

Received by: H. Lopez
12/30/94
6:00 PM



Territory of Guam
Territorio Guam

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

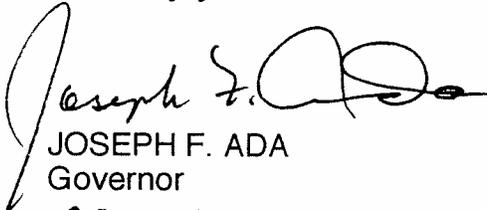
DEC 30 1994

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

Dear Mr. Speaker:

Transmitted herewith is Bill No. 1194, which I have signed into law this date as
Public Law 22-154.

Sincerely yours,


JOSEPH F. ADA
Governor
220921

Attachment



TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

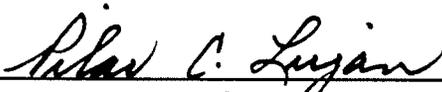
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 1194 (LS), "AN ACT TO REZONE CERTAIN PARCELS OF PRIVATELY OWNED PROPERTY IN MACHECHE, BARRIGADA, BARRIGADA HEIGHTS, BARRIGADA, AND MANGILAO," was on the 9th day of December, 1994, duly and regularly passed.



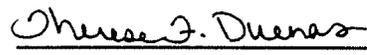
JOE T. SAN AGUSTIN
Speaker

Attested:



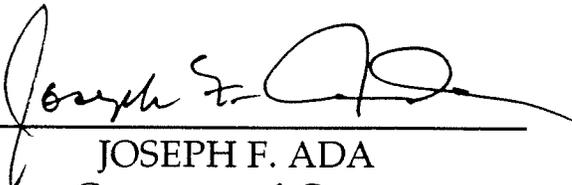
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 19th day of December,
1994, at 4:42 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: DEC 30 1994

Public Law No. 22-154

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 1194 (LS)
As substituted on the floor

Introduced by:

F. E. Santos
T. S. Nelson
T. C. Ada
J. P. Aguon
E. P. Arriola
M. Z. Bordallo
H. D. Dierking
C. T. C. Gutierrez
P. C. Lujan
V. C. Pangelinan
D. Parkinson
E. D. Reyes
J. T. San Agustin
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 REZONE CERTAIN PARCELS OF
PRIVATELY OWNED PROPERTY IN MACHECHE,
BARRIGADA, BARRIGADA HEIGHTS, BARRIGADA,
AND MANGILAO.

1 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**
2 **Section 1. (a) Legislative intent.** The Legislature has been requested
3 by Perez Development, Inc., Perez Estates, Inc., and Arthur B. Toves, owners

1 of certain parcels of property in Barrigada, to rezone their properties in order
2 to utilize them for their highest and best uses. The parcels are presently
3 zoned Rural ("A") but because of the surrounding land uses and the structure
4 and nature of the soil, they are not suitable for farming. The owners have
5 pointed out that most of the surrounding parcels and the general area have
6 been rezoned as a Light Industrial ("M-1") zone and business enterprises of
7 such a nature have been established there. Lots Nos. 5223-6-NEW-R-10,
8 5223-6-NEW-3, 5223-6-NEW-4, and 5223-6-NEW-5 are presently used as a
9 rock quarry, and the request for rezoning is to permit the use of rock-crushing
10 machinery to make the quarry operation more efficient and profitable. Lots
11 Nos. 5224-1-18 and 5224-1-17 are intended for warehousing.

12 (b) **Lots rezoned.** (1) Lots Nos. 5223-6-NEW-R-10, 5223-6-NEW-3,
13 5223-6-NEW-4, and 5223-6-NEW-5, situated in the Municipality of
14 Barrigada, said to contain an aggregate area of 40,301± square meters, as
15 shown on Land Management Drawing No. 270 FY83, owned by Perez
16 Development, Inc., are hereby rezoned from Rural ("A") to Light Industrial
17 ("M-1").

18 (2) Lots Nos. 5224-1-17 and 5224-1-18, Tract 308, situated in the
19 Municipality of Barrigada, said to contain an aggregate are of 8,094± square
20 meters, as described in that document recorded at the Department of Land
21 Management under instrument no. 227124, and owned by Arthur B. Toves,
22 are hereby rezoned from Rural ("A") to Light Industrial ("M-1").

23 (3) Lot No. 10130-R2NEW, situated in **Macheche**, Municipality of
24 Dededo, said to contain an area of 68,391.98 square meters, as shown on
25 Drawing No. L-968, Land Management Check No. 129-FY88, and owned by
26 Perez Estates, Inc., is hereby rezoned from being a Planned Unit Development
27 ("PUD") to Light Industrial ("M-1").

1 **Section 2. Legislative statement.** (a) Subsection (d) of Section 15 of
2 Public Law No. 21-145, rezoned certain parcels of property owned by John A.
3 Benavente in the **Bello** area of **Macheche Hill** and **Barrigada Heights**.
4 Because of typographical errors, the subsection combined the numbers of
5 separate lots and set out the wrong middle initial in Mr. Benavente's name.
6 The Legislature finds it necessary to correct the rezoning done in subsection
7 (d) as the lot numbers set out in that subsection do not exist and the name of
8 the owner cited does not match that set out on the certificate of title issued for
9 the property.

10 **(b) Lots rezoned.** Lots Nos. 5224-7-4, 5224-7-5 and 5224-7-11, all
11 situated in **Y-Lisong**, Municipality of Barrigada, said to contain an aggregate
12 area of 5,574± square meters, as shown on Land Management Check No. 014
13 FY85, and owned by John A. Benavente, are hereby rezoned from Agricultural
14 ("A") to Light Industrial ("M-1").

