



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By R. Torres

Time 4:50 PM

Date 1-2-97

JAN 01 1997

OFFICE OF THE SPEAKER

Date: 1-2-97

Time: 1:35 pm

Received By: APPROVA

Print Name: Arturo B. Torres

The Honorable Don Parkinson  
Speaker  
Twenty-Third Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Speaker:

Enclosed please find a copy of Substitute Bill No. 606 (LS), "AN ACT TO AMEND §§2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808 AND 2809 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES, AND THE CONSTRUCTION OF AFFORDABLE HOUSING; AND TO AMEND §§2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW §§2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING", which I have signed into law today as **Public Law No. 23-135**.

This legislation is designed to bring **Vision 2001** into being by "jump starting" the construction of new hotels as well as tourist facilities and amusements on Guam. At the same time, through an innovative plan, incentives are offered to hotel developers to provide funds for the construction of affordable housing on Guam.

Guam's visitor industry is the backbone of our island economy, yet it cannot expand or diversify without the availability of additional rooms and amusements. According to analyses made by the Tourism Task Force for Vision 2001, headed up by Lieutenant Governor Madeleine Z. Bordallo and Mr. Bob Coe of DFS, Inc., Guam needs 5,000 more hotel rooms to provide for visitors now interested in spending their vacations on Guam. First class attractions are also needed for the current visitors, as well as future visitors, to enhance their holiday enjoyment and interest them in repeat visits to our

island. Local residents are also enjoying the accommodations and attractions that are here because of the tourists.


The Guam Economic Development Authority (GEDA) presently provides rebates of various taxes to developers who qualify, however, special provisions are necessary to entice responsible hotel developers to invest in Guam at this time. For a limited period of 2 years, which can be extended for another 2 years by GEDA if necessary, Substitute Bill No. 606 provides a rebate of up to 50% of all income tax paid on income derived from the lease of land, building, or machinery to a developer of a hotel or tourist facility. It also provides for a rebate of up to 50% of all capital gain income tax paid on income derived from the sale of land to a developer of a hotel or tourist facility. The applications for these rebates must be made within the 2 year time period, however. These tax advantages are temporary, designed to attract new development.

The most innovative portion of this legislation is the provision allowing developers of new hotels, at their option, to put up \$5 Million each to be used to develop affordable housing on Guam. The \$5 Million contributed by each hotel developer will be used by GEDA for financing of Guam Housing Corporation projects. When the housing projects are completed and the units sold, the money coming in from the sale will be returned to the hotel developers, interest free, up to the amount of their contribution. The incentive for a developer of a new hotel to put up \$5 Million for affordable housing is an increase in the tax rebate percentage that is available, from the current 75% rebate on all income taxes paid, to 100% rebate on all income taxes paid. This contribution of \$5 Million is optional, and a developer of a large project may find this incentive quite advantageous, whereas a small developer may not. This portion of the legislation basically provides venture capital for affordable housing.

By devising a partnership of interests between hotel developers and future Guam home owners, this legislation unites the industry that drives the Guam economy with the residents of Guam.

A copy has also been delivered to the Office of the Legislative Secretary.

Very truly yours,

  
Carl T. C. Gutierrez  
Governor of Guam

Attachment  
231631



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

JAN 01 1997

The Honorable Hope A. Cristobal  
Acting Legislative Secretary  
Twenty-Third Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910


OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>J. Lopez</i>
Time	<i>2:45</i>
Date	<i>1/2/97</i>

Dear Madame Legislative Secretary:

Enclosed please find a copy of Substitute Bill No. 606 (LS), "AN ACT TO AMEND §§2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808 AND 2809 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES, AND THE CONSTRUCTION OF AFFORDABLE HOUSING; AND TO AMEND §§2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW §§2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING", which I have signed into law today as **Public Law No. 23-135**.

A copy has also been delivered to the Office of the Speaker.

Very truly yours,

  
Carl T. C. Gutierrez  
Governor of Guam

Attachment  
**231621**  
*(for file purposes only)*  
*Same as Doc. 231631*

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 606 (LS), "AN ACT TO AMEND §§2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808 AND 2809 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES, AND THE CONSTRUCTION OF AFFORDABLE HOUSING; AND TO AMEND §§2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW §§2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING," was on the 12th day of December, 1996, duly and regularly passed.

Attested:

  
\_\_\_\_\_  
SONNY LUJAN ORSINI  
Senator and Acting Legislative Secretary




\_\_\_\_\_  
DON PARKINSON  
Speaker

-----  
This Act was received by the Governor this 20th day of December,  
1996, at 3:00 o'clock P.M.



\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
CARL T. C. GUTIERREZ  
Governor of Guam

Date: 1-1-97

Public Law No. 23-135

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

Bill No. 606 (LS)

As substituted by the Committee  
on Economic-Agricultural Development

Introduced by:

J. T. San Agustin

J. P. Aguon

F. E. Santos

A. C. Blaz

AN ACT TO AMEND §§2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808 AND 2809 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES, AND THE CONSTRUCTION OF AFFORDABLE HOUSING; AND TO AMEND §§2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW §§2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING.

1           **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**  
2           **Section 1.** §2801 of Article 8, Chapter 2, Title 12, Guam Code  
3 Annotated, is hereby amended to read:  
4           "**§2801. Legislative Findings.** Additional hotel accommodations and  
5 tourist facilities and services are essential to the further development of  
6 Guam's tourist industry, now the island's principal industry, in view of the  
7 downsizing of the territory's military facilities. Additional hotel  
8 accommodations and tourist facilities will create jobs to take the place of  
9 those lost in such military base closures. The provision of such additional

1 accommodations and facilities is declared to be a public purpose. In addition,  
2 substantial funds are needed to "jump start" the provision of affordable  
3 housing for the people of Guam, and the Legislature finds that such funds  
4 might be obtainable from hotel and tourist facility developers in exchange for  
5 enlarged tax benefits. Accordingly, the enlargement of tax benefits to those  
6 developers which make funds available for affordable housing is declared to  
7 be a public purpose."

8 **Section 2.** §2802 of Article 8, Chapter 2, Title 12, Guam Code  
9 Annotated, is hereby amended to read:

10 **"§2802. GEDA to promote additional hotels and tourist facilities.** The  
11 Corporation shall promote the construction of new hotels, the expansion of  
12 existing hotels, and the construction of tourist facilities for the adequate  
13 accommodation, amusement of, and service to tourists and other visitors to  
14 Guam."

