

COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Twenty-Second Guam Legislature

155 Hesler Street

Agana, Guam 96910

Senator Edward D. Reyes
Chairman

Tel: (671) 472-3453-4

Fax: (671) 477-6338

WITNESS SIGN-IN SHEET

Friday, November 25, 1994

6:30 p.m.

Public Hearing Room

Guam Legislature, Agana

Bill No. 1231

~~Bill No. 1202 - An act to rezone Lot No. 3, Tract 1014, Block 1, consists of 1,894 square meters and Lot No. 7, Tract 1014, Block 2, consists of 1,865 square meters in the Municipality of Dededo from Rural ("A") to Single Family Residential ("R1") owned by JDI Incorporated, by T.C. Ada;~~

NAME (please print)	ORGANIZATION	ORAL/WRITTEN	FOR/AGAINST
RITA Cruz	Self	✓	
Danny ^{PAGAT} Jackson	NASION Chamoru		FOR
Secundaria Pagan Family			A
Rumbo Benavente	Television Chamoru	✓	FOR
Mano J. Cruz	CLIFF HIME	ORAL	ALL AGAINST
Vicente Garrido	Chamoru NASION	✓	FOR
David J. Munoz	land owners	✓	FOR
...			FOR
CASTRO	JINAPSAAN	✓	FOR
Alexia Pinola	Self	✓	FOR
AL LIZAMA	Self	✓	FOR
Roke B. Santiago	Self	✓	FOR
Lagrimas Camacho	family		FOR

SAL MINALISAY SELF FOR

TONY ARTERO SELF FOR

Henry M. Eclava SELF FOR

Antonio M. Eclava self FOR

Edward M. Eclava SELF FOR

ERWIN A. JACKSON SELF FOR

Marianne Rios self FOR

Albert Rios self FOR

Francisco Guerrero Self FOR

Millie Artero Self FOR

Matinidad LeBlay Self FOR

103D CONGRESS
1ST SESSION

H. R. 2144

To provide for the transfer of excess land to the Government of Guam,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1993

Mr. UNDERWOOD introduced the following bill; which was referred jointly to
the Committees on Natural Resources, Government Operations, and
Armed Services

A BILL

To provide for the transfer of excess land to the Government
of Guam, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled.*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Guam Excess Lands
5 Act".

6 SEC. 2. TRANSFER.

7 (a) IN GENERAL.—The Administrator of General
8 Services shall, subject to section 3, transfer all right, title,
9 and interest of the United States in and to the lands de-
10 scribed in subsection (b) (together with any improvements

1 thereon) to the Government of Guam for public benefit,
 2 by quitclaim deed and without reimbursement, after the
 3 head of the Federal agency which controls such lands de-
 4 termines whether any of those parcels are excess to the
 5 needs of such agency.

6 (b) LANDS DESCRIBED.—The lands referred to in
 7 subsection (a) consist of—

Navy Parcels

South Finegayan	445 acres
Nimitz Hill Parcels and 1 and 2B	208 acres
NAVMAG Parcel 1	144 acres
Apra Harbor Parcel 7	73 acres
Apra Harbor Parcel 8	6 acres
Apra Harbor Parcel 6	47 acres
Apra Harbor Parcel 9	41 acres
Apra Harbor Parcel 2	30 acres
Apra Harbor Parcel 1	6 acres
Asan Annex	17 acres
NAVCAMS Beach	14 acres
ACEORP Msn Tunnel	4 acres
Agat Parcel 3	5 acres

Air Force Parcels

Andersen South (portion of Anderson Admin Annex)	395 acres
Camp Edusa (Family Housing Annex 1)	103 acres
Harmon Communication Annex No. 1	862 acres
Harmon Housing Annex No. 4	396 acres
Harmon POL Storage Annex No. 2	35 acres
Harmon VOR Annex	226 acres
Harmon POL Storage Annex No. 1	14 acres
Andersen Radio Beacon Annex	23 acres
Harmon Annex VOR	82 acres

Federal Aviation Administration Parcel

Talofoto "HH" Homer Facility	37 acres
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3212
 3213
 3214

8 (c) LEGAL DESCRIPTIONS.—The exact acreages and
 9 legal descriptions of all lands to be transferred under this
 10 Act shall be determined by surveys which are satisfactory
 11 to the head of the controlling Federal agency referred to
 12 in subsection (a). The cost of such surveys together with

1 all direct and indirect costs related to any conveyance
2 under this section, shall be borne by such controlling Fed-
3 eral agency.

4 **SEC. 3. TERMS AND CONDITIONS.**

5 (a) **LAND USE PLAN.**—The lands to be transferred
6 under this Act shall be eligible for transfer after the Gov-
7 ernment of Guam enacts legislation which establishes a
8 detailed plan for the public benefit of such lands and the
9 Governor of Guam submits such plan to the committees
10 of the Congress specified in subsection (b), and provides
11 copies of such plan to the Secretary of the Interior and
12 the Secretary of Defense.

13 (b) **SUBMISSIONS.**—The plan required to be submit-
14 ted to the committees of the Congress under subsection
15 (a) shall be submitted to the Committee on Natural Re-
16 sources, the Committee on Armed Services, and the Com-
17 mittee on Government Operations of the House of Rep-
18 resentatives and the Committee on Energy and Natural
19 Resources, the Committee on Armed Services, and the
20 Committee on Governmental Affairs of the Senate.

21 (c) **REVIEW BY COMMITTEES.**—Lands shall be trans-
22 ferred under this Act 180 days after the submission to
23 the committees of the Congress specified in subsection (b)
24 of the land use plan provided for in subsection (a).

4

1 **SEC. 4. GENERAL PROVISIONS.**

2 Any property subject to this Act shall not be subject
3 to Public Law 100-77 (101 Stat. 482), and section
4 818(b)(2) of Public Law 96-418 (94 Stat. 1782), as
5 amended.



Twenty-Second Guam Legislature

Committee on Housing and
Community Development

Senator Edward D. Reyes, Chairman

Notice of Public Hearing

on the proposed Bills

Bill No. 1202 - An act to rezone Lot No. 3, Tract 1014, Block 1, consists of 1,894 square meters and Lot No. 7, Tract 1014, Block 2, consists of 1,865 square meters in the Municipality of Dededo from Rural ("A") to Single Family Residential ("R1") owned by JDI Incorporated, by T.C. Ada;

Bill No. 750/1033 - An act to amend item 2 of section 3 of Public Law 15-131 relative to the subdivision and sale of Government-owned residential lots in the Municipality of Umatac, by T.S. Nelson;

Bill No. 1232 - An act to rezone Lot No. 6, Blk. 10, Municipality of Barrigada from Single Family Dwelling (R1) to Commercial (C) owned by Chang Ho Kim, by E.D. Reyes;

Bill No. 1230 - An act to rezone Lot No. 2124-1-1NEW-1 and 2124-1-5, Tamuning, Municipality of Dededo from Multiple Dwelling (R2) to Commercial (C) owned by Mr. & Mrs. Jimmy Dee Flores, by E.D. Reyes;

Bill No. 1233 - An act to rezone Lot Nos. 4A, 5A, and 6A, Tract 295, Barrigada from (A) Rural to (C) Commercial owned by Sequindina G. Soriano, Mr. & Mrs. Jose Cariaga, and Juanita I. Lopez, by E.D. Reyes.

Bill No. 1231 - An act to Develop Land-Use Policy and Plans for Certain Parcels of Land belonging to the Government of Guam, by E.D. Reyes.