15 **Section 3. Legislative intent.** (a) The Legislature has been requested
16 by the owners of Lot No. 7A, Tract 295, situated in the **Barrigada Heights**
17 area, fronting on Route 16, to rezone it from Rural ("A") to Commercial ("C")
18 in order to build thereon a three-story commercial building to house
19 professional offices and retail outlets. The Legislature, aware of the
20 increasing commercialization of the Route 16 area, is of the consensus that a
21 commercial building capable of housing medical offices and clinics, as well as
22 other professional offices and retail spaces, would be beneficial to the area in
23 bringing such services to the residents. The Legislature finds that there are
24 existing water, sewer and power facilities to which the proposed uses can
25 connect. The Legislature further finds that the proposed uses for the lot are
26 compatible with the land uses of surrounding parcels.

1 (b) **Lot rezoned.** Lot No. 7A, Tract 295, situated in the Municipality of
2 Barrigada, said to contain an area of 65,340± square feet, as shown on Land
3 Management Check No. 630 FY74, and owned by Ernesto M. and Leticia
4 Espaldon, is hereby rezoned from Rural ("A") to Commercial ("C").

5 **Section 4. (a) Legislature statement.** The Legislature has been
6 requested by Francisco Francisco to rezone his property in Mangilao from
7 Single Family Residential to Multi-family Residential to permit him to build
8 an apartment structure to provide homes for his married children. The
9 owner states that he does not have enough property to be able to give his
10 children house lots of their own and the only way he can provide for his
11 children is to provide them apartments to live in. The Legislature finds that
12 Mr. Francisco's property is adequate in size for his stated purposes, that the
13 needed utilities do serve it, and that Mr. Francisco's intended use of the
14 property is a desirable use which will benefit both his children and the
15 community.

16 (b) **Lots rezoned.** Lot No. 2396 NEW-2-2, situated in the Municipality
17 of Mangilao, said to contain an area of 1,960 square meters, as shown on
18 Land Management Drawing No. 321-FY72, owned by Francisco Francisco, is
19 hereby rezoned from Single Family Residential ("R-1") to Multi-family
20 Residential ("R-2").

21 **Section 5. (a) Legislative intent.** Bernice Lujan Edquilane, the owner
22 of Lot No. P19.83-1NEW-5, Mangilao, has requested the Legislature to
23 rezone her property from Rural to Single Family Residential in order to
24 subdivide it into two residential lots for her and her brother, Michael Lujan
25 Edquilane. The Legislature finds that the area in which this lot is situated has
26 already been covered with single family dwellings, that there are also multi-
27 family dwellings in the area, and that the rezoning requested is compatible

1 with the area, the necessary infrastructure required for the requested land use
2 being immediately available to the area. The Legislature has been advised
3 that the Municipal Planning Council of Mangilao has approved such
4 rezoning.

5 (b) **Lot rezoned.** Lot No. Lot No. P19.83-1NEW-5, situated in the
6 Municipality of Mangilao, said to contain an area of 1,858 square meters, as
7 shown on Land Management Map No. 281-FY80, owned by Bernice Lujan
8 Edquilane, is hereby rezoned from Rural ("A") to Single Family Residential
9 ("R-1").

VOTING SHEET
(as revised)

Bill No. 1194

12/9/94

Resolution No. _____

(Date)

Question: _____

Senators	Aye	No	Declined to Vote	Required to vote	Excused from voting	ABSENT/OUT DURING ROLL CALL
Ada, Thomas C.	✓					
AGUON, John P.	✓					
ARRIOLA, Elizabeth P.	✓					
BAMBA, George J.	✓					
BLAZ, Anthony C.	✓					
BORDALLO, Madeleine Z.						✓
BROOKS, Doris F.	✓					
CAMACHO, Felix P.	✓					
DIERKING, Hermina D.	✓					
GUTIERREZ, Carl T. C.	✓					
LUJAN, Pilar C.	✓					
MANIBUSAN, M. D. A.	✓					
NELSON, Ted S.	✓					
PANGELINAN, Vicente C.	✓					
PARKINSON, Don	✓					
REYES, Edward D.	✓					
SAN AGUSTIN, Joe T.	✓					
SANTOS, Francis E.	✓					
SHIMIZU, David L. G.	✓					
TANAKA, Thomas V. C.			✓			
UNPINGCO, Antonio R.			✓			

TOTAL

18	2				1
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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 8, 1994

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. 828**, as **amended and substituted** - "An Act to Rezone certain parcels of privately owned property wishes to report back to the Legislature with its recommendation to pass Bill No. 828, as amended and substituted. 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.

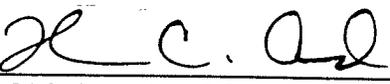
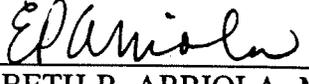
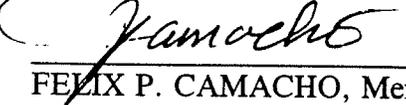
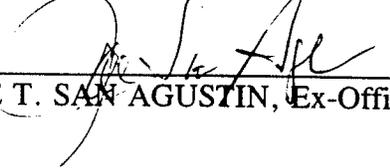

EDWARD D. REYES

—
Attachments

COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
22nd Guam Legislature

VOTING RECORD

Bill No. 828, As amended and substituted: An act to rezone certain parcels of privately owned property.

