXCHANGE FOR ACCESS WITHOUT SUCCESS

(4)
GRANTING THIS REQUEST WOULD ENABLE OUR FAMILIES TO UTILIZE OUR PROPERTY TO ITS MAXIMUM POTENTIAL BY BUILDING OUR SHELTER REQUIREMENTS AND ALLOW US GREATER SELF SUFFICIENCY AND PRIDE IN OWNERSHIP OF OUR OWN HOMES. WE WOULD CHOOSE NOT TO SEEK AND ENTER AN ALREADY OVERBURDENED GOVERNMENT ASSISTANCE PROGRAM AND INSTEAD CHOOSE TO CONTINUE THE TRADITIONAL WAY OF TAKING CARE OF OUR OWN.

(5)
WE ARE GRATEFUL FOR YOUR CONCERNS AND EFFORTS.

SI YUUS MAA SE !

AGAT MAYOR'S OFFICE
P.O. BOX 7388
AGAT, GUAM 96928
565-2524

FEBRUARY 19, 1993

TESTIMONY ON BILL #268

GOOD MORNING MR. CHAIRMAN AND SENATORS. MY NAME IS JOAQUIN TOPASNA, VICE MAYOR OF AGAT. I WANT TO THANK YOU AND YOUR COMMITTEE FOR ALLOWING ME TO TESTIFY ON THIS HEARING ON BEHALF OF THE MAYOR'S OFFICE AND THE PEOPLE OF AGAT. WE ARE SUPPORTING BILL 268 FOR EASEMENT. THIS PROPOSED EASEMENT WILL SOLVE THE PROBLEMS OF TWO FAMILIES WHOSE PROPERTIES ARE LAND-LOCK AND ALSO THIS AREA WILL BE PROVIDED WITH THE NEEDED INFRASTRUCTURES. IN ADDITION, THE SAFETY AND SECURITY OF OUR PEOPLE LIVE IN THIS SECTION WILL BE ENHANCED. MAINTENANCE AND SERVICE BY THE GOVERNMENT AGENCIES WILL BE MADE EASIER OR SIMPLIER IN APPROVING THIS BILL.

SINCERELY



JOAQUIN G. TOPASNA

VICE MAYOR OF AGAT

Senator

EDWARD D. REYES

Chairman, Committee on Housing and Community Development



PUBLIC HEARING

FRIDAY, FEBRUARY 19, 1993

9:30 AM

Public Hearing Room

Guam Legislature, Agaña

Bill No. 112 - An act to rezone Lot No. 3272-4, Chalan Pago-Ordot from Multi-Family Dwellings (R2) to Commercial (C); by F.R. Santos.

Bill No. 113 - An act to rezone Lot No. 11, Block 16, Tract 232, Sinajana, from Single-Family Dwelling (R1) to Commercial (C); by F.R. Santos.

Bill No. 120 - An act to authorize the Governor of Guam to approve a long term lease for agricultural purposes; by F.R. Santos.

Bill No. 187 - An act to rezone Lot No. 1-1, Tract 2621, containing an area of 3,176.97 s.m. in the Municipality of Yona from Agricultural (A) to Single-Family Dwelling (R-1); by E.D. Reyes.

Bill No. 267 - An act to rezone Lot No. 10135-1-7, containing an area of 13,253 s.m. in the Municipality of Dededo from Agricultural (A) to Single-Family Dwelling (R-1); by E.D. Reyes.

Bill No. 268 - An act to authorize the Governor of Guam to exchange certain government lands with private landowners in the Municipality of Agat for the purpose of establishing public access and utility easement.

Senator Edward D. Reyes

Chairman

Committee on Housing and Community Development
Twenty-Second Guam Legislature

228 Archbishop Flores St.
Agana, Guam 96910

Tel: (671) 472-3453
Fax: (671) 477-6338

February 9, 1993

To: Members, Committee on Housing and Community Development
Fr: Senator Edward D. Reyes
Chairman, Committee on Housing and Community Development
Subj: Public Hearing February 19, 1993

Please be informed that I have scheduled a Public Hearing on Friday, February 19, 1993 at 9:30 a.m. in the Legislative Public Hearing Room, Guam Legislature Temporary Building, Agana. During this time the Committee will address the following Bills:

- BILL NO. 112 AN ACT TO REZONE LOT NO 3272-4,
CHALAN PAGO-ORDOT FROM MULTI-
FAMILY DWELLINGS (R2) TO COMMERCIAL (C).
- BILL NO. 113 AN ACT TO REZONE LOT NO. 11, BLOCK
16, TRACT 232, SINAJANA, FROM SINGLE FAMILY
RESIDENTIAL (R1) TO COMMERCIAL (C).
- BILL NO. 120 AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM
TO APPROVE A LONG TERM GOVERNMENT OF GUAM
LAND LEASE FOR AGRICULTURAL PURPOSES.
- BILL NO. 187 AN ACT TO REZONE LOT NO. 1-1, TRACT 2621,
CONTAINING AN AREA OF 3,176.07 SQUARE METERS IN
THE MUNICIPALITY OF YONA FROM AGRICULTURAL (A)
TO SINGLE-FAMILY (R-1).