Main Feature of Bill 1231:

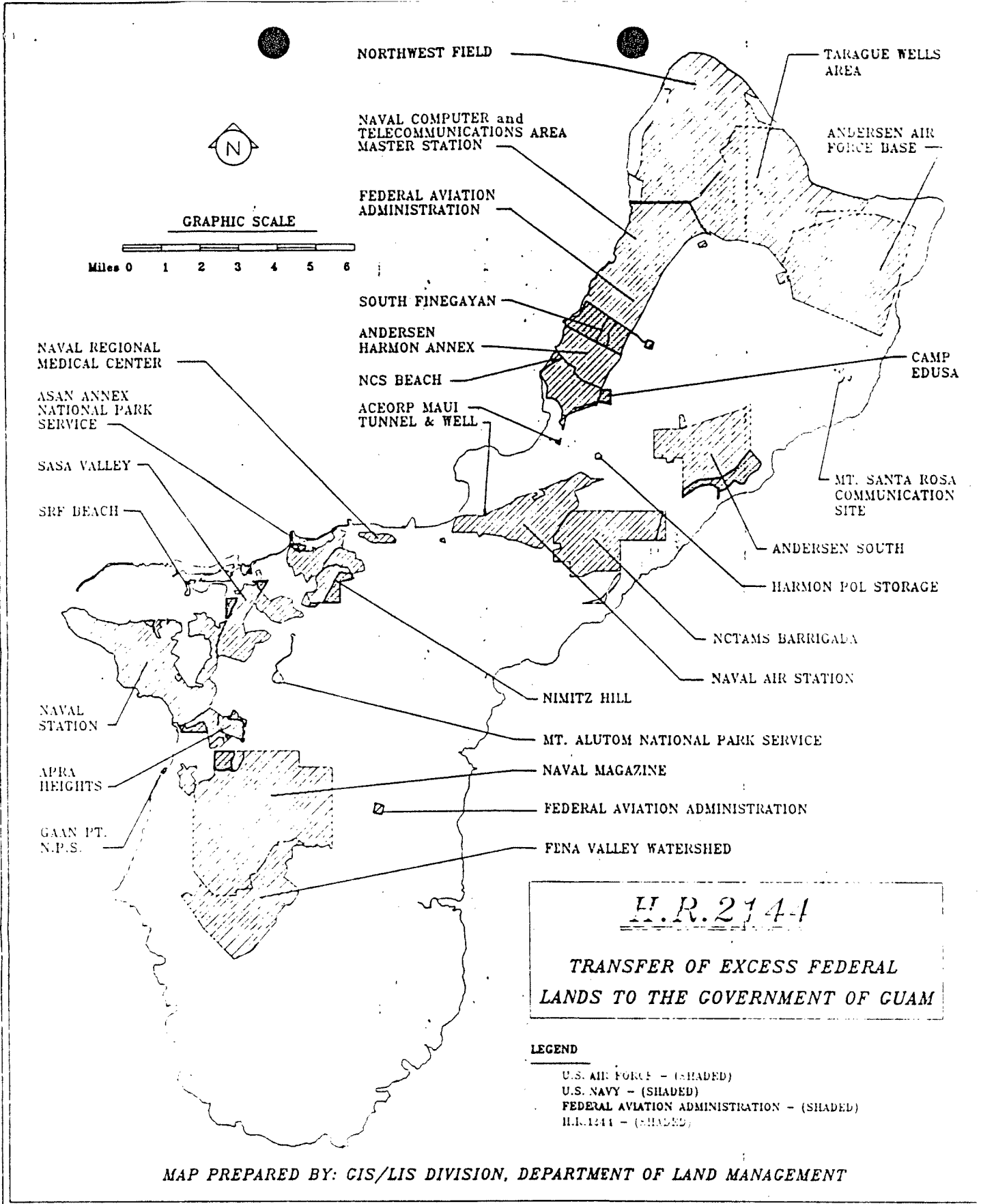
"Return stolen lands back to rightful owners"

6:30 P.M

Legislative Public Hearing Room

Friday, November 25, 1994

Temporary Legislature Bldg., 155 Hesler St., Agana, Guam



NORTHWEST FIELD

TARAGUE WELLS AREA

NAVAL COMPUTER and TELECOMMUNICATIONS AREA MASTER STATION

ANDERSEN AIR FORCE BASE

FEDERAL AVIATION ADMINISTRATION

SOUTH FINEGAYAN

ANDERSEN HARMON ANNEX

CAMP EDUSA

NCS BEACH

ACEORP MAUI TUNNEL & WELL

NAVAL REGIONAL MEDICAL CENTER

ASAN ANNEX NATIONAL PARK SERVICE

SASA VALLEY

SRF BEACH

MT. SANTA ROSA COMMUNICATION SITE

ANDERSEN SOUTH

HARMON POL STORAGE

NCTAMS BARRIGADA

NAVAL AIR STATION

NAVAL STATION

NIMITZ HILL

MT. ALUTOM NATIONAL PARK SERVICE

NAVAL MAGAZINE

APRA HEIGHTS

FEDERAL AVIATION ADMINISTRATION

GAAN PT. N.P.S.

FENA VALLEY WATERSHED

H.R. 2141

TRANSFER OF EXCESS FEDERAL LANDS TO THE GOVERNMENT OF GUAM

LEGEND

- U.S. AIR FORCE - (SHADED)
- U.S. NAVY - (SHADED)
- FEDERAL AVIATION ADMINISTRATION - (SHADED)
- H.R. 2141 - (SHADED)

MAP PREPARED BY: CIS/LIS DIVISION, DEPARTMENT OF LAND MANAGEMENT

file 1231



**DEPARTMENT OF LAND MANAGEMENT
(DIPATTAMENTON TANO')**

Government of Guam

P.O. Box 2950

Agana, Guam 96910

Tel: (671) 475-LAND • Fax: (671) 477-0883



JOSEPH F. ADA
Governor

FRANK F. BLAS
Lieutenant Governor

F. L. G. CASTRO
Director

JOAQUIN A. ACFALLE
Deputy Director

February 10, 1994

file B 947
AD

The Honorable Senator Edward D. Reyes
Chairman, Committee on Housing and
Community Development
Twenty-Second Guam Legislature
Agana, Guam M.I. 96910

Subject: United States Congress Bill H.R. 2144

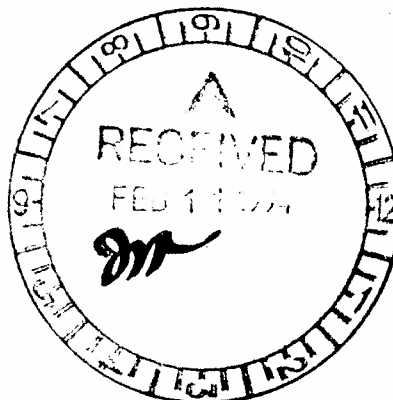
Dear Mr. Chairman:

I would like to thank you for granting me the opportunity to comment of U.S. Congress Bill H.R. 2144. Attached is the information requested on the impacts of H.R. 2144, as amended, concerning the War in the Pacific National Historical Parks and Chamorro homelands. Moreover, Joseph C. Santos, Planner IV, will be representing the Department on any questions or concerns the Committee may have relative to H.R. 2144.

Again, thank you for the opportunity to comment on H.R. 2144. I hope that this testimony will assist you in your decision making process.