	TO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 EDWARD D. 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 FELIX P. CAMACHO, Member	<input checked="" 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 checked="" 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"/>

Executive Summary Bill No. 828

Section 1a. Legislative Statement/Intent

Section 1b Rezoning (1) Lots Nos. 5223-6-NEW-R-10; 5223-6-NEW-3; 5223-6-NEW-4; and 5223-6-NEW-5, situated in the Municipality of Barrigada, said to contain an aggregate area of 40,301 +/- square meters, as delineated on LM No. 270 FY83, and owned by Perez Development, Inc., are hereby rezoned from Agricultural (A) to Light Industrial (M1).

(2) Lots Nos. 5224-1-17 and 5224-1-18, Tract 308, situated in the Municipality of Barrigada, said to contain an aggregate area of 8094 +/- square meters, as recorded under document no. 227124, and owned by Mr. Arthur B. Toves, are hereby rezoned from Agricultural (A) to Light Industrial (M1).

(3). Lot No. 10130-R2NEW, situated in Macheche, Municipality of Dededo, said to contain an area of 68,391.98 square meters, as shown on Map Drawing No. L-968, LM Check No. 129-FY88, and owned by Perez Estates, Inc., (Frank D. Perez), is hereby rezoned from Planned Development (PD) to Light Industrial (M1).

Section 2a Legislative Statement:

Section 2.(b) **Zone Correction:** Lots Nos. 5224-7-4, 5224-7-5 and 5224-7-11, all situated in Y-Lisong, Municipality of Barrigada, said to contain an aggregate area of 5574 +/- square meters, as delineated on LM No. 014 FY85, and owned by Mr. John A. Benavente, are hereby rezoned from Agricultural (A) to Light Industrial (M1).

Section 3a Legislative Statement.

Section 3(b) **LOT REZONED:** Lot No. 7A, Parcel 295, said to contain an area of 65,340 +/- square feet, situated in the Municipality of Barrigada, as delineated on LM Chk No. 630 FY74, and owned by Ernesto M. and Leticia Espaldon, is hereby rezoned from Agricultural (A) to Commercial (C).

Section 4a Legislative Statement

Section 4(b). **LOTS REZONED.** Lots No. 164-NEW, 155 NEW and 163 NEW-R1, situated in Yona, said to contain an aggregate area of 400,000 +/- square meteters,

and owned by Tanota Partners, and Lots No. 156-R5; 147-R5; 147-4; 157-A-1 and 156-3; said to contain an aggregate area of 200,000 +/- square meters, and owned by Six D Enterprises, all delineated under LM Map D#L-654, are hereby rezoned from Agricultural (A), Single Family Residential (R1) and Multi-Family Residential (R2) to Multi-Family Dwellings (R2).

Section 5a Legislative Statement

Section 5(b). **LOT REZONED.** Lot No. 2396 NEW-2-2, Land Square 18 Sec 3, situated in Mangilao, said to contain an area of 1,960 square meters, as delineated on Land Management Drawing No. 321-FY72, and owned by Francisco Francisco, is hereby rezoned from Single Family Residential (R1) to Multi-Family Dwellings (R2).

Section 6a. Legislative Statement

Section 6(b). **LOT REZONED.** Lot No. P19.83-1NEW-5, situated in the Municipality of Mangilao, said to contain an area of 1858 square meters, as designated on Land Management Map No. 281-FY80, and owned by Ms. Bernice Lujan Edquilane, is hereby rezoned from Agricultural (A) to Single Family Residential (R1).

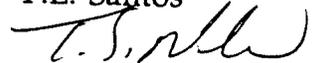
TWENTY SECOND GUAM LEGISLATURE
SECOND (1994) REGULAR SESSION

Bill No. 828

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

Introduced by:

F.E. Santos



AN ACT TO REZONE CERTAIN PARCELS OF
PRIVATELY OWNED PROPERTY.

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

3 SECTION 1(a). LEGISLATIVE INTENT: The Guam Legislature has been
4 requested by Mr. Frank D. Perez and Mr. Arthur B. Toves, owners of certain parcels
5 of property in the Barrigada Hts-Macheche Hill area, for a rezoning of their property
6 in order to be able to utilize said property to its highest and best uses. The parcels are
7 presently zoned as Agricultural (A) but because of the surrounding land uses and
8 the structure and nature of the soil, the parcels are not suitable nor economically
9 practical for farming. The owners point out that the majority of the surrounding
10 parcels and the general area have been rezoned as a Light Industrial (M1) zone and
11 business enterprises of such nature have established themselves there. The owners
12 of Lots Nos. 5223-6-NEW-R-10; 5223-6-NEW-3; 5223-6-NEW-4; and 5223-6-NEW-5
13 note that the property is presently used as a rock quarry and that the request for
14 rezoning is to permit the operation of rock crushing machinery in order to make the
15 operation of the quarry more efficient and profitable. Likewise, the owner of Lot

1 No. 5224-1-18 and 5224-1-17 wants to build warehousing for leasing to individuals
2 who may have need of such capacity.

3 (b) LOTS REZONED: (1) Lots Nos. 5223-6-NEW-R-10; 5223-6-NEW-3; 5223-6-
4 NEW-4; and 5223-6-NEW-5, situated in the Municipality of Barrigada, said to
5 contain an aggregate area of 40,301 +/- square meters, as delineated on LM No. 270
6 FY83, and owned by Perez Development, Inc., are hereby rezoned from Agricultural
7 (A) to Light Industrial (M1).