15 **Section 3.** §2803 of Article 8, Chapter 2, Title 12, Guam Code  
16 Annotated, is hereby amended to read as follows:

17 **"§2803. Same: powers and responsibilities.** The Corporation is  
18 authorized and empowered to do all things necessary or appropriate to  
19 carry out the purposes of this Article. It is expressly authorized:

20 (a) Information on tourism. To work with the Guam  
21 Visitors Bureau and other concerned agencies to collect and  
22 disseminate information concerning Guam's tourist industry and  
23 the financial incentives offered by the government of Guam for  
24 the development, operation and ownership of hotels and tourist  
25 facilities in Guam;

26 (b) Coordination with government agencies. To assist  
27 persons interested in building or expanding hotels or tourist

1 facilities in Guam in obtaining information from and coordinating  
2 with government of Guam agencies, public corporations and  
3 Federal agencies represented in Guam;

4 (c) Information on financing. To assist those persons  
5 interested in building or expanding hotels or tourist facilities in  
6 Guam in obtaining financing by maintaining and disseminating  
7 information regarding financing available through private and  
8 public sources; and

9 (d) Feasibility studies. To provide administrative and  
10 financial assistance, on such terms and upon such conditions as  
11 the Board may determine, with respect to the preparation of  
12 feasibility studies relating to specific proposals for the  
13 development or expansion of hotels or tourist facilities in Guam."

14 **Section 4. §2804 of Article 8, Chapter 2, Title 12, Guam Code Annotated**  
15 **is hereby amended to read as follows:**

16 "§2804. **Same: definitions.** For purposes of this Article and unless the  
17 context otherwise requires, "Hotel" means a building or buildings containing  
18 not less than two hundred (200) guest rooms held out to the public as a place  
19 where all transient persons, including but not limited to tourists, who come  
20 will be accommodated and entertained as guests for compensation whose  
21 facilities are open to the public as a whole; and "tourist facility" means a  
22 building or buildings whose construction cost is not less than Five Million  
23 Dollars (\$5,000,000) offering for compensation, sustenance, entertainment, or  
24 amusement of tourists, other transients, and other members of the public, the  
25 activities of which facility the Board finds beneficial to the development of  
26 Guam's tourist industry."

1       Section 5. §2805 of Article 8, Chapter 2, Title 12, Guam Code  
2 Annotated, is hereby amended to read:

3       "§2805. Business Privilege and Use Tax exemptions. The proceeds  
4 from any contract for building materials or supplies, or for labor or  
5 supervision used in the construction of any new hotel or tourist facility in  
6 Guam, or for the expansion of any existing hotel, shall be exempt from the  
7 tax imposed under Subchapter B of the Business Privilege Tax Law; *provided*,  
8 that (a) the person providing the materials, supplies, labor or supervision has  
9 received a certificate of exemption from the Corporation; and (b) the person  
10 claims the exemption within the following period: Within one (1) year of the  
11 effective date of this Article or when the building permit for the project is  
12 issued, whichever first occurs. The exemptions authorized by this section  
13 shall be for a period not to exceed twenty-four (24) months, extendable, for  
14 cause, by the Board, for an additional period of up to twenty-four (24)  
15 months. The Corporation shall adopt reasonable rules and regulations in  
16 accordance with the Administrative Adjudication Law for the granting of  
17 certificates of exemption in order to ensure that certificates are issued only  
18 with respect to materials, supplies, labor or supervision furnished subsequent  
19 to the effective date of this Article and for the construction of a new hotel or  
20 tourist facility or the expansion of an existing hotel.

21       The owner of a hotel or tourist facility constructed under a contract, the  
22 proceeds from which have been exempted under this section from the tax  
23 imposed under Subchapter B of the Business Privilege Tax Law, shall be  
24 exempted from the Guam Use Tax Law, with respect to the property used to  
25 construct, furnish and equip the hotel or facility, for a similar period."

26       Section 6. §2806 of Article 8, Chapter 2, Title 12, Guam Code  
27 Annotated, is hereby amended to read:



1        "§2806. **Consideration to existing hotels.** The Board shall exercise its  
2 powers with respect to this Article so as to promote the construction of new  
3 hotels, the expansion of existing hotels, and the construction of tourist  
4 facilities in an orderly manner and with due regard being given to the  
5 profitability of existing hotels and tourist facilities."

6           **Section 7. §2807 of Article 8, Chapter 2, Title 12, is hereby amended to**  
7 **read:**

8           "§2807. (a) **Tax rebates on certain rental income.** A rebate of up to fifty  
9 percent (50%) of all income tax paid to the government of Guam by a  
10 Beneficiary on income derived from the lease of land, buildings, machinery or  
11 equipment to a Beneficiary of a Qualifying Certificate issued for a hotel or  
12 tourist facility covered by the provisions of this Article may be issued for a  
13 period not to exceed five (5) consecutive years from the effective date of a  
14 Qualifying Certificate therefor, and a rebate of up to twenty-five (25%) of  
15 such income tax for a period not to exceed the next five (5) consecutive years;  
16 provided, that an application for such rebate is made within the effective  
17 period(s) of this Article, as set out in §2808, *infra*.

18           **(b) Income tax rebate on certain capital gains.** A rebate of up to fifty  
19 percent (50%) on all capital gain income taxes paid on income derived from  
20 the sale of land or other real property to a developer of a hotel or tourist  
21 facility covered by the provisions of this Article; provided, that an application  
22 of such rebate is made within the effective period(s) of this Article, as set out  
23 in §2808, *infra*."

24           **Section 8. §2808 of Article 8, Chapter 2, Title 12, Guam Code**  
25 **Annotated, is hereby amended to read:**

26           §2808. "*Sunset*" provision. This Article shall take effect on its approval  
27 by the Governor and shall remain in effect for twenty-four (24) months

1 thereafter, at the expiration of which period this Article shall automatically  
2 be deemed repealed; provided, however, that the Board, at its discretion, may  
3 extend the effectiveness of this Article for an additional twenty-four (24)  
4 months by adopting a resolution to such effect prior to the expiration of the  
5 first twenty-four (24) month period; and provided further, that any  
6 Qualifying Certificate issued for a period in excess of twenty-four (24) month  
7 periods shall remain in full force and effect until its term expires or it is  
8 cancelled on other grounds. The tax rebate on capital gains authorized by  
9 §2807 of this Article is available for any tax year of the Beneficiary any part of  
10 which falls within the twenty-four (24) month periods in which this Article is  
11 in effect."