Attachments


F. L. G. CASTRO





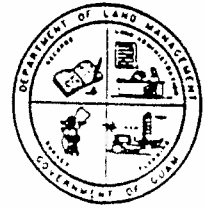
DEPARTMENT OF LAND MANAGEMENT
(DIPATTAMENTON TANO')

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JOSEPH F. ADA
Governor

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Lieutenant Governor

F. L. G. CASTRO
Director

JOAQUIN A. ACFALLE
Deputy Director

February 10, 1994

Memorandum

To: Director, Department of Land Management

From: Joseph C. Santos, Planner IV

Subject: United States Congress Bill H.R. 2144

As per your request, discussed are the impacts of H.R. 2144 relative to the War in the Pacific Historical Parks and on Chamorro homelands.

Below are the findings of fact, comments and concerns affecting this Bill:

There are six (6) conditions precedent to the transfer of excess lands to the Government of Guam:

1. Although the properties are listed as excess, the Bill states that the controlling Federal agency determines if the Federal parcel is excess to the needs of that agency.
2. The controlling Federal agency will survey the property.
3. Upon enactment of H.R. 2144, further screening by Federal agencies is still required with a time limitation of 45 days from determination of excess pursuant to Federal Property and Administrative Services Act of 1949.
4. The Government of Guam must have a legislative Land Use Masterplan for each property listed as excess on H.R. 2144 prior to transferring, and that the Government of Guam must first submit its Land Use Masterplan to the Congressional & Senate Committees.
5. Prior to the transfer, Congressional & Senate committees will conduct a review which includes land appraisals and the Government of Guam Land Use Masterplan. This evaluation will take 180 days from the date of submission of appraisals and masterplan. Those committees are comprise of:

Congressional Committees: Natural Resources,
Armed Services,
Government Operations, &
Merchant Marine and Fisheries



Commonwealth Now!

Memo, Director, DLM
Regarding: United States Congress Bill H.R. 2144
February 10, 1994
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Senate Committees: Energy & Natural Resources;
Armed Services; and
Governmental Affairs.

6. Prior to the transfer, the Government of Guam must first enter into a "cooperative agreement" with the Secretary of Interior for administrative jurisdiction within the designated boundaries of the War in the Pacific National Historical Parks.

The Department's concerns and comments are as follows:

1. All parcels to be transferred and surveyed must conform to:
 - a. Title 21 (Real Property), Chapter 62 (Subdivision Law)
 - b. Government Administrative Rules and Regulations (GARR), Title 13 (Land Management):
 - Chapter 1 (Department of Land Management)
 - Subchapter A (Uniform Triangulation System - Regulations Governing Land Surveyors on Guam); and
 - Subchapter B (Territory of Guam - Manual of Surveying Practices);
 - Chapter 3 (Territorial Planning Commission)
 - Subchapter B (Subdivision Rules and Regulations).
2. Relative to the War in the Pacific National Historical Parks, the research indicated that none of the properties listed as excess on H.R. 2144 is located within the War in the Pacific National Historic Parks pursuant to the United States Department of Interior, National Park Service, Drawing No. 474-80,049. Moreover, as stated in Condition 6 above, a cooperative agreement for administrative jurisdiction must first occur with the Secretary of Interior. In short, a trade off would occur. Those Government of Guam properties that would be affected are:

Asan Memorial Beach Park, Asan;

Beach side properties belonging to GHURA (Lots 291, 289, 331, 331-1, and Bull Cart Trail)

Seashore Reserve area in Asan - Entire Asan Bay extending from Asan Point to Adelup Point

Cliffside portion of Lot 282-11NEW (Adelup Complex)

Seashore Reserve area in Agat to include islets - Agat Bay extending from southern edge of Afjelle Beach Park to Bangi Point

Memo, Director, DLM

Regarding: United States Congress Bill H.R. 2144

February 10, 1994

Page 3

3. Relative to the Chamorro Land Trust Commission, H.R. 2144 listed properties become available lands upon transfer unless reserved by territorial public law within 60 days (Chapter 75, Section 75104(b)) from deeding of property. However, land registration may be necessary pursuant to Section 75105(f) if the lands are not registered.

I hope that the information provided will assist you.

Attachments

Annex A (Excess Land Parcel Information)

Annex B (Maps of HR 2144 Listed Parcel)

Annex C (War in the Pacific Historical Parks Maps)



JOSEPH C. SANTOS

EXCESS LAND PARCEL INFORMATION

CONTROLLING AGENCY: . . . Department of Defense, U. S. Navy

- South Finegayan (445 acres) Borders the Navy South Finegayan Housing, Phillipine Sea, AAFB Harmon Housing, Tanguisson Beach Park (NAVCAMS Beach) and FAA property.
MAP A & C Reference NAVFAC Drawing No's. 1,268,676; 1,268,583;
- Nimitz Hill Parcels and 1 and 2B (208 Acres) . Bordered on the west by Route No. 6, on the north by Lots 445 & 446, and undetermined U.S. Government lands to the east.
MAP D & E Reference NAVFAC Drawing No. 1268478.
- NAVMAG Parcel 1 (144.8686 Acres) South East of Harry S. Truman Elementary School and Hyundia Subdivion; East of Santa Rita Village, Left upper corner of Naval Magazine
MAP F Reference NAVFAC Drawing No. 7,042,199
- Apra Harbor Parcel 1 (5.8355 Acres) Beside Route 1, Lot 114-Rem (DOE Warehouse under construction), and Lot 114-Rem; across from Piti Power Plant, Schroeder Junction, USO & Santos Memorial Park. Piti, intersected by a 75 feet wide USA 34 K.V. Line Easement (Civil Case 32-50)
MAP G Reference Apra Harbor Reservation Area "C", Real Estate Drawing No. RE-80-42
- Apra Harbor Parcel 2 (29.5947 Acres) Borders Route 6, U.S. Veterans Cemetary, Sasa Valley Tank Farm, GovGuam Lot 286 (Masso Reservior), & across from New Piti Elementary School, parcel intersected by a USA 1.8 K.V. Line Easement (Civil Case 30-50) and Masso River
MAP H Reference NAVFAC Drawing No. 7,042,196
- Apra Harbor Parcel 6 (47 Acres) Borders outer Apra Harbor, Laguas River, Marine Dr Route 1 Piti, Navy Parcel 5 (Ballast Water Treatment Facility Site (GORCO)) & Sasa River; Mangrove Swamp
MAP I Reference NAVFAC Drawing No. 7,042,197
- Apra Harbor Parcel 7 (73.4958 Acres) Junction of Route 2, 2Aand Lot 238-1, Santa Rita
MAP J Reference NAVFAC Drawing No. 7,042,198
- Apra Harbor Parcel 8 (6.3854 Acres) Parcel 8 divided into Parcels 8A (44.1768 Acres)) & 8B (6.3854 Acres). Fronts Route 5 (Naval Magazine Road), Pale Ferdinan Road and unknown easement. Beside Apra Heights Reservior.
MAP J Reference NAVFAC Drawing 7,042,198
- Apra Harbor Parcel 9 (41.00 Acres) Borders Paulaña River, Route 17 (Cross Island Road), Apra Heights Housing Area "B", Lot 409 and Lot 402, Santa Rita
MAP J Reference NAVFAC Drawing No. 7,042,198

EXCESS LAND PARCEL INFORMATION

CONTROLLING AGENCY: . . . Department of Defense, U. S. Navy

Asan Annex (19 Acres) Lot 462, Asan (Proposed Asan Elementary School),
MAP K Reference Leased Agreement, DLM Document 253283, Map DPW Drawing PW74RT012,
Sepia 1942

NAVCAMS Beach (14 Acres) AKA NCS Beach or Tanguisson Beach,
MAP A & L Reference Permit to Department of Parks and Recreation effective 16 May 1991 and ending
16 May 1996, 14 Acres, and Deed from USA to Guam Power Authority Deed (Tanguisson
Power Plant) DLM Document 096732 , NAVFAC Drawing No. 1,272,269

ACEORP Maui Tunnel (4 Acres) Borders NAS, Navy Telephone Exchange and near Taco-Bell, Tamuning
MAP M Reference NAVFAC Drawing No.