8 (2) Lots Nos. 5224-1-17 and 5224-1-18, Tract 308, situated in the Municipality of
9 Barrigada, said to contain an aggregate area of 8094 +/- square meters, as recorded
10 under document no. 227124, and owned by Mr. Arthur B. Toves, are hereby rezoned
11 from Agricultural (A) to Light Industrial (M1).

12 (3). Lot No. 10130-R2NEW, situated in Macheche, Municipality of Dededo,
13 said to contain an area of 68,391.98 square meters, as shown on Map Drawing No. L-
14 968, LM Check No. 129-FY88, and owned by Perez Estates, Inc., (Frank D. Perez), is
15 hereby rezoned from Planned Development (PD) to Light Industrial (M1).

16 **Section 2. Legislative Statement.** (a) Section 15 (d) of Public Law 21-145
17 approved the rezoning of certain parcels of property, owned by Mr. John A.,
18 Benavente, in the Bello area of Macheche Hill/Barrigada Hts.. Because of
19 typographical errors the legislation lumped together the numbers of separate lots
20 and stated the wrong middle initial in Mr. Benavente's name. The Legislature finds
21 it necessary to correct said Section 15 (d) of Public Law 21-145 as the lots contained in
22 that law do not exist and the name of the owner cited must match that contained on
23 the certificate of title as issued by the Department of Land Management.

24 (b) Lots Nos. 5224-7-4, 5224-7-5 and 5224-7-11, all situated in Y-Lisong,
25 Municipality of Barrigada, said to contain an aggregate area of 5574 +/- square
26 meters, as delineated on LM No. 014 FY85, and owned by Mr. John A. Benavente,
27 are hereby rezoned from Agricultural (A) to Light Industrial (M1).

28 **SECTION 3 (a). LEGISLATIVE INTENT:** The Guam Legislature has been
29 requested by Drs. Ernesto and Leticia Espaldon, the owners of Lot No. 7A, Tract 295,
30 situated in the Barrigada Heights area, fronting on Route 16, to have the parcel
31 rezoned from Agricultural (A) to Commercial (C) in order to build a three storey
32 commercial building to house professional offices and retail outlets. The
33 Legislature, aware of the increasing commercialization of the Route 16 area, is of the
34 consensus that a commercial building, capable of housing medical offices and
35 clinics, as well as, other professional offices, would be beneficial to the area, as well
36 as, bring such services to the residents of Barrigada Hts. and the adjoining areas.
37 The Legislature has been apprised that there are existing water, sewer and power

1 infrastructure in the area which the proposed uses would be able to hook up to. The
2 Legislature further notes that the proposed uses for the lot is compatible with the
3 land uses of surround parcels.

4 (b) **LOT REZONED:** Lot No. 7A, Parcel 295, said to contain an area of 65,340
5 +/- square feet, situated in the Municipality of Barrigada, as delineated on LM Chk
6 No. 630 FY74, and owned by Ernesto M. and Leticia Espaldon, is hereby rezoned
7 from Agricultural (A) to Commercial (C).

8 **SECTION 4(a). LEGISLATIVE STATEMENT.** The Guam Legislature is aware
9 that there is an acute shortage of affordable rental housing units. This situation is
10 aggravated by the ever increasing need to recruit off-island teachers for Guam's
11 classrooms and the population shifts brought about by individuals arriving on
12 island for various reasons. These teachers, when they arrive on island, are
13 immediately confronted with the problem of finding an affordable home, preferably
14 near the school in which they teach. The Legislature finds that this situation exists
15 not only for off island teachers but also for other enterprises who find a need to
16 bring in people to be employed in their businesses, as well as, the military
17 community with its normal rotation of personnel. An indication of the acute
18 shortage of affordable housing for these professionals is the request by the
19 University of Guam for government property to build affordable housing for its
20 professional staff. Rather than dedicate valuable government land to government
21 housing projects, the Legislature is of the consensus that it would be more beneficial
22 to the island if private development were encouraged and subsequently utilized by
23 these professionals.

24 The Guam Legislature has been approached by Tanota Partners, a limited
25 partnership, and Six D Enterprises, Inc., a long standing Guam housing developer,
26 with a request to rezone their property in Yona from Agricultural (A), Single Family
27 Residential (R1) and Multi-Family Dwellings (R2) to Multi-Family Dwellings (R2) in
28 order to build an apartment complex. The Legislature notes that the property is
29 adequate in size for the stated purposes and that the needed utilities, inclusive of
30 adequate sewer lines, do serve the parcel. The Legislature finds that the intended
31 use of the property is a desirable use which will benefit the community in providing
32 needed housing resources. Likewise, the Legislature is of the consensus that the
33 requesting zoning of the property is not incompatible with the permitted land uses
34 of adjacent properties.

35 The Legislature notes that the architectural firm of the world renowned
36 architect, Frank Lloyd Wright, prepared architectural and engineering designs for
37 multi-family dwelling complexes which would take advantage of the location,

1 terrain and viewpoint of the property. The fact that the owners of the property were
2 willing to contract such a world renowned firm to prepare suitable A & E plans
3 which would take into consideration the topography of the parcels is indicative of
4 the owners desire to insure that their plans and development enhance, rather than
5 detract, from the area.