12 **Section 9. §2809 of Article 8, Chapter 2, Title 2, Guam Code Annotated,**  
13 **is hereby amended to read as follows:**

14 **§2809. (a) Increase in benefits to developers who make funds available**  
15 **for affordable housing.** In order to initiate the immediate construction of  
16 affordable housing in Guam, the Board is authorized to recommend to the  
17 Governor and the Governor is authorized to issue a qualifying certificate to  
18 each of those developers of hotels or tourist facilities which qualify therefore  
19 a qualifying certificate with a rebate of up to one hundred percent (100%) of  
20 all income tax paid to the government of Guam by the Beneficiary on income  
21 received from the activities of the hotel or tourist facility identified in the  
22 qualifying certificate, which rebate may be authorized for a period may be  
23 authorized for a period not to exceed twenty (20) consecutive years from the  
24 effective date of the qualifying certificate therefor.

25 **(b) Cash advances by applicants for enlarged benefits.** In order to  
26 qualify for the increased percentage of rebate of income tax as authorized by  
27 this §2809, an applicant therefor must agree to advance to the affordable

1 housing fund to be established by the Corporation (the "Housing Fund") the  
2 sum of Five Million Dollars (\$5,000,000). The applicant shall make such  
3 advance to the Housing Fund contemporaneously with the issuance of the  
4 qualifying certificate by the Governor. Such advance shall be returned to the  
5 applicant without interest, as provided in subparagraph (c), *infra*. Until such  
6 advance is returned to the Beneficiary, any interest accrued thereon while the  
7 advance is in the Housing Fund shall become the property of the Housing  
8 Fund shall become the property of the Housing Fund.

9 (c) **Housing subdivisions.** The Corporation shall establish on its books,  
10 separate and apart from its other funds, the Housing Fund described in  
11 subparagraph (b), *supra*. Utilizing the monies in the Housing Fund, the  
12 Corporation, working in cooperation with the Guam Housing corporation  
13 ("GHC"), shall design and develop affordable housing subdivisions and  
14 tracts, choose contractors therefor, construct affordable homes thereon, and  
15 sell affordable homes so constructed to those buyers qualified by GHC which  
16 shall process the sales applications, prepare for execution the necessary  
17 deeds and mortgages, and disburse any funds made available to it from the  
18 Housing Fund by the Corporation. GHC shall endeavor to obtain permanent  
19 "take out" financing consisting of long-term affordable mortgages on the  
20 homes so constructed by the Corporation, and on the purchase and  
21 assignment of the original mortgages to a permanent mortgagee, GHC shall  
22 return to the Housing Fund such sale proceeds. In turn, the Corporation  
23 shall, within sixty (60) days after receiving the sales proceeds from the  
24 assignment of its mortgages, repay the Beneficiary as much of its Five Million  
25 Dollar (\$5,000,000) advance as such repayment permits and shall continue so  
26 reimbursing the Beneficiary until such advance is repaid in full, without  
27 interest.

1        **(d) Applicability of other provisions of the QC Law.** The provisions of  
2 Article 4, Chapter 2, Title 12, Guam Code Annotated, respecting qualifying  
3 certificates shall apply to the qualifying certificates issued under this §2809,  
4 except with respect to the maximum percentage of rebate of income tax  
5 permitted. A Beneficiary may be a Subchapter "S" corporation, trust or  
6 partnership and it must otherwise comply with the requirements of that  
7 article with respect to the filing of applications and the publication of notice.  
8 A hotel or tourist facility developer who would qualify for assistance under  
9 the other provisions of this Article 8 can, with respect to a rebate of its income  
10 tax, either agree to advance Five Million Dollars (\$5,000,000) and obtain a  
11 maximum of one hundred percent (100%) rebate for a maximum of twenty  
12 (20) years, or not make any such advance, and receive maximum rebate of  
13 seventy-five percent (75%) for a maximum period of twenty (20) years.

14        **(e) Affordable housing program.** The Corporation shall, to the extent  
15 feasible, achieve economies of scale in its affordable housing development, by  
16 utilizing as few contractors, architects and engineers as possible, by using the  
17 minimum number of designs for two-bedroom, three-bedroom and four-  
18 bedroom homes, and by utilizing modern modular construction techniques so  
19 as both to speed the construction and lower its cost."

20        **Section 10. Legislative findings and intent.** The Legislature finds that  
21 despite the burgeoning Guam economy, or perhaps because of the inflation  
22 brought about by such an active economy, all too many local residents are  
23 unable to affirm safe, sanitary and decent housing, and the dearth of  
24 affordable single-family homes is threatening the fulfillment by many  
25 residents of the "American Dream" — a home of their own. The Legislature  
26 further finds that the action taken in the past to encourage various  
27 enterprises to invest in Guam by issuing them Qualifying Tax Certificates

1 ("QCs") has worked out quite beneficially for the territory, there being  
2 hundreds of jobs and new enterprises in Guam that would not be here were it  
3 not for this QC program. The Legislature, therefore, in view of the foregoing  
4 findings, declares that the intention of the next two sections of this act is to  
5 encourage developers to construct affordable housing in Guam by issuing  
6 them QCs pursuant to the GEDA Law.

7 **Section 11. Amendments to GEDA Law. (a) §2404 of Article 4,**  
8 **Chapter 2, Title 12, Guam Code Annotated, is hereby amended by amending**  
9 **subitem 8 thereof to read as follows:**

10 "8. Improvement of real property by constructing and selling  
11 affordable housing thereon, and for other purposes which are specifically  
12 determined by the Authority to be beneficial, desirable, and necessary for the  
13 economic development of Guam;"

14 **(b) §2405.4 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is**  
15 **hereby amended to read as follows:**

16 "§2405.4. Affordable housing and needed facilities. Creation of  
17 affordable housing or other vitally needed facilities; or"

18 **(c) §2443 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is**  
19 **hereby amended by inserting a new line entitled "Construction of affordable**  
20 **housing " to read as follows:**

21 "Construction of affordable housing \$750.00 \$1,000.00."