Agat Parcel 3 (5.3 Acres) Junction of Route 2 (Shoreline Road) and Route 2A borders lot, Back entrance to Naval Station,
beside Afjelle Memorial Beach Park (formerly Rizal Beach) and Lot 238-1 (Apra Harbor Parcel
7)
Reference NAVFAC Drawing No. 7,042, 198 and Rizal Beach Lease Agreement, DLM
Document 322418

CONTROLLING AGENCY: . . . Department of Defense, U. S. Air Force

Anderson South
(portion of Anderson Admin. Annex) (395 Acres) Next to Lot 5402-R4NEW-1, cliff line area, also known as MARBO Annex C
MAP N Reference NAVFAC Drawing No. 1268581

Harmon POL Storage Annex No 1 (14 Acres) Beside the Harmon Quarry and includes Lots 5288-2, 5242-1-1, 5242-1-3, 5151-2,
MAP O & P 5242-3, and 5242-2-R1 under Civil Case 36--50, Certificate of Title 5686
Reference Marianas Area Drawing No.10230 and DLM Map 207-FY68

Anderson Radio Beacon Annex (23 Acres) Located within Lot 10125-11-R1, Dededo (Land for the Landless). Was GovGuam under
MAP Q Document 25219, Deeded to U.S Air Force on 14 May 1959
Reference DLM Drawing No. I4-94T559, Map 022FY94 and DLM Document 036762

EXCESS LAND PARCEL INFORMATION

CONTROLLING AGENCY: . . . Department of Defense, U. S. Air Force

**AAFB Harmon Annex aka Harmon Cliffline divided into Five (5) Parts:
MAP A, C & B**

Bordered by Sun Route Hotel, Harmon Cliffline, Puntan Dos Amantes, Tanguisson Beach (aka NAVCAMS Beach), South Finegayan, Route 3 and Santa Monica Avenue
Reference PACDIV Real Estate Drawing RE 81-26 (GLUP Releaseable Lands)

- Harmon VOR Annex (308 Acres)
- Harmon Communication Annex No. 1 (862 Acres)
- Harmon Housing Annex No. 4 (896 Acres)
- Harmon POL Storage Annex No. 2 (35 Acres)
- Camp Edusa (Family Housing Annex 1) (103 Acres)

24 acres was transferred from USA to GHURA on Lot 10155-1 (Public Market Site), Lot 10155-2 (GHURA 48 Low Income Housing), Lot 10155-3, Lot 10155-R4 (Alternate Housing Site)
Reference PACDIV Real Estate Drawing RE 81-86 and DLM Documents 348357, 348358 and 345377, Map 322FY88, Sepia I-224.

CONTROLLING AGENCY . . . Federal Aviation Administration

**Talofoto "HH" Homer Facility (37 Acres)
MAP R**

Borders Route 17 (Cross Island Road) across from Windward Hills Golf Course near Guam Adventist Academy, aka C.A.A. Site
Reference DLM Map 299-FY78, Sepia 3023

GUIDE TO U.S. P.L. 103-339 AND H.R. 2144 (as substituted)

SECTION 3(a): FURTHER FEDERAL UTILIZATION SCREENING

- Federal Procurement and Administrative Services Act of 1949. GSA law.
- Screening must be completed within 45 days after lands are determined excess.

COMMENT : I believe that this has already been accomplished through the GLUP. The GLUP is over 18 years old and thus, the determination of excess land has been made.

The 45 days has already passed since the effective date of P.L. 103-339. Section 3(a) thus, has no impact, no effect.

SECTION 3(b): Appraisals - To be preformed by the controlling federal agency (Navy, Air Force and FAA).

Copies of the appraisals shall be submitted to the appropriate Committees of Congress.

HOUSE - Natural Resources, Armed Services, Government Opts. and Merchant Marine and Fisheries.

SENATE - Energy and Natural Resources, Armed Services, and Governmental Affairs.

COMMENT: - Rationale for this provision unknown. Why are appraisals necessary when transfer to GovGuam is at no cost.

- Hence, no impact or effect is drawn from the text of the law.
- Deadline for screening process has expired (45 days) and the need for the appraisal is no longer there.

SECTION 3(c): Land Use Plan

Change: Incorporates the phrase “included but not limited to housing, schools, hospitals, libraries, child-care centers, parks and recreation, conservation, economic development, public health and public safety.

The listed public-use invariably will be met through and by the original land owners.

The Bill has provisions to set-aside land designated or currently used for schools, highways, powerline easements, underground utilities and necessary government infrastructure.

Achieving public use benefit through original land owners is more consistent with U.S. P.L. 225 and P.L. 1-33 passed by the First Guam Congress which mandates the rehabilitation, resettlement, and provides for homesteading of displaced landowners.

Bill 1231 addresses the mandate and intent of this section.

SECTION 3 (d): Appraisals and GovGuam land use plan are added for submission to the Congressional Committees.

COMMENT: No effect. A submittal requirement that appears incongruent with the scope and intent of U.S. P.L. 103-339 which is to return federal excess lands to Guam at no cost.

**SECTION 3(e): The land parcels may not be transferred until 180 days after submittal of the appraisals and land-use plan to the Committees of Congress.
Gives the Congress 180 days to receive and react.**

COMMENT: Appraisal by U.S. GSA and land-use plan by GovGuam must be submitted to the Congress upon which 180 days thereafter lands MAY be transferred.

SECTION 3(f):

National Parks land may not be transferred to GovGuam until GovGuam executes an agreement with DOI on relinquishing control to DOI of additional parcels of land (approx. 1100 acres) for Pacific National Historic Park.

COMMENT: The feds want Guam to “hurry up and give up more of our land. (INDIAN GIVING).

Typical of bureaucratic mentality. Job and turf protection.

Incoming Republican Congress may choose to blow this idea out of the water.

This is an improvement over the last time the feds gave up land for the Commercial Port. In this transaction which took place in 1985, Guam gave up 816 acres of prime property and in return received 62 acres of federal land.

The Governor is required by Public Laws 22-18 and 22-63 to develop a plan for conservation, wildlife refuge, habitat and related federal park uses and to submit such plan to the Legislature for prior approval before implementation.

Any agreement or agreements that the Governor of Guam wishes to enact must meet Legislative approval.

The feds and GovGuam must be aware that approximately 238 acres of private lands are designated for federal park uses and GovGuam must acquire or condemn these lands before legally assigning a federal use for them.

SECTION 4: New Section Added “ Navigable Airspace”

Conveyance Document must contain a determination of “No Hazard” to air navigation to air space within 6 nautical miles of an airport.

COMMENT: The effect of this is negligible. Current FAA rules/regs. already govern such restrictions.

SECTION 5: New Section Reads "Severe Contamination"

U.S. GSA may choose not to return lands if such lands are severely contaminated and whose cost of cleanup may incur extraordinary costs to the U.S. Government.

COMMENT: Conceivably, there may be some small parcels falling in this category. Effect is probably minimal.

**SECTION 6: Federal and Guam Environmental Laws Apply.
Redundant because all laws apply.**

Ed Ryan 646-890

Which do you desire?