6 The Legislature further notes that the Territorial Planning Commission (now
7 known as the Territorial Land Use Commission) has previously approved the
8 rezoning of portions of these lots (those portions fronting on Route 4) from
9 Agricultural (A) to Single Family Residential (R1) and to Multi-Family Dwelling
10 (R2) thus creating a situation where the lots are split zoned. This Legislature finds
11 that split zoning is unfair to the owner of the property in that it constrains the use of
12 the full parcel to the highest and best use which would be that of the higher zoning.
13 In approving this rezoning from Agricultural (A) to Single Family Residential (R1)
14 and Multi-Family Dwellings (R2), the TPC noted that waste water infrastructure
15 existing along Route 4 are more than adequate for the development. Likewise, the
16 Legislature notes that the lots directly across the subject properties, also fronting on
17 Route 4 have already been rezoned to Multi-Family Dwellings (R2). In
18 consideration of this, the Legislature is of the consensus that the rezoning is fully
19 compatible with the surrounding land uses.

20 (b). **LOTS REZONED.** Lots No. 164-NEW, 155 NEW and 163 NEW-R1,
21 situated in Yona, said to contain an aggregate area of 400,000 +/- square meteters,
22 and owned by Tanota Partners, and Lots No. 156-R5; 147-R5; 147-4; 157-A-1 and 156-3;
23 said to contain an aggregate area of 200,000 +/- square meters, and owned by Six D
24 Enterprises, all delineated under LM Map D#L-654, are hereby rezoned from
25 Agricultural (A), Single Family Residential (R1) and Multi-Family Residential (R2)
26 to Multi-Family Dwellings (R2).

27 **SECTION 5 (a). LEGISLATIVE STATEMENT.** The Guam Legislature has
28 been approached by Mr. Francisco Francisco with a request to rezone his property in
29 Mangilao from Single Family Residential (R1) to Multi-Family Dwellings (R2) in
30 order to permit him to build an apartment structure to provide homes for his
31 married children. Mr. Francisco notes that he does not have enough property to be
32 able to give his children a house lot of their own and the only way he can provide
33 for his children is to provide them an apartment to live in. The Legislature notes
34 that Mr. Francisco's property is adequate in size for his stated purposes and that the
35 needed utilities do serve the parcel. The Legislature finds that Mr. Francisco's
36 intended use of the property is a desirable use which will benefit both his children
37 and the community.

1 (b). **LOT REZONED.** Lot No. 2396, NEW-2-2, Land Square 18 Sec 3, situated in
2 Mangilao, said to contain an area of 1,960 square meters, as delineated on Land
3 Management Drawing No. 321-FY72, and owned by Francisco Francisco, is hereby
4 rezoned from Single Family Residential (R1) to Multi-Family Dwellings (R2).

5 **SECTION 6 (a). LEGISLATIVE INTENT.** The Guam Legislature has been
6 approached by Margarita Flores Cabrera and Concepcion C. Flores, sisters, and
7 owners of Lots No. 2390-5 and 2390-6, situated on Dairy Road, Mangilao, requesting a
8 rezoning of said property from Agricultural (A) to Multi-Family Dwelling (R2) for
9 the purpose of building affordable housing units (apartment type) for their son,
10 daughters and their families. The Legislature has been informed that the adequate
11 infrastructure for the intended purposes is already in place and the proposed plans
12 will be substantially in conformance with surrounding land uses.

13 (b) **LOT REZONED.** Lot No. 2390-5 and 2390-6, said to contain approximately
14 1,896 s.m. and 2,823 s.m. respectively, as recorded under Document No. 323916, and
15 owned by Margarita F. Cabrera and Concepcion C. Flores, respectively, are hereby
16 rezoned from Agricultural (A) to Multi-Family Dwellings (R2).

17 **SECTION 7 (a) LEGISLATIVE INTENT.** Ms. Bernice Lujan Edquilane is the
18 owner of Lot No. P19.83-1NEW-5, Mangilao, and desires to have her property
19 rezoned from Agricultural (A) to Single Family Residential (R1) in order to be able
20 to subdivide the property into two residential lots for her and her brother, Michael
21 Lujan Edquilane. The Legislature finds that the area in which this lot is situated is
22 already residentialized with single family dwellings and there are multi-family
23 dwellings in the area. Thus, the rezoning requested is compatible with the area.
24 Likewise, the necessary infrastructure required for the requested land use is
25 immediately available to the area. The Legislature has been apprised that the
26 Municipal Planning Council of Mangilao has issued letters stating the Council's
27 favorable position on this rezoning plan.

28 (b). **LOT REZONED.** Lot No. P19.83-1NEW-5, situated in the Municipality of
29 Mangilao, said to contain an area of 1858 square meters, as designated on Land
30 Management Map No. 281-FY80, and owned by Ms. Bernice Lujan Edquilane, is
31 hereby rezoned from Agricultural (A) to Single Family Residential (R1).
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COMMITTEE REPORT

on

Bill No. 828

AN ACT TO REZONE CERTAIN PARCELS OF
PRIVATELY OWNED PROPERTY.

March 8, 1994.

COMMITTEE FINDINGS

- The Committee finds that the planned land use for which the rezoning contained herein were requested are not incompatible with the existing land uses of other adjacent privately owned parcels of property.
- The Committee finds that the infrastructure required to support the rezoning and proposed land use contained herein are in place and are readily accessible to the owners of the parcels to be rezoned.