22 **Section 12. Additions to GEDA Law.**

23 **(c) New §2427.6 is hereby added to Article 4, Chapter 2, Title 12, Guam**  
24 **Code Annotated, to read as follows:**

25 "§2427.6. Development of affordable housing. All taxes levied by  
26 virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as  
27 gross receipts taxes, shall be abated for a period up to twenty (20) years from

1 the effective date of the Qualifying Certificate therefor, for those gross  
2 receipts derived from the construction of affordable housing; provided, that a  
3 Qualifying Certificate for such a tax abatement is granted pursuant to the  
4 provisions of this subsection. The Beneficiary may be a developer, contractor  
5 or subcontractor or a combination of two (2) or more thereof so long as all the  
6 receipts the subject of the abatement are derived from the construction of no  
7 less than twenty-five (25) affordable housing units, as "affordable housing" is  
8 defined by the Authority."

9 **(b) New §2428.5 is hereby added to Article 4, Chapter 2, Title 12, Guam**  
10 **Code Annotated, to read as follows:**

11 **"§2428.5. One hundred percent rebate on income from constructing**  
12 **affordable housing.** A rebate of one hundred percent (100%) of all income tax  
13 paid to the government of Guam by a Beneficiary on income received from  
14 the construction of affordable housing in Guam may be issued for a period  
15 not to exceed twenty (20) consecutive years from the effective date of a  
16 Qualifying Certificate therefor. The Beneficiary may be a developer,  
17 contractor or subcontractor or a combination of two (2) or more thereof so  
18 long as all the income the subject of the rebate is derived from the  
19 construction of no less than twenty-five (25) affordable housing units, as  
20 "affordable housing" is defined by the Authority."

21 **Section 13. Severability.** If any of the provisions of this act, or the  
22 application thereof to any person or circumstance, is held invalid, such  
23 invalidity shall not affect any other provision or application of this act which  
24 can be given effect without the invalid provision or application, and to this  
25 end the provisions of this act are severable.

**VOTING SHEET**

Bill No. 606  
 Resolution No. \_\_\_\_\_  
 Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.				✓
PANGELINAN, Vicente C	✓			
PARKINSON, Don				✓
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL 19 \_\_\_\_\_ 2 \_\_\_\_\_

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
 Recording Secretary



**Committee on Economic Agricultural  
Development and Insurance**

TWENTY-THIRD GUAM LEGISLATURE  
424 W. O'Brien Dr., Julale Shopping Center, Suite #218  
Agaña, Guam 96910  
Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

September 10, 1996

The Honorable Don Parkinson  
Speaker  
Twenty-Third Guam Legislature  
Suite 222, Julale Shopping Center  
424 W. O'Brien Drive  
Agana, Guam 96910

Dear Mr. Speaker:

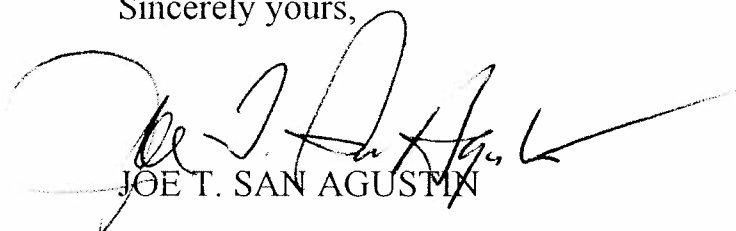
The Committee on Economic-Agricultural Development and Insurance to which was referred Bill No. 606, has had the same under consideration and now wishes to report back Bill No. 606 as substituted by the Committee on Economic-Agricultural Development & Insurance with the recommendation to do Pass.

The Committee votes are as follows:

To Do Pass	<u>9</u>
Not To Pass	<u>—</u>
Abstain	<u>—</u>
Inactive File	<u>—</u>

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

Sincerely yours,



JOE T. SAN AGUSTIN

enclosures



**Committee on Economic-Agricultural  
Development and Insurance**

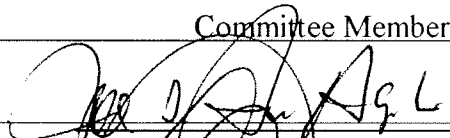
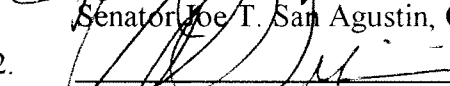
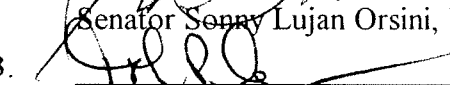
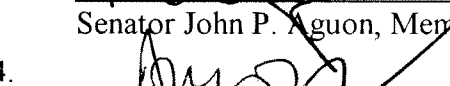
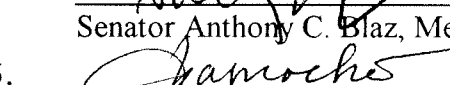
Twenty-Third Guam Legislature  
Senator Joe T. San Agustin, Chairman

**VOTE SHEET**

**BILL NO: 606**

(As substituted by the Committee on  
Economic-Agricultural Development & Insurance)

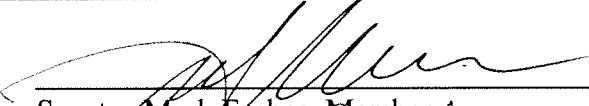
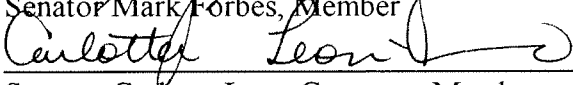
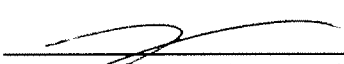
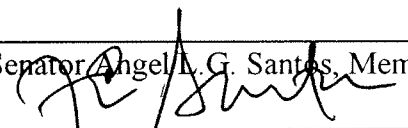
**“AN ACT TO AMEND SUBSECTION 2801, 2802, 2803, 2804,  
2805, 2806, 2807, 2808 AND 2809 OF ARTICLE 8, CHAPTER 2,  
TITLE 12, GUAM CODE ANNOTATED, TO ENCOURAGE THE  
DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST  
FACILITIES, AND THE CONSTRUCTION OF AFFORDABLE  
HOUSING; AND TO AMEND SUBSECTION 2404, SUBITEM 8, 2405.4,  
2427.5 AND 2443 OF ARTICLE 4, CHAPTER 2, TITLE 12,  
GUAM CODE ANNOTATED, AND TO ADD TO SAID  
ARTICLE NEW SUBSECTION 2427.6 AND 2428.5 TO  
AUTHORIZE THE ISSUANCE OF QUALIFYING  
CERTIFICATES TO DEVELOPERS OF  
AFFORDABLE HOUSING.”**