- 1: Search for any word or phrase in the text
- 2: Preview a list of items found thus far
- 3: Preview the outline -- from which you may select items
- 4: Display the outline as a report (8 lines)
- 5: Display the full text (141 lines)

Choose ONE number: 5

 LEGI-SLATE Report for the 103rd Congress Tue, October 11, 1994 12:20pm (EDT)

BILL TEXT Report for H.R.2144
 As finally approved by the House and Senate (Enrolled)

 H.R.2144 As finally approved by the House and Senate (Enrolled)

H. R. 2144 / P.L. 103-339
 One Hundred Third Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the twenty-fifth day of
 January, one thousand nine hundred and ninety-four

An Act

To provide for the transfer of excess land to the Government of Guam, and
 for other purposes.

=====

Be it enacted by the Senate and House of Representatives of the United
 States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guam Excess Lands Act".

SEC. 2. TRANSFER.

(a) In General.--The Administrator of General Services shall, subject to
 section 3, transfer all right, title, and interest of the United States in
 and to the parcels of land described in subsection (b) (together with any
 improvements thereon) to the Government of Guam for public benefit use, by
 quitclaim deed and without reimbursement. Such transfers shall take place

after a determination by the head of the Federal agency controlling a parcel that the parcel is excess to the needs of such agency.

new

(b) Description of Parcels To Be Transferred.--Unless a parcel of land described in this subsection has been disposed of under other authority on or before the date of the enactment of this Act or is transferred for further Federal utilization as a result of the screening required by section 3(a), the parcels of land required to be transferred under subsection (a) shall consist of the following:

Navy Parcels

South Finegayan.....	445 acres
Nimitz Hill Parcels and 1 and 2B.....	208 acres
NAVMAG Parcel 1.....	144 acres
Apra Harbor Parcel 7.....	73 acres
Apra Harbor Parcel 8.....	6 acres
Apra Harbor Parcel 6.....	47 acres
Apra Harbor Parcel 9.....	41 acres
Apra Harbor Parcel 2.....	30 acres
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Air Force Parcels

Andersen South (portion of Andersen Admin. Annex)...	395 acres
Camp Edusa (Family Housing Annex 1).....	103 acres
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Federal Aviation Administration Parcel Talofofo "HH" Homer Facility.....	37 acres

(c) Legal Descriptions.--The exact acreages and legal descriptions of all parcels of land to be transferred under this Act shall be determined by surveys which are satisfactory to the head of the controlling Federal agency referred to in subsection (a). The cost of such surveys, together with all direct and indirect costs related to any conveyance under this section, shall be borne by such controlling Federal agency.

SEC. 3. TERMS AND CONDITIONS.

new

(a) Further Federal Utilization Screening.--Parcels of land determined to be excess property pursuant to section 2 shall be screened for further Federal utilization in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and such screening will be completed within 45 days after the date on which they are determined to be excess.

new

(b) Appraisals.--The Administrator shall promptly appraise those parcels that are not needed for further Federal utilization to determine their estimated fair market value. The head of the Federal agency which controls such parcels shall cooperate with the Administrator in carrying out appraisals under this section. The Administrator shall submit a copy of the appraisals to the committees of the Congress specified in subsection (d).

cost of such appraisals shall be paid for under section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)).

revised

(c) Land Use Plan.--The parcels of land to be transferred under this Act shall be eligible for transfer after the Government of Guam enacts legislation which establishes a detailed plan for the public benefit use (including, but not limited to, housing, schools, hospitals, libraries, child care centers, parks and recreation, conservation, economic development, public health, and public safety) of such parcels and the Governor of Guam submits such plan to the committees of the Congress specified in subsection (d).

revised

(d) Submissions.--The appraisals and land use plan required to be submitted to the committees of the Congress under subsections (b) and (c) shall be submitted to the Committee on Natural Resources, the Committee on Armed Services, the Committee on Government Operations and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Armed Services, and the Committee on Governmental Affairs of the Senate.

(e) Review by Committees.--Parcels of land may not be transferred under this Act until 180 days after the submission to the committees of the Congress specified in subsection (d) of--

- (1) the appraisals provided for in subsection (b), and
- (2) the land use plan provided for in subsection (c).

revised

(f) Government of Guam Lands Within the War in the Pacific National Historical Park.--Parcels of land may not be transferred under this Act until after the Government of Guam enters into a cooperative agreement with the Secretary of the Interior, acting through the Director of the National Park Service, which grants to the Secretary, at no cost, the administrative jurisdiction over all undeveloped lands within the boundary of the War in the Pacific National Historical Park, except those lands at Adelup Point, which are owned by the Government of Guam. The lands covered by such cooperative agreement shall be managed in accordance with the general management plan of the park and in the same manner as lands within the park that are owned by the United States.

SEC. 4. OBJECTS AFFECTING NAVIGABLE AIRSPACE.

revised

The conveyance document for any land transferred under this Act located within 6 nautical miles of an airport shall contain a provision that requires a determination of no hazard to air navigation to be obtained from the Federal Aviation Administration in accordance with applicable regulations governing objects affecting navigable airspace or under the authority of the Federal Aviation Act of 1958 (Public Law 85-726, as amended) in order for construction or alteration on the property to be permitted.

SEC. 5. SEVERE CONTAMINATION.

revised

Notwithstanding any other provision of this Act, the Administrator of General Services, in his discretion, may choose not to transfer any parcel under this Act on which there is severe contamination, the remedy of which would require the United States to incur extraordinary costs.

SEC. 6. APPLICATION OF FEDERAL AND TERRITORIAL LAWS.

All Federal and territorial environmental laws and regulations shall apply to the parcels transferred pursuant to this Act during and after the transfer of such parcels.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

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STATE & LOCAL LAW NEWS

The Section serves as a collegial forum for its members, the profession and the public to provide leadership and educational resources in urban, state and local government law and policy.



As part of its Annual Meeting activities, the ABA planned a Public Service Project to give something back to the city where the meeting is held. Here Section members get ready to plant flowers and spruce up around Lafayette Park in New Orleans. For more photos of Section activities at the Annual Meeting, see page 4.

Get Active! Join a Section Committee

All Section members should have received, or will soon receive, a Committee Preference questionnaire. If you are now a committee member, or you would like to join a committee, you should complete this self-mailing form and return it to Jackie Baker at ABA headquarters.

All Section members are invited to make the best use of their Section membership by joining a committee! Call a committee chair today and volunteer.

For a complete list of Section committees, descriptions of activities planned for the 1994-95 Association year, and names and addresses of who to call to volunteer, see pages 12-15 of "Section News."

MARK YOUR CALENDAR

Legal and Public Policy Issues in Historic Preservation
Oct. 26-30, 1994, Boston Park Plaza, Boston, MA, in cooperation with the National Trust for Historic Preservation

NOLPE Seminar
Nov. 17, 1994, Hiatt Islandia, San Diego's Mission Bay

Spring Council Meeting
Apr. 27-30, 1994, Marriott Reach, Key West, FL

Beyond Nollan: The Constitutionality of Land Development Conditions After Dolan

By David L. Callies

In *Dolan v. City of Tigard*, ___U.S. ___, 114 S. Ct. 2309 (1994), the U.S. Supreme Court struck down a municipal building permit condition that the landowner dedicate bike path and greenway/floodplain easements to the city. As the Court pointed out, had Tigard simply required such dedications, it would be required to pay compensation under the Fifth Amendment. Attaching them as building permit conditions required a more sophisticated analysis closely following *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), since the police power is implicated rather than the power of eminent domain. In the process, the Court signalled how far local government may go in passing on the cost of public facilities to landowners. The answer: only to the extent that the required dedication is related both in nature and



David Callies, AICP, is professor of law at the University of Hawaii, author of *Preserving Paradise: Why Regulation Won't Work (1994)*, and, with Freilich & Roberts, *Cases and Materials on Land Use (2d ed. 1994)*, and a past Chair of the Section.