- The Committee finds that the rezoning contained herein does not, in fact, determine the ultimate land use of the properties rezoned and that the final planned land uses will be reviewed by appropriate government agencies during the permitting process.
- The Committee finds that the land uses for which the rezoning has been requested do not present any hazard or immediate danger to the community in which they exist or the island as a whole.
- Relative to the Yona parcels to be rezoned, the Committee finds that the actions of the Territorial Land Use Commission split zoning the property should have rezoned the entire parcels of property rather than portions of the property thereby causing a situation where portions of the property were zoned Agricultural (A), other portions were zoned Single Family Residential (R1) while still other portions were zoned Multi-Family Dwellings (R2).
- The Committee finds that this split zoning creates an untenable dilemma for the landowners which should be resolved as quickly as possible. It further finds that fairness to the landowners dictates that the consolidation of zoning should be to that zone elected by the landowner.

COMMITTEE RECOMMENDATIONS

- The Committee recommends that the Legislature do pass Bill No. 828 as amended and substituted.

Public Hearings

The Committee on Housing and Community Development scheduled and publicly announced, as per Standing Rules of the Guam Legislature, public hearings on February 17th and March 1st, 1994, to receive public testimony on Bills Nos. 828, 777, 813 and 830. All of these measures call for the rezoning of certain parcels of privately owned property.

Invited to present testimony at the public hearings were the Governor's Office, the Governor's Legislative Review Committee, and said members of the Legislative Review Committee who have oversight responsibilities for rezoning legislation.

Members present at the public hearings were:

On February 17, 1994

Sen. Edward D. Reyes
Chairman

Sen. Ted S. Nelson
Vice Chairman

Sen. Felix P. Camacho

Sen. Marilyn D.A. Manibusan

Sen. Anthony C. Blaz

On March 1, 1994

Sen. Edward D. Reyes
Chairman

Sen. Ted S. Nelson
Vice Chairman

Sen. Pilar C. Lujan

Sen. Tom C. Ada

Sen. Felix P. Camacho

Sen. Marilyn D.A. Manibusan

Sen. Anthony C. Blaz

Sen. Tommy V.C. Tanaka

Attending the public hearings and/or providing testimony were:

On February 17, 1994

- Dr. Ernesto Espaldon, landowner
- Mayor Raymond S. Laguana, Mayor of Barrigada

On March 1, 1994

- Mr. Marcel Camacho, Executive Director, TPC
- Dr. Robert Richardson, Advisor, TPC
- Mayor Vicente Bernardo, Mayor of Yona
- Dr. Katherine B. Aguon, Landowner, Pago Bay Estates
- Mr. Frank D. Perez, Landowner
- Mr. Alfred Ysrael, Landowner
- Mr. Rudy Aniceto, representing Six D Enterprises
- Ms. Fran King, representing Six D Enterprises
- Mr. Francisco Francisco, Landowner

SUMMARY OF TESTIMONY

Mr. Marcel Camacho, Executive Director, TPC

Mr. Camacho submitted testimony opposing any rezoning by the Guam Legislature. Mr. Camacho noted that the Territorial Planning Council is nearing completion of the I Tanota Land Use Plan and that the Plan contains land use proposals for the parcels under consideration by the Legislature. The land use proposals for the parcels being public heard would not permit the type of development for which the rezoning is being

requested by the property owners. Additionally, Mr. Camacho requested the Committee to refrain from any rezoning until the I Tanota Land Use Plan is approved. Relative to the rezoning of certain parcels in Yona Mr. Camacho mistakenly stated that the split zoning was a product of legislative rezoning when, in fact, the split zoning was the work of the Territorial Land Use Commission in 1985.

Committee Notes:

The Committee notes that though Mr. Camacho has indicated that the TPC is prepared to submit the proposed land use plan, no one can provide any form of indication as to when said plan will ultimately be enacted into law. Considering the series of public hearings the land use plan will be submitted to and the deliberations within the Committee and Legislature, it is seriously doubted whether the land use plan will be approved as expeditiously as Mr. Camacho notes. It would be unfair to the landowners to delay action on their requests as the expeditious resolution of these requests will determine whether these landowners can avail themselves of favorable financing available on today's market.

Mr. Camacho failed to note to the Committee that the TLUC has just recently approved the development of a hotel in Yona and that the consultants appearing before the TLUC in behalf of that development and developer was the consultants hired by the TPC to develop the I Tanota Land Use Plan. The Committee finds that there may be a tinge of hypocrisy in this and that this

gives rise to serious questions as to the sincerity of the consultants relative to the I Tanota Land Use Plan.

Dr. Robert Richardson, Advisor, TPC

Dr. Richardson requested the Committee to delay action on any rezoning pending the approval of the I Tanota Land Use Plan. Dr. Richardson noted that the government has spent a lot of time and money on the land use plan and that he was of the opinion that the plan should be approved before any more rezonings are undertaken. He notes that if the Legislature continues rezoning parcels at the request of owners, many of these zone changes would not conform to that specified in the Land Use Plan. Relative to the rezoning of Yona parcels (Bill No. 777), Dr. Richardson notes that he was opposed to such rezoning because he was of the opinion that it would adversely impact on the proposal in the I Tanota Land Use Plan to designate the Pago Bay area as a Marine Preserve zone thereby restricting any form of development in the area except for small agricultural or single family developments or developments related to the University of Guam Marine Lab plans.