BILL NO. 267

AN ACT TO REZONE LOT NO. 10135-1-7,
CONTAINING AN AREA OF 13,253 SQUARE
METERS IN THE MUNICIPALITY OF DEDEDO
FROM "A (AGRICULTURAL)" TO "R-1
(SINGLE-FAMILY DWELLING)".

BILL NO. 258 -

AN ACT TO AUTHCRIZE THE GOVERNOR OF
GUAM TO EXCHANGE CERTAIN GOVERNMENT
LANDS WITH PRIVATE LANDOWNERS IN THE
MUNICIPALITY OF AGAT FOR THE PURPOSE
OF ESTABLISHING PUBLIC ACCESS AND UTILITY
EASEMENT.

Should you have any questions or need additional information concerning the above scheduled hearing, kindly contact my office at 472-3452/3.


EDWARD D. REYES

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

FEB 26 '93

Bill No. 268 (LS)

Introduced by:

E. D. Reyes *R*

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE CERTAIN GOVERNMENT LANDS WITH PRIVATE LANDOWNERS IN THE MUNICIPALITY OF AGAT FOR THE PURPOSE OF ESTABLISHING PUBLIC ACCESS AND UTILITY EASEMENT.

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

2 Section 1. **Legislative Statement.** Messrs. Celestine Babauta, David

3 Herrera, J. Nededog and their families approached the Legislature in search of a

4 solution toward the creation of a public easement to properties situated in the

5 Finele area, Municipality of Agat; a public easement that would allow the Babauta

6 and Nededog families to access and construct homes on properties which were

7 passed on to them by their parents. Said properties identified as Lot Nos. 186 and

8 188 bordering the Umang River in Agat, have been land-locked for nearly 20

9 years as a result of government of Guam's approval of a subdivision development

10 in Finele which inadvertently eliminated all potential public accesses to the Babauta

11 and Nededog properties (Lot 186 and 188, respectively). In effect, the

12 government's review of the Finele subdivision maps failed to recognize the

1 easement dilemma and subsequent to the subdivision's approval, a problem was
2 created. It is the sense of the Legislature that it is time to correct this error and
3 provide these families with the means to legally enter and build homes on their
4 properties.

5 **Section 2. Land Exchange Authorized.** The Governor of Guam is hereby
6 authorized to exchange on a value for value basis, portion or portions of Lot No.
7 189-B-1 and Lot No. 189-B-R2 for the purpose of establishing a forty-foot (40 ft.)
8 wide public access and utility easement. Said exchange shall be between the
9 government of Guam and the owner or owners of Lot No. 189-1NEW-4 and Lot
10 No. 189-1NEW-R6, Municipality of Agat, whereby said exchange shall be in
11 accordance with Land Management sketch of proposed right-of-way within Lot
12 Nos. 189-B-1, 189-B-R2, 189-1NEW-4 and 189-1NEW-R6.

13 **Section 3. Appraisals, Survey, Mapping, and Registration.** The
14 Department of Land Management shall have the properties to be exchanged herein
15 appraised by two independent appraisers licensed to do business in Guam. The
16 average of the two appraisals shall be utilized as the value for the basis of the
17 exchange authorized herein. The Department of Land Management shall have the
18 properties herein surveyed, mapped and registered. All costs for appraisals,
19 survey, mapping and registration shall be for the account of the government.

20 **Section 4. Terms and Conditions.** The Land Exchange authorized herein
21 shall be governed by the following terms and conditions:

22 a. The parties agree that there shall be no transfer or conveyance, in any

1 manner or form, of the land exchanged herein for a period of ten (10) years
2 beginning on the date the parties accept the applicable deeds for each parcel.

3 b. The parties agree to incorporate, into the exchange document and
4 applicable deeds, reversion clauses to the effect that any part thereof, the exchange
5 land shall be reverted to the original owners.

6 c. Nothing contained herein shall be construed to prevent or prohibit the
7 parties from improving or having improved the properties or from building,
8 erecting or constructing structures approved in accordance with the building and
9 zoning codes of Guam.