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- Supreme Court Watch, page 7
- Tribute to Jefferson Fordham, page 9
- Chair's Message, page 10
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- Washington's Labyrinthine Ways, page 16

extent to the impact of the proposed development.

The Dolans own and operate a 9,700 square foot plumbing and electrical supply store on main street in Tigard's central business district. Seeking to double the size of the store and pave a thirty-nine-space parking lot, the Dolans applied for a building permit from the City Planning Commission. Tigard had previously adopted a comprehensive land-use plan required by state comprehensive land-use management statutes, in accordance with statewide goals. (See, for discussion, Sullivan, *Oregon Blazes a Trail in STATE & REGIONAL COMPREHENSIVE PLANNING: IMPLEMENTING NEW METHODS FOR GROWTH MANAGEMENT* (Buchsbbaum & Smith, eds. 1993.)) Many of the plan's features are codified in Tigard's Community Development Code (CDC). Among the plan's requirements:

1. In accordance with a pedestrian/bicycle pathway plan, new development must dedicate land for pathways where shown on the plan.
2. In accordance with a master drainage plan, to combat the risks of flooding in 100-year floodplains, especially as exacerbated by increased impervious surface through development, developers along waterways such as Fanno Creek (which borders the Dolan parcel to the west) must guarantee the floodway and floodplain are free of structures and able to contain floodwaters by preserving the land alongside as greenway.

As a result of the plan and its codification in the CDC, the Commission granted the Dolans their permit upon condition that they dedicate the portion of their property in the floodplain as a greenway and that an additional 15-foot strip be dedicated adjacent to the greenway as a pedestrian bicycle path. The basis of these requirements is a series of Commission findings.

With respect to the bikeway, the Commission found that the pathway system as an alternative means of transportation "could" offset some of the traffic demand on nearby streets and lessen the increase in traffic congestion. The Commission also found it was reasonable to assume that some of the Dolans' customers and staff could use the pathway for transportation and recreation.

With respect to the floodplain greenway dedication, the Commission found it was reasonably related to the Dolans' application since the site would have a more impervious surface. This would result in increased stormwater drainage. Therefore the dedication requirement was related to the applicants' plans for more intensive development of their land.

After appealing to various local and state administrative agencies and to the Oregon courts without success, the Dolans challenged the holding of the Oregon Supreme Court that the City of Tigard could condition the approval of their building permit on the dedication of property for flood control and traffic improvement. The U.S. Supreme Court granted certiorari to set out

the "required degree of connection between the exactions imposed by the city and the projected impacts of the proposed development." 114 S. Ct. at 2312.

In a concise and well-organized opinion, the Court essentially adopted a three-part test:

1. Does the permit condition seek to promote a legitimate state interest?
2. Is there an essential nexus between the legitimate state interest and the permit condition?
3. Is there a required degree of connection between the exactions and the projected impact of the development?

The Court disposed of the first two quickly and affirmatively. Certainly the prevention of flooding along the creek and the reduction of traffic in the business district "... qualify as the type of legitimate public purposes we have upheld." *Id.* at 2318 (citing *Agins v. City of Tiburon*, 447 U.S. 255, 260-62 (1980)). Moreover, the court held it was "equally obvious" that a nexus exists between preventing flooding and limiting development within the creek's floodplain, and that "the same may be said for the city's attempt to reduce traffic congestion by providing for alternative means of transportation" like a "pedestrian/bicycle pathway." 114 S. Ct. at 2318. So far, so good: we have public purpose (which the Court assumed without deciding in *Nollan*) and essential nexus (which the Court decided was lacking in *Nollan*). The question remained, with respect to the third test: "Whether the degree of the exactions demanded by the city's permit conditions bear the required relationship to the projected impact of petitioner's proposed development." *Id.*

The Court said no: the city's "tentative findings" concerning increased stormwater flow from the more intensively developed property, together with its statement that such development was "anticipated to generate additional vehicular traffic thereby increasing congestion" on nearby streets, were simply not "constitutionally sufficient to justify the conditions imposed by the city on petitioner's building permit." *Id.* To find out why, the Court looked to state court decisions for guidance.

In formulating this third part of the test, the Court reviewed and rejected the two extremes in the range of state exactions law: the specifically and uniquely attributable test from Illinois (*Pioneer Trust & Savings Bank v. Village of Mt. Prospect*, 176 N.E.2d 799 (Ill. 1961), which requires a mathematical precision expressly rejected by the Court) and "very generalized statements as to the necessary connection between required dedication and the proposed development" (from such as *Jenad, Inc. v. Scarsdale*, 218 N.E.2d 673 (N.Y. 1966) which this author and others have characterized as a corruption of the reasonable relationship test). Instead, the Court adopted as an "intermediate

(continued on page 18)

Beyond *Nollan*

(continued from page 2)

position” a “reasonable relationship” test, which the majority of the states addressing this issue appear to have adopted. See, e.g., *Jordan v. Menomonee Falls*, 137 N.W.2d 442 (Wis. 1965); *Call v. West Jordan*, 606 P.2d 217 (Utah 1979); and *College Station v. Turtle Rock Corp.*, 680 S.W.2d 802 (Tex. 1984). However, the Court terms it instead a “rough proportionality” test to avoid (according to the Court) confusion with “rational basis” (which describes the minimum level of scrutiny under the Fourteenth Amendment’s Equal Protection Clause): “[T]he city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development.” 114 S. Ct. at 2319-20.

What does this mean? First, the Court cites and quotes as its principal source a case which equates reasonable relationship with nexus. (*Simpson v. North Platte*, 292 N.W.2d 297, 301 (Neb. 1980).) Second, many of the state courts use “rational nexus” as the usual term applied to the “middle ground” test adopted by the *Dolan* court. The tests—rational nexus and reasonable relationship—are therefore arguably the same for this third part, and represent an affirmation of what most state courts have been doing with exactions law for the past twenty years (see especially *Contractors & Builders Association v. City of Dunedin*, 329 So. 2d 314 (Fla. 1976), and commentary in NICHOLAS, NELSON AND JUERGENSMEYER, A PRACTITIONER’S GUIDE TO DEVELOPMENT IMPACT FEES (1991), and CALLIES, PRESERVING PARADISE: WHY REGULATION WON’T WORK (1994), at ch. 4).

In sum, the Court has adopted what most recent cases and commentary had hitherto called the “rational nexus” test, after first describing it as the (more general) “reasonable relationship” test, and finally settling on a brand-new term, “rough proportionality”—which it never uses for the rest of the opinion.

Applying the test to the Dolan hardware store property, the Court concludes that the City of Tigard demanded too much to pass this third nexus/rough proportionality test. Simply concluding that a bikeway easement could offset some of the traffic demand which the new hardware store would generate did not constitute sufficiently quantified findings for the taking of an easement. While the Court

[has] no doubt that the city was correct in finding that the larger retail sales facility proposed by petitioner will increase traffic on the streets . . . the city has not met its burden of demonstrating that the additional number of vehicle and bicycle trips generated by petitioner’s development reasonably relate to the city’s requirement for a dedication of the pedestrian/bicycle

pathway easement. The city simply found that the creation of the pathway “could offset some of the traffic demand . . . and lessen the increase in traffic congestion . . .” The city must make some effort to quantify its findings . . . beyond the conclusory statement [quoted above].

114 S. Ct. at 2322.

As to the greenway easement, while the Court said,

It is axiomatic that increasing the amount of impervious surface will increase the quantity and rate of stormwater flow from petitioner’s property . . . the city demanded more—it not only wanted petitioner not to build in the floodplain, but it also wanted petitioner’s property along Fanno Creek for its greenway system. The city has never said why a *public* greenway, as opposed to a *private* one, was required in the interests of flood control.