Committee Notes:

The Committee understands Dr. Richardson's desire to create a Marine Preserve zone as Dr. Richardson is directly tied to the UOG Marine Lab. However, the Committee also notes that if the UOG desires to prohibit development on the area through the regulatory process than the UOG should request the government to condemn the property under its eminent domain

powers and dedicate said property to the University's Marine Lab. It should be noted that this is not the first instance in which the UOG Marine Lab has created an insurmountable problem for owners of land surrounding the University. The owners of several parcels around UOG's Marine Lab have filed complaints over several years on official documents from UOG noting that UOG intended to have the properties condemned. To date none of those properties have been condemned, the owners have not been able to secure financing to develop them and the University refuses to withdraw their letters to permit the owners to obtain financing for development or to even sell the property. This is unfair regulatory taking and if the University intends to use the Pago Bay area as a Marine Zone or Marine Lab than it should proceed with plans to do so so that owners will not continue with plans to develop their property. Likewise, UOG should be preparing plans for said condemnation inclusive of the financing necessary to purchase the property at fair market value. The Committee further notes that it was the Territorial Land Use Commission which partially rezoned the property to Multi-Family Dwellings thereby acknowledging the concept that the property is suitable for such development.

Mayor Vicente Bernardo, Mayor of Yona

Mayor Vicente Bernardo testified in favor of the rezoning of the Yona parcels (Bill No. 777) noting that the development would be beneficial to

Yona. Mayor Bernardo also noted that the Territorial Land Use Commission had just recently approved the development of two hotels in Yona.

Mayor Raymond S. Laguana

Mayor Raymond Laguana testified in support of the rezoning of the property owned by Dr. Espaldon, Mr. Frank D. Perez, and Mr. Arthur B. Toves (Bills No. 813 and 828). He noted that the development of the property along Route 16 would be beneficial to Barrigada.

Dr. Katherine B. Aguon, Pago Bay Estates Resident.

Dr. Aguon submitted testimony opposing the rezoning of the Yona parcels (Bill No. 777) noting that the area, in particular, Pago Bay, is utilized by the talaya fishermen and that everything should be done to preserve this aspect of the Chamorro culture.

Committee Notes:

The Committee notes that the rezoning requested for the Yona parcels is for one side of Pago Bay. The other side of Pago Bay, the side on which Dr. Aguon owns property is already rezoned for single family development. Likewise, the Committee notes that there is no relationship between the continued thriving of the talaya fishing culture and the development of the parcels overlooking Pago Bay as the developers have no intention nor can they legally stop the talayeru from casting their nets.

Dr. Ernesto M. Espaldon, landowner (Bill 813)

Dr. Ernesto M. Espaldon appeared representing the Espaldon family, the legal owners of the property to be rezoned. The property was originally purchased by Dr. Ernesto Espaldon and then the name on the certificate of title was changed to an acronym containing the initials of all of the children. To date the change to the name on the CT has not been recorded by the Department of Land Management, thus, the bill was written to reflect the names of the two Drs. Espaldon.

The Espaldons are requesting the rezoning in order to build a professional building to house the Espaldon Clinic. In addition to housing their own businesses, the Espaldons desire to make available rental space for other professionals.

Committee Notes:

The Committee notes that the Espaldon property is situated in an area for which many of the adjacent lots have already been rezoned to Commercial zones, thus, the proposed land use is compatible with adjacent property. The property has frontage on Route 16 and is ideally situated for the planned use. It should also be noted that the property is situated within the AICUZ zone which calls for minimal human activity within the area. Thus, the property is more suited to a Commercial building than residential uses as the commercial utilization would limit human activity during periods of the heaviest air traffic over NAS.

Mr. Alfred Ysrael, Landowner-Developer (Bill 777)
Testifying also on behalf of Six D Enterprises
also appearing on behalf of Six D Enterprises were
Mr. Rudy Aniceto and Ms. Fran King

Tanota Partners and Six D Enterprises have been planning to develop an apartment complex on their Yona parcels since 1985. The property was purchased from the Bank of America for several million dollars with the intent of building an apartment complex. In 1985, Six D Enterprises submitted a request to the Territorial Land Use Commission to rezone the property in order to permit the development of the apartment complex. The rezoning was granted but created a split zone of the property thereby permitting development of only the portion of the property fronting Route 4. To realize maximum utilization from the land, the owners decided they needed a complete rezoning.

Mr. Ysrael noted that the I Tanota Land Use Plan would be unduly burdensome to landowners who wanted to get maximum utilization from their property. In particular, Mr. Ysrael objected to the proposed zoning of his property to Marine Preserve Zone which would prohibit him from utilizing the property for an apartment complex when such plans were being prepared even before the Territorial Planning Council was formed or the Land Use Plan mandated. It should be noted that the Territorial Land Use Commission approved a rezoning of portions of the two parcels as early as 1985. Tanota Partners and Six D Enterprises are requesting that the same zoning as approved by the TLUC be extended to cover the rest of the property.

Committee Notes:

The Committee notes that the planned use for the property has been under development since 1985. Likewise, the Territorial Land Use Commission has already rezoned portions of the property to multi-family dwellings. In doing so, the TLUC and the government acknowledges that the planned uses are compatible and the infrastructure of the area would be capable of serving the development.

The Committee further notes that the Territorial Land Use Commission has approved a hotel development for the Yona area through the encouragement of the consultants hired to prepare the I Tanota Land Use Plan. The Committee finds it difficult to rationalize how the consultant recommending the development of a hotel in the same general vicinity can, at the same time, speak against a development with less intensity.

Mr. Frank D. Perez, landowner (Bill No. 828)

Mr. Frank D. Perez appeared before the Committee requesting the rezoning of his property in the Barrigada Heights/Macheche Hills area from Agricultural (A) to Light Industrial (M1) for the purpose of building warehousing facilities. Mr. Perez notes that properties surrounding and contiguous to his property have already been rezoned to light industrial. He notes that his request and planned use for the property are compatible with existing land uses.