	Committee Members	To Do Pass	Not To Pass	Abstain	Inactive File
1.	 Senator Joe T. San Agustin, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	 Senator Sonny Lujan Orsini, Vice-Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	 Senator John P. Aguon, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	 Senator Anthony C. Blaz, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	 Senator Felix P. Camacho, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**VOTE SHEET ON BILL NO. 806**

**AS SUBSTITUTED BY THE COMMITTEE ON ECONOMIC-AGRICULTURAL DEVELOPMENT & INSURANCE**


**PAGE 2**

	Committee Members	To Do Pass	Not To Pass	Abstain	Inactive File
6.	 Senator Mark Forbes, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	 Senator Carlotta Leon Guerrero, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	 Senator Vicente C. Pangelinan, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Speaker Don Parkinson, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Senator Angel L. G. Santos, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	 Senator Francis E. Santos, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) REGULAR SESSION

Bill No. 606  
As substituted by the Committee  
on Economic-Agricultural Development

Introduced by:

J.T. San Agustin  
I.P. Aguon  
F.E. Santos  
A.C. Blaz 

AN ACT TO AMEND §§2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808 AND 2809 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES, AND THE CONSTRUCTION OF AFFORDABLE HOUSING; AND TO AMEND §§2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW §§2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING.

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

Section 1. §2801 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~"§2801. *Legislative findings.* -Adequate hotel accommodations, with related facilities and services, are essential to the sound development of Guam's economy and particularly to the continued~~

~~growth of Guam's tourist industry. The enhancement of the tourist industry by providing more hotel accommodations with related facilities and services will create more jobs to aid Guam's ailing job market. The provision of such accommodations, facilities and services is declared to be a public purpose. Additional hotel accommodations and tourist facilities and services are essential to the further development of Guam's tourist industry, now the island's principal industry, in view of the downsizing of the territory's military facilities. Additional hotel accommodations and tourist facilities will create jobs to take the place of those lost in such military base closures. The provision of such additional accommodations and facilities is declared to be a public purpose. In addition, substantial funds are needed to "jump start" the provision of affordable housing for the people of Guam, and the Legislature finds that such funds might be obtainable from hotel and tourist facility developers in exchange for enlarged tax benefits. Accordingly, the enlargement of tax benefits to those developers which make funds available for affordable housing is declared to be a public purpose."~~

Section 2. §2802 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~"§2802. GEDA to Ppromote Hotel Development additional hotels and tourist facilities. The Corporation shall promote the construction and operation of new hotels and the expansion of existing hotels, with incidental and related facilities for the adequate accommodation of tourist and other visitors in Guam. of new hotels,~~

the expansion of existing hotels, and the construction of tourist facilities for the adequate accommodation, amusement of, and service to, tourists and other visitors to Guam."

Section 3. §2803 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read as follows:

~~"2803. Same: Powers and Responsibilities Relative to Hotel Development. Except as otherwise provided by law, the Corporation is authorized and empowered to do all things necessary or appropriate to carry out the purposes of this Article. It is expressly authorized:~~

~~———— (a) ——— To establish a Hotel Development Fund and to deposit the fund in a bank licensed to do business in the territory of Guam. The Hotel Development Fund shall at all times be held and administered separate and apart from other government of Guam funds. The Hotel Development Fund shall be subject to audit by the Territorial Auditor or his successor and to such other audits as may be from time to time authorized by the Board. The Board shall submit a report to the Governor and the Legislature, at least annually, setting forth the financial position of the Hotel Development Fund and a description of the accomplishments of the Corporation in respect to this Article;~~

~~———— (b) ——— To collect and disseminate information concerning Guam's tourist industry and the financial incentives offered by the government of Guam for the development, operation and ownership of hotels and related facilities and services in the territory of Guam;~~

~~—————(c) To assist persons interested in building or expanding hotels and related facilities and services in Guam in obtaining information from and coordinating with government of Guam agencies, public corporations and Federal agencies represented in Guam;~~

~~—————(d) To assist those persons interested in building or expanding hotels and related facilities in the territory of Guam in obtaining financing, by maintaining and disseminating information regarding financing available through private and public sources;~~

~~—————(e) To provide administrative and financial assistance, on such terms and upon such conditions as the Board may determine with respect to the preparation of feasibility studies relating to specific proposals for the development or expansion of hotels and related facilities in Guam;~~

~~—————(f) With the prior consent of the Legislature by resolution, may lease government owned land at less than fair market value or sell land acquired by the Corporation to persons for the development and operation of new hotels and related facilities, or for the expansion of existing hotels and related facilities. The provisions of the Chamorro Land Trust Act (Chapter VI, Title XIV of the Government Code) shall not be application to transactions authorized by this Section;~~

~~—————(g) To prepare or have prepared assessment of the infrastructure facilities or services required for the construction and support of additional funds, expansion of existing hotels, and the construction and use of related facilities;~~

~~————— (h) To expend, on such terms and upon such conditions as it shall determine, such part of its funds may then be uncommitted to pay for in whole or in part, additional infrastructure facilities or services which it has determined pursuant to Subsection (g) of this Section to be necessary for the accomplishment of its purposes:~~

~~————— (i) To the extent of uncommitted funds on deposit with the Hotel Development Fund, upon such terms and conditions as the Board may determine, to subsidize the cost of the construction of new hotels and related facilities, or the expansion of existing hotels and related facilities, through outright cash grants or by other means approved by the Board, provided:~~

~~————— (1) That the subsidy may not in any case exceed ten percent (10%) of the cost of development of any qualifying facility; and~~

~~————— (2) That the amount and terms of the subsidy are approved by the Legislature. The approval of the Legislature shall be manifested by the adoption of a resolution approving the transaction, or by a failure of the Legislature to adopt a resolution of disapproval within the forty-five (45) calendar days after it has received a written request for approval from the Board.~~

~~————— The lease or sale of property by the Corporation to private persons for the development and operation of hotels and related facilities, or for the expansion and hotels and related facilities at leases than fair market value shall not be considered a subsidy for the purpose of applying the limitation imposed under this Section; and~~

~~(j) To make loans and to guarantee loans, only if it finds that there are no practical alternate sources of financing available. The Corporation may charge a fee, in addition to interest on any loan which it makes or guarantees. The fee shall not exceed two percent (2%) of the amount of the loan. The fee shall be used by the Corporation to carry out the purposes of this Article. No loan made or guaranteed by the Corporation shall be assigned or otherwise transferred, directly or indirectly, without the consent of the Corporation. Same: powers and responsibilities. The Corporation is authorized and empowered to do all things necessary or appropriate to carry out the purposes of this Article. It is expressly authorized.~~

(a) Information on tourism. To work with the Guam Visitors Bureau and other concerned agencies to collect and disseminate information concerning Guam's tourist industry and the financial incentives offered by the government of Guam for the development, operation and ownership of hotels and tourist facilities in Guam;

(b) Coordination with government agencies. To assist persons interested in building or expanding hotels or tourist facilities in Guam in obtaining information from and coordinating with government of Guam agencies, public corporations and Federal agencies represented in Guam;

(c) Information on financing. To assist those persons interested in building or expanding hotels or tourist facilities in Guam in obtaining financing by maintaining and disseminating information regarding financing available through private and public sources; and



(d) Feasibility studies. To provide administrative and financial assistance, on such terms and upon such conditions as the Board may determine, with respect to the preparation of feasibility studies relating to specific proposals for the development or expansion of hotels or tourist facilities in Guam."

Section 4. §2804 of Article 8, Chapter 2, Title 12, Guam Code Annotated is hereby amended to read as follows:

~~"§2804. Government Land for Development of Tourist Facilities. Upon request by the Board, the Governor, with the consent of the Legislature, may convey in fee simple tracts of government-owned land suitable for development of tourist facilities in accordance with this Article. If the Government does not own tracts suitable for such purposes, the Governor may negotiate with private landowners for the acquisition of suitable property, provided, that funds have been appropriated for such acquisition. Same: definitions. For purposes of this Article and unless the context otherwise requires, "Hotel" means a building or buildings containing not less than two hundred (200) guest rooms held out to the public as a place where all transient persons, including but not limited to tourists, who come will be accommodated and entertained as guests for compensation whose facilities are open to the public as a whole; and "tourist facility" means a building or buildings whose construction cost is not less than Five Million Dollars (\$5,000,000) offering for compensation, sustenance, entertainment, or amusement of tourists, other transients, and other members of the~~

public, the activities of which facility the Board finds beneficial to the development of Guam's tourist industry."

Section 5. §2805 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~"2805.—Appropriation Authorized. There is authorized to be appropriated to the Corporation, from time to time, such sums as may be necessary to enable the Corporation to accomplish the purpose of this Article. Business Privilege and Use Tax exemptions. The proceeds from any contract for building materials or supplies, or for labor or supervision used in the construction of any new hotel or tourist facility in Guam, or for the expansion of any existing hotel, shall be exempt from the tax imposed under Subchapter B of the Business Privilege Tax Law; *provided*, that (a) the person providing the materials, supplies, labor or supervision has received a certificate of exemption from the Corporation; and (b) the person claims the exemption within the following period: Within one (1) year of the effective date of this Article or when the building permit for the project is issued, whichever first occurs. The exemptions authorized by this section shall be for a period not to exceed twenty-four (24) months, extendable, for cause, by the Board, for an additional period of up to twenty-four (24) months. The Corporation shall adopt reasonable rules and regulations in accordance with the Administrative Adjudication Law for the granting of certificates of exemption in order to ensure that certificates are issued only with respect to materials, supplies, labor or supervision furnished subsequent to the effective date of this Article~~

and for the construction of a new hotel or tourist facility or the expansion of an existing hotel.

The owner of a hotel or tourist facility constructed under a contract, the proceeds from which have been exempted under this section from the tax imposed under Subchapter B of the Business Privilege Tax Law, shall be exempted from the Guam Use Tax Law, with respect to the property used to construct, furnish and equip the hotel or facility, for a similar period."

Section 6. §2806 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~"§2806. Tax Credits and/or Exemptions for Donations. The Corporation may receive donations of money which shall be expended to carry out the purposes of this Article. Donors incurring a tax obligation to the government of Guam under the Gross Receipts Tax (Subchapter B of Chapter VI of Title XX of the Government Code) or an income tax obligation to the government of Guam under the Guam Territorial Tax Law, at the donor's option and in lieu of the deduction provided for such a contribution by the Guam Territorial Income Tax Law, may receive a credit for the amount of money donated to the Corporation for the fiscal year of the donor during which the money is donated; provided, however, that the credit shall not exceed ten percent (10%) of the donor's total tax obligation to the government of Guam under Subchapters B and C of the Business Privilege Tax Law for the donor's fiscal year in which the donation is made. If the amount of money donated exceeds the credit allowed against the taxes imposed~~

~~under Subchapters B and C of the Business Privilege Tax Law (Chapter VI of Title XX of the Government Code) for the donor's fiscal year in which the donation is made, then the excess may be deducted with respect to the donor's income tax obligations to the government of Guam under the Guam Territorial Income Tax Law, subject to the limitations imposed generally with respect to deductions for such contributions. In order to receive to receive the credit authorized by this Section, the donor must claim the credit in a manner established by the Department of Revenue and Taxation, not later than ninety (90) days following the end of the donor's fiscal year in which the donation was made. Consideration to existing hotels. The Board shall exercise its powers with respect to this Article so as to promote the construction of new hotels, the expansion of existing hotels, and the construction of new hotels, the construction of tourist facilities in an orderly manner and with due regard being given to the profitability of existing hotels and tourist facilities."~~

Section 7. §2807 of Article 8, Chapter 2, Title 12, is hereby amended to read:

~~"§2807. Appropriation. There is appropriated to the Corporation, to be expended by it in carrying out the purposes of this Article, ten percent (10%) of all taxes collected pursuant to §19650 of the Government Code (the Excise Tax on Occupancy of Hotel and Similar Lodging House Facilities) from the effective date of the provisions of this Article until and including the date that this Section is repealed; provided, however, that the amount appropriated hereunder shall not~~

~~exceed, during any one calendar year, Two Hundred Thousand Dollars (\$200,000). The funds appropriated hereunder shall be transferred to the Hotel Development Fund on a monthly basis. Tax rebates on certain rental income. A rebate of up to fifty percent (50%) of all income tax paid to the government of Guam by a Beneficiary on income derived from the lease of land, buildings, machinery or equipment to a Beneficiary of a Qualifying Certificate issued for a hotel or tourist facility covered by the provisions of this Article may be issued for a period not to exceed five (5) consecutive years from the effective date of a Qualifying Certificate therefor, and a rebate of up to twenty-five percent (25%) of such income tax for a period not to exceed the next five (5) consecutive years; *provided*, that an application for such rebate is made within the effective period(s) of this Article, as set out in §2808, *infra*.~~

~~(b) *Income tax rebate on certain capital gains.* A rebate of up to fifty percent (50%) on all capital gain income taxes paid on income derived from the sale of land or other real property to a developer of a hotel or tourist facility covered by the provisions of this Article; *provided*, that an application of such rebate is made within the effective period(s) of this Article, as set out in §2808, *infra*."~~

Section 8. §2808 of Article, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~§2808. Business Privilege Tax Exemption. The proceeds from any contract for building materials or supplies, or for labor or supervision used in the construction of any new hotel or related~~

~~facilities in Guam, or for the expansion of any existing hotel and related facilities shall be exempt from the tax imposed under Subchapter B of the Business Privilege Tax Law provided (a) the person providing the materials, supplies, labor or supervision has received a certificate of exemption from the Corporation; and (b) the person claims the exemption within one (1) year from the date that such materials, supplies, labor or supervision is furnished. The Corporation shall adopt reasonable rules and regulations in accordance with the Administrative Adjudication Act for the granting of certificates of exemption in order to ensure that certificates are issued only with respect to materials, supplies, labor or supervision furnished subsequent to the effective date of this Article and for the construction or expansion of a qualifying hotel or related facility.~~

~~The owner of a facility constructed under a contract, the proceeds from which have been exempted under this Section from the tax imposed under Subchapter B of the Business Privilege Tax Law, shall be exempted from the Use Tax Law with respect to the property used to construct, furnish and equip the facility. "Sunset" provision. This Article shall take effect on its approval by the Governor and shall remain in effect for twenty-four (24) months thereafter, at the expiration of which period this Article shall automatically be deemed repealed; provided, however, that the Board, at its discretion, may extend the effectiveness of this Article for an additional twenty-four (24) months by adopting a resolution to such effect prior to the expiration of the first twenty-four (24) month period; and provided further, that any Qualifying Certificate issued for a period in excess of~~

twenty-four (24) month periods shall remain in full force and effect until its term expires or it is cancelled on other grounds. The tax rebate on capital gains authorized by §2807 of this Article is available for any tax year of the Beneficiary any part of which falls within the twenty-four (24) month periods in which this Article is in effect."

Section 9. §2809 of Article 8, Chapter 2, Title 2, Guam Code Annotated, is hereby amended to read as follows:

~~"Section 2809.— Consideration to Existing Hotels; Hearings Exempted from Open Government Law. The Board shall exercise its powers with respect to this Article so as to promote the construction of new hotels and the expansion of existing hotels, and the construction of related facilities in an orderly manner and with due regard being given to the profitability of existing hotels. In this connection, the Board may hold such hearings, accept such information, and otherwise proceed as it shall in its sole discretion determine in deciding whether and to what extent it should promote additional development within any given period of time. It shall not be necessary for the Board to conduct such proceedings in accordance with the Administrative Adjudication Act or the Open Government Law, and its decision shall in all cases be final and shall not be subject to review by any authority.~~

§2809. (a) Increase in benefits to developers who make funds available for affordable housing. In order to initiate the immediate construction of affordable housing in Guam, the Board is authorized to recommend to the Governor and the Governor is authorized to issue a

qualifying certificate to each of those developers of hotels or tourist facilities which qualify therefore a qualifying certificate with a rebate of up to one hundred percent (100%) of all income tax paid to the government of Guam by the Beneficiary on income received from the activities of the hotel or tourist facility identified in the qualifying certificate, which rebate may be authorized for a period not to exceed twenty (20) consecutive years from the effective date of the qualifying certificate therefor.

(b) Cash advances by applicants for enlarged benefits. In order to qualify for the increased percentage of rebate of income tax as authorized by this §2809, an applicant therefor must agree to advance to the affordable housing fund to be established by the Corporation (the "Housing Fund") the sum of Five Million Dollars (\$5,000,000). The applicant shall make such advance to the Housing Fund contemporaneously with the issuance of the qualifying certificate by the Governor. Such advance shall be returned to the applicant, without interest, as provided in subparagraph (c), *infra*. Until such advance is returned to the Beneficiary, any interest accrued thereon while the advance is in the Housing Fund shall become the property of the Housing Fund.

(c) Housing subdivisions. The Corporation shall establish on its books separate and apart from its other funds, the Housing Fund described in subparagraph (b), *supra*. Utilizing the monies in the Housing Fund, the Corporation, working in cooperation with the Guam Housing Corporation ("GHC"), shall design and develop affordable housing subdivisions and tracts, choose contractors



therefor, construct affordable homes thereon, and sell affordable homes so constructed to those buyers qualified by GHC which shall process the sales applications, prepare for execution the necessary deeds and mortgages, and disburse any funds made available to it from the Housing Fund by the Corporation. GHC shall endeavor to obtain permanent "take out" financing consisting of long-term affordable mortgages on the homes so constructed by the Corporation, and on the purchase and assignment of the original mortgages to a permanent mortgagee, GHC shall return to the Housing Fund such sale proceeds. In turn, the Corporation shall, within sixty (60) days after receiving the sales proceeds from the assignment of its mortgages, repay the Beneficiary as much of its Five Million Dollar (\$5,000,000) advance as such repayment permits and shall continue so reimbursing the Beneficiary until such advance is repaid in full, without interest.

(d) *Applicability of other provisions of the OC Law.* The provisions of Article 4, Chapter 2, Title 12, Guam Code Annotated, respecting qualifying certificates shall apply to the qualifying certificates issued under this §2809, except with respect to the maximum percentage of rebate of income tax permitted. A Beneficiary may be a Subchapter "S" corporation, trust or partnership and it must otherwise comply with the requirements of that article with respect to the filing of applications and the publication of notice. A hotel or tourist facility developer who would qualify for assistance under the other provisions of this Article 8 can, with respect to a rebate of its income tax, either agree to advance Five Million Dollars (\$5,000,000) and obtain a maximum of one hundred percent (100%) rebate for a

maximum of twenty (20) years, or not make any such advance, and receive a maximum rebate of seventy-five percent (75%) for a maximum period of twenty (20) years.

(e) *Affordable housing program.* The Corporation shall, to the extent feasible, achieve economies of scale in its affordable housing development, by utilizing as few contractors, architects and engineers as possible, by using the minimum number of designs for two-bedroom, three-bedroom and four-bedroom homes, and by utilizing modern modular construction techniques so as both to speed the construction and lower its cost."

Section 10. *Legislative findings and intent.* The Legislature finds that despite the burgeoning Guam economy, or perhaps because of the inflation brought about by such an active economy, all too many local residents are unable to affirm safe, sanitary and decent housing, and the dearth of affordable single-family homes is threatening the fulfillment by many residents of the "American Dream"—a home of their own. The Legislature further finds that the action taken in the past to encourage various enterprises to invest in Guam by issuing them Qualifying Tax Certificates ("QCs") has worked out quite beneficially for the territory, there being hundreds of jobs and new enterprises in Guam that would not be here were it not for this QC program. The Legislature therefore, in view of the foregoing findings, declares that the intention of the next two sections of this act is to encourage developers to construct affordable housing in Guam by issuing them QCs pursuant to the GEDA Law.

Section 11. *Amendments to GEDA Law.* (a) §2404 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is hereby amended by amending subitem 8 thereof to read as follows:

"8. Improvement of real property ~~for~~ by constructing and selling affordable housing thereon, and for other purposes which are specifically determined by the Authority to be beneficial, desirable, and necessary for the economic development of Guam;"

(b) §2405.4 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read as follows:

"§2405.4. Affordable housing and N-needed facilities.  
Creation of affordable housing or other vitally needed facilities;  
or"

(c) §2443 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is hereby amended by inserting a new line entitled "Construction of affordable housing" to read as follows:

"Construction of affordable housing                      \$750.00                      \$1,000.00."

Section 12. *Additions to GEDA Law.*

(a) New §2427.6 is hereby added to Article 4, Chapter 2, Title 12, Guam Code Annotated, to read as follows:

"§2427.6. *Development of affordable housing.* All taxes levied by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated

for a period up to twenty (20) years from the effective date of the Qualifying Certificate therefor, for those gross receipts derived from the construction of affordable housing; *provided*, that a Qualifying Certificate for such a tax abatement is granted pursuant to the provisions of this subsection. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the receipts the subject of the abatement are derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority."

(b) New §2428.5 is hereby added to Article 4, Chapter 2, Title 12, Guam Code Annotated, to read as follows:

"§2428.5. *One hundred percent rebate on income from constructing affordable housing.* A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Beneficiary on income received from the construction of affordable housing in Guam may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the income the subject of the rebate is derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority."

Section 13. *Severability.* If any of the provisions of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall *not* affect any other provision or application of this act which can be given effect *without* the invalid provision or application, and to this end the provisions of this act are *severable*.

CLOG:30655-64

TWENTY-THIRD GUAM LEGISLATURE

1996 (SECOND) REGULAR SESSION

Introduced

APR 17 1996

Bill No. 606(LS)

Introduced by:

*J.T. San Agustin*  
J.T. San Agustin  
J.P. Aguirre  
*J.P. Aguirre*

AN ACT TO AMEND §§2801, 2802, 2803, 2804, 2805, 2806, 2807 AND 2808 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO REPEAL §2809 OF SAID ARTICLE TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES; AND TO AMEND §§2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW §§2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING.

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

Section 1. §2801 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~“§2801. Legislative findings. Adequate hotel accommodations, with related facilities and services, are essential to the sound development of Guam’s economy and particularly to the continued growth of Guam’s tourist industry. The enhancement of the tourist industry by providing more hotel accommodations with related~~

~~facilities and services will create more jobs to aid Guam's ailing job market. The provision of such accommodations, facilities and services is declared to be a public purpose. Additional hotel accommodations and tourist facilities and services are essential to the further development of Guam's tourist industry, now the island's principal industry, in view of the downsizing of the territory's military facilities. Additional hotel accommodations and tourist facilities will create jobs to take the place of those lost in such military base closures. The provision of such additional accommodations and facilities is declared to be a public purpose."~~

Section 2. §2802 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~"§2802. GEDA to Ppromote Hotel Development additional hotels and tourist facilities. The Corporation shall promote the construction and operation of new hotels and the expansion of existing hotels, with incidental and related facilities for the adequate accommodation of tourist and other visitors in Guam. of new hotels, the expansion of existing hotels, and the construction of tourist facilities for the adequate accommodation, amusement of, and service to, tourists and other visitors to Guam."~~

Section 3. §2803 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read as follows:

~~"2803. Same: Powers and Responsibilities Relative to Hotel~~

~~Development. Except as otherwise provided by law, the Corporation is authorized and empowered to do all things necessary or appropriate to carry out the purposes of this Article. It is expressly authorized:~~

~~———— (a) ——— To establish a Hotel Development Fund and to deposit the fund in a bank licensed to do business in the territory of Guam. The Hotel Development Fund shall at all times be held and administered separate and apart from other government of Guam funds. The Hotel Development Fund shall be subject to audit by the Territorial Auditor or his successor and to such other audits as may be from time to time authorized by the Board. The Board shall submit a report to the Governor and the Legislature, at least annually, setting forth the financial position of the Hotel Development Fund and a description of the accomplishments of the Corporation in respect to this Article;~~

~~———— (b) ——— To collect and disseminate information concerning Guam's tourist industry and the financial incentives offered by the government of Guam for the development, operation and ownership of hotels and related facilities and services in the territory of Guam;~~

~~———— (c) ——— To assist persons interested in building or expanding hotels and related facilities and services in Guam in obtaining information from and coordinating with government of Guam agencies, public corporations and Federal agencies represented in Guam;~~

~~———— (d) ——— To assist those persons interested in building or expanding hotels and related facilities in the territory of Guam in~~



~~obtaining financing, by maintaining and disseminating information regarding financing available through private and public sources;~~

~~———— (e) ——— To provide administrative and financial assistance, on such terms and upon such conditions as the Board may determine with respect to the preparation of feasibility studies relating to specific proposals for the development or expansion of hotels and related facilities in Guam;~~

~~———— (f) ——— With the prior consent of the Legislature by resolution, may lease government owned land at less than fair market value or sell land acquired by the Corporation to persons for the development and operation of new hotels and related facilities, or for the expansion of existing hotels and related facilities. The provisions of the Chamorro Land Trust Act (Chapter VI, Title XIV of the Government Code) shall not be application to transactions authorized by this Section;~~

~~———— (g) ——— To prepare or have prepared assessment of the infrastructure facilities or services required for the construction and support of additional funds, expansion of existing hotels, and the construction and use of related facilities;~~

~~———— (h) ——— To expend, on such terms and upon such conditions as it shall determine, such part of its funds may then be uncommitted to pay for in whole or in part, additional infrastructure facilities or services which it has determined pursuant