Id. at 2320 (emphasis added).

The constitutional problem in both instances is “the loss of [their] ability to exclude” which the Court reminds us is one of the most essential sticks in the bundle of rights that are characterized as property. Indeed, Chief Justice Rehnquist has previously and frequently written about the fundamental nature of property rights: “[We] hold that the ‘right to exclude’ so universally held to be a fundamental element of the property right, falls within the category of interests that the Government cannot take without compensation.” *Kaiser Aetna v. United States*, 444 U.S. 164, 179-80 (1979). The Court generally has said much the same thing in *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982). This is a critical point, to which the Court returns several times. Property rights matter mightily to this Court:

We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment [free speech, press, religion, association, assembly] or the Fourth Amendment [search and seizure] should be relegated to the status of a poor relation in these comparable circumstances.

114 S. Ct. at 2320.

This “right to exclude” language may persuade some that the decision should be restricted in its application to land dedication exactions. There is much in the opinion which would bear such an interpretation. Most of the state cases cited by the court are land dedication cases (as was the *Nollan* case), and except in rare instances, the Court consistently refers to the proposed “dedication” (not condition or exaction) throughout the opinion. Based on the philosophy behind the Court’s other recent land-use decisions—particularly after *Nollan*—a broader interpretation makes more sense.

This is particularly true following the Supreme

Court's vacating and remanding the impact fees case of *Ehrlich v. City of Culver City*, 19 Cal. Rptr. 2d 468 (Cal. Ct. App. 1993), *vacated*, 114 S. Ct. 2731 (1994), to the court of appeals in California only days after its decision in *Dolan*. Culver City had imposed a \$280,000 fee to "mitigate" the loss of "community" facilities as a condition of Ehrlich's tearing down his private—and unprofitable—tennis and recreation club and building something of a residential nature. Also a condition of the same city zoning and map amendment approval: an "in lieu" art fee of \$33,220. No property dedication case, this. Both fees were levied only after the city found that providing recreational facilities and art work were public benefits and the fees were appropriate methods to obtain those benefits. Observing that monetary exactions compelled as a condition of approval required only a rational relationship to a governmental purpose, as compared to the heightened scrutiny required where the condition on approval constitutes a physical taking, the California Court of Appeals upheld both fees, citing not only *Nollan* but also the California cases of *Blue Jeans Equities West v. City and County of San Francisco*, 4 Cal. Rptr. 2d 114 (Cal. Ct. App. 1992), *cert. denied*, 113 S. Ct. 191 (1992), and *Commercial Builders of Northern California v. City of Sacramento*, 941 F.2d 872 (9th Cir. 1991), *cert. denied*, 112 S. Ct. 1997 (1992). It remains to be seen whether either the difference in tests applied or the fees themselves survive the *Dolan* rough proportionality test.

Procedurally, the Court also changed the way the burden of proof is allocated in land-use litigation. Typically, it is the landowner which carries the substantial burden of proving that the challenged regulation represents an arbitrary regulation of property rights (for which proposition the Court cites no less an authority than *Euclid v. Ambler Realty Co.*, 304 U.S. 365 (1926)). Noting that Tigard made an "adjudicative decision" to condition the Dolans' application for a building permit, the Court held that "[i]n this situation, the burden properly rests on the city," citing the *Nollan* case. 114 S. Ct. at 2320.

Dolan is quickly making its mark in state courts. In *Homebuilders Association of Central Arizona v. City of Scottsdale*, 875 P.2d 1310 (Ariz. Ct. App. 1993), an Arizona court of appeals decision upholding a water resources development fee on new developments was remanded for reconsideration in light of *Dolan* on July 6 after review had been previously granted. In *Trimen Development Company v. King County*, 877 P.2d 187 (Wash. 1994), the Supreme Court of Washington upheld a park development fee only after finding that "the fees imposed in lieu of dedication were reasonably necessary as a direct result of Trimen's proposed development," specifically citing *Dolan* and its rough proportionality requirement between dedication and impact of proposed development. See also *Third & Catalina Associates v. City of Phoenix*, No. 1 CA-CV 93-

0337 (Ariz. Ct. App. Aug. 18, 1994), upholding a sprinkler retrofit ordinance on the questionable ground that "[h]ere we do not have a situation of private property being pressed into public service as in *Dolan v. City of Tigard*." *Id.*, slip op. at 5.

In a recent Florida inverse condemnation case, *State Department of Transportation v. Heckman*, No. 93-0978 (Fla. Ct. App. Sept. 14, 1994), the City of Oakland Park waived a platting requirement needed for a building permit in return for a seven foot right-of-way and subsequently gave it to the state Department of Transportation for highway-widening. The court cited *Dolan*'s "rough proportionality" test and "assum[ed] [the city] was not entitled to require the dedication;" however the court held that the inverse condemnation claim against the state transportation department (rather than the city) could not be supported by a principle of agency by estoppel. *Id.*, slip op. at 3.

For local government, the message is clear: exactions—particularly those of the land dedication variety—must clearly and unequivocally solve problems generated by the landowner upon whom they are levied, and in proportion to the impact the proposed development is likely to have. For example, the need for parks (indeed public spaces generally) and schools are generated by residential developments, not commercial and industrial developments. Golf courses don't generate a need for so-called affordable housing. For that matter, neither does a market-rate housing development. On the other hand, state and local government has a responsibility to provide needed public facilities, and the development community can be constitutionally required to bear its proportionate share of the costs of those facilities, the need for which its development generates. After all, the Court said in closing:

Cities have long engaged in the commendable task of land use planning, made necessary by increasing urbanization particularly in the metropolitan areas. . . .

The city's goals of reducing flooding hazards and traffic congestion, and providing for public greenways are laudable, but there are outer limits to how this may be done.

114 S. Ct. at 2322.

Religious School District

(continued from page 6)

responsibility for the provision of public education to a single religious group, and as such, violated the Establishment Clause. While the conclusions of the Court were not unforeseeable, the rationale and the reaction may well signal a different future for free exercise and establishment cases.

Which do you desire?

- 1: Search for any word or phrase in the text
- 2: Preview a list of items found thus far
- 3: Preview the outline -- from which you may select items
- 4: Display the outline as a report (8 lines)
- 5: Display the full text (141 lines)

Choose ONE number: 5

LEGI-SLATE Report for the 103rd Congress Tue, October 11, 1994 12:20pm (EDT)

BILL TEXT Report for H.R.2144
As finally approved by the House and Senate (Enrolled)

H.R.2144 As finally approved by the House and Senate (Enrolled)

H. R. 2144 / P.L. 103-339
One Hundred Third Congress

of the

United States of America

A T T H E S E C O N D S E S S I O N

Begun and held at the City of Washington on Tuesday, the twenty-fifth day of
January, one thousand nine hundred and ninety-four

An Act

To provide for the transfer of excess land to the Government of Guam, and
for other purposes.

=====

Be it enacted by the Senate and House of Representatives of the United
States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guam Excess Lands Act".

SEC. 2. TRANSFER.

(a) In General.--The Administrator of General Services shall, subject to
section 3, transfer all right, title, and interest of the United States in
and to the parcels of land described in subsection (b) (together with any
improvements thereon) to the Government of Guam for public benefit use, by
quitclaim deed and without reimbursement. Such transfers shall take place

after a determination by the head of the Federal agency controlling a parcel that the parcel is excess to the needs of such agency.

(b) Description of Parcels To Be Transferred.--Unless a parcel of land described in this subsection has been disposed of under other authority on or before the date of the enactment of this Act or is transferred for further Federal utilization as a result of the screening required by section 3(a), the parcels of land required to be transferred under subsection (a) shall consist of the following:

Navy Parcels	
South Finegayan.....	445 acres
Nimitz Hill Parcels and 1 and 2B.....	208 acres
NAVMAG Parcel 1.....	144 acres
Apra Harbor Parcel 7.....	73 acres
Apra Harbor Parcel 8.....	6 acres
Apra Harbor Parcel 6.....	47 acres
Apra Harbor Parcel 9.....	41 acres
Apra Harbor Parcel 2.....	30 acres
Apra Harbor Parcel 1.....	6 acres
Asan Annex.....	17 acres
NAVCAMS Beach.....	14 acres
ACEORP Msui Tunnel.....	4 acres
Agat Parcel 3.....	5 acres
Air Force Parcels	
Andersen South (portion of Andersen Adminv. Annex)...	395 acres
Camp Edusa (Family Housing Annex 1).....	103 acres
Harmon Communication Annex No. 1.....	862 acres
Harmon Housing Annex No. 4.....	396 acres
Harmon POL Storage Annex No. 2.....	35 acres
Harmon VOR Annex.....	308 acres
Harmon POL Storage Annex No. 1.....	14 acres
Andersen Radio Beacon Annex.....	23 acres
Federal Aviation Administration Parcel	
Talofofa "HH" Homer Facility.....	37 acres

(c) Legal Descriptions.--The exact acreages and legal descriptions of all parcels of land to be transferred under this Act shall be determined by surveys which are satisfactory to the head of the controlling Federal agency referred to in subsection (a). The cost of such surveys, together with all direct and indirect costs related to any conveyance under this section, shall be borne by such controlling Federal agency.

SEC. 3. TERMS AND CONDITIONS.

(a) Further Federal Utilization Screening.--Parcels of land determined to be excess property pursuant to section 2 shall be screened for further Federal utilization in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and such screening will be completed within 45 days after the date on which they are determined to be excess.

(b) Appraisals.--The Administrator shall promptly appraise those parcels that are not needed for further Federal utilization to determine their estimated fair market value. The head of the Federal agency which controls such parcels shall cooperate with the Administrator in carrying out appraisals under this section. The Administrator shall submit a copy of the appraisals to the committees of the Congress specified in subsection (d).

cost of such appraisals shall be paid for under section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)).

(c) Land Use Plan.--The parcels of land to be transferred under this Act shall be eligible for transfer after the Government of Guam enacts legislation which establishes a detailed plan for the public benefit use (including, but not limited to, housing, schools, hospitals, libraries, child care centers, parks and recreation, conservation, economic development, public health, and public safety) of such parcels and the Governor of Guam submits such plan to the committees of the Congress specified in subsection (d).

(d) Submissions.--The appraisals and land use plan required to be submitted to the committees of the Congress under subsections (b) and (c) shall be submitted to the Committee on Natural Resources, the Committee on Armed Services, the Committee on Government Operations and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Armed Services, and the Committee on Governmental Affairs of the Senate.

(e) Review by Committees.--Parcels of land may not be transferred under this Act until 180 days after the submission to the committees of the Congress specified in subsection (d) of--

(1) the appraisals provided for in subsection (b), and

(2) the land use plan provided for in subsection (c).

(f) Government of Guam Lands Within the War in the Pacific National Historical Park.--Parcels of land may not be transferred under this Act until after the Government of Guam enters into a cooperative agreement with the Secretary of the Interior, acting through the Director of the National Park Service, which grants to the Secretary, at no cost, the administrative jurisdiction over all undeveloped lands within the boundary of the War in the Pacific National Historical Park, except those lands at Adelup Point, which are owned by the Government of Guam. The lands covered by such cooperative agreement shall be managed in accordance with the general management plan of the park and in the same manner as lands within the park that are owned by the United States.

SEC. 4. OBJECTS AFFECTING NAVIGABLE AIRSPACE.

The conveyance document for any land transferred under this Act located within 6 nautical miles of an airport shall contain a provision that requires a determination of no hazard to air navigation to be obtained from the Federal Aviation Administration in accordance with applicable regulations governing objects affecting navigable airspace or under the authority of the Federal Aviation Act of 1958 (Public Law 85-726, as amended) in order for construction or alteration on the property to be permitted.

SEC. 5. SEVERE CONTAMINATION.

Notwithstanding any other provision of this Act, the Administrator of General Services, in his discretion, may choose not to transfer any parcel under this Act on which there is severe contamination, the remedy of which would require the United States to incur extraordinary costs.

SEC. 6. APPLICATION OF FEDERAL AND TERRITORIAL LAWS.

All Federal and territorial environmental laws and regulations shall apply to the parcels transferred pursuant to this Act during and after the transfer of such parcels.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

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NOV 29 '94

Bill No. 1231(LS)

Introduced by:

E.D. Reyes ^R

An Act to Develop Land-Use Policy and Plans for Certain Parcels of Land
Belonging to the Government of Guam.

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

1 **SECTION 1. Legislative statement.** The Guam Legislature finds that there is a
2 need to develop certain land-use policies and plans for properties that the government of
3 Guam has received from the people of Guam, land that the government wishes to
4 declare surplus to or beyond its purpose and needs. The Legislature also recognizes the
5 fact that the government is unable to fully survey, manage, plan and develop property
6 currently under its jurisdiction and domain and as such has elected to relieve if not assist
7 the government from further expanding control over other land throughout the island
8 without the mandate of the people, particularly those who hold interest in properties
9 listed in Section 2 of this Act. As such, the Legislature through this measure, is
10 attempting to establish plans and mandate policy relative to properties beyond the
11 government of Guam's justifiable needs so that proper disposition of such lands can
12 occur.

13 **SECTION 2. Land-Use Plan and Policy.** The Director of the Department of
14 Land Management, government of Guam is hereby directed to identify the exact
15 portions of the land identified in this Section for transfer to the Chamorro Land Trust
16 Commission pursuant to Subsection 75104 of the Government Code Annotated, Section
17 40 and Article 8 of Public Law 1-33 and provision contained in U.S. Public Law 225.
18 The Director of the Department of Land Management shall transfer to the Chamorro

1 Land Trust Commission all lands identified in this Act which was acquired but not
2 needed by the governmnet of Guam.

3 Lot numbers of the parcels of land falling under the scope and intent of this Act
4 either in full or in part are as follows;

5	<u>LOT NUMBERS</u>	<u>LOT NUMBERS</u>	<u>LOT NUMBERS</u>
6	1	114	114-1
7	114-2	122	122-1
8	122-3	122-part	123
9	137	151	152
10	165	166	167
11	168	174	174-1
12	2	20-1	216
13	7	238	402
14	426	427	428
15	429	429-1	429-2
16	429-3	429-4	429-5
17	429-6	430	431
18	432	433	436
19	437	438	2094
20	2098	2109	2110
21	5007-1-#1	5009	5010
22	5010-1	5011	5012
23	5014#1	5015#1	5029
24	5030	5031	5032
25	5033	5034	5035
26	5036#1	5037	5038
27	5038-1	5039	5040
28	5041	5042	5043#1

1	5044	5045	5046
2	5047-1	5047-2	5048
3	5049	5050	5051
4	5171	5300	5301
5	5302	5310	5311
6	5312	5313	5314
7	5315	5316	5317
8	5325-5	5326	5327
9	5328		

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Section 3. Land Transferred.

Land that is identified in Section 2 of this Act is hereby transferred to the Chamorro Land Trust Commission for disposition in accordance with the provisions of law contained in Chapter 75 of Title 21, Government Code Annotated.