Committee Notes:

The properties contiguous to Mr. Perez's parcels have already been rezoned to Light Industrial (M1). In such a case, the rezoning of the lots should not be classified as spot zoning as it is to conform to surrounding land uses. The Committee further notes that the property has frontage on Route 16 which has developed into a major thoroughfare. Adequate land area is available on the parcel to insure that there is adequate parking for the planned development. Likewise, the area is served by the necessary infrastructure for the planned uses. The Committee further notes that because the area is in AICUZ, warehousing activities, as are other activities which result in minimal human activities during periods of high air traffic activity, are the most compatible and acceptable with the safety requirements of areas surrounding airports.

Mr. Francisco Francisco, Landowner (Bill No. 830)

Mr. Francisco Francisco, better known as Kiko Kiko, is the owner of property in Mangilao which he wishes to rezone in order to build an apartment building to provide affordable homes for his children. Mr. Francisco notes that he has eight children and does not own any other land but that he wants to provide for his children some of which are already married. Mr. Francisco stated that he does not have any intention of putting the apartments on the open market because he would prefer to provide for his children as he is not able to give them land to build their own homes.

Mr. Francisco notes that his property is in the vicinity of the Department of Youth Affairs and the Department of Corrections and that it would be better for him to use the property for affordable units for his children than to try to speculate on the property because the value is depressed because of DYA and DOC. Mr. Francisco also notes that other R2 rezonings in the vicinity have been granted and that his proposed use as a family apartment complex is not incompatible with the surrounding land uses.

Committee Notes:

The Committee empathizes with and commends Mr. Francisco for his desire to provide affordable homes for his children. The Committee notes that this is not unusual in our culture for the father to provide homes or land for their children. The Committee also notes that because of the cost of land today it would be much easier for Mr. Francisco to provide an affordable home for his children by building an apartment complex than by attempting to purchase property for each of the children.

TWENTY SECOND GUAM LEGISLATURE
SECOND(1994) REGULAR SESSION

Bill No. 828

Introduced by:

F.E. Santos



AN ACT TO REZONE CERTAIN PARCELS OF
PROPERTY IN THE BARRIGADA HTS. AREA
FROM AGRICULTURAL (A) TO LIGHT
INDUSTRIAL (M1).

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

3 SECTION 1. LEGISLATIVE INTENT: The Guam
4 Legislature has been requested by Mr. Frank D. Perez and Mr.
5 Arthur B. Toves, owners of certain parcels of property in the
6 Barrigada Hts-Macheche Hill area, for a rezoning of their
7 property in order to be able to utilize said property to its highest
8 and best uses. The parcels are presently zoned as Agricultural
9 (A) but because of the surrounding land uses and the structure
10 and nature of the soil, the parcels are not suitable nor
11 economically practical for farming. The owners point out that the
12 majority of the surrounding parcels and the general area have
13 been rezoned as a Light Industrial (M1) zone and business

1 enterprises of such nature have established themselves there.
2 The owners of Lots Nos. 5223-6-NEW-R-10; 5223-6-NEW-3;
3 5223-6-NEW-4; and 5223-6-NEW-5 note that the property is
4 presently used as a rock quarry and that the request for
5 rezoning is to permit the operation of rock crushing machinery
6 in order to make the operation of the quarry more efficient and
7 profitable. Likewise, the owner of Lot No. 5224-1-18 and 5224-
8 1-17 wants to build warehousing for leasing to individuals who
9 may have need of such capacity.

10 **SECTION 2. LOTS REZONED:** (a) Lots Nos. 5223-6-NEW-
11 R-10; 5223-6-NEW-3; 5223-6-NEW-4; and 5223-6-NEW-5,
12 situated in the Municipality of Barrigada, said to contain an
13 aggregate area of 40,301 +/- square meters, as delineated on
14 LM No. and owned by Perez Development, Inc., are hereby
15 rezoned from Agricultural (A) to Light Industrial (M1).

16 (b) Lots Nos. 5224-1-17 and 5224-1-18, Tract 308,
17 situated in the Municipality of Barrigada, said to contain an
18 aggregate area of 8094 +/- square meters, as recorded under
19 document no. 227124, and owned by Mr. Arthur B. Toves, are
20 hereby rezoned from Agricultural (A) to Light Industrial (M1).

21 **Section 3. Legislative Statement.** (a) Section 14 (d) of
22 Public Law 21-145 approved the rezoning of certain parcels of
23 property, owned by Mr. John A. Benavente, in the Bello area of
24 Macheche Hill/Barrigada Hts.. Because of typographical errors
25 the legislation lumped together the numbers of separate lots and
26 stated the wrong middle initial in Mr. Benavente's name. The
27 Legislature finds it necessary to correct said Section 14 (d) of
28 Public Law 21-145 as the lots contained in that law do not exist

1 and the name of the owner cited must match that contained on
2 the certificate of title as issued by the Department of Land
3 Management.

4 (b) Lots Nos. 5224-7-4, 5224-7-5 and 5224-7-11, all
5 situated in Y-Lisong, Municipality of Barrigada, said to contain an
6 aggregate area of 5574 +/- square meters, as delineated on LM
7 No. 014 FY85, and owned by Mr. John A. Benavente, are hereby
8 rezoned from Agricultural (A) to Light Industrial (M1).

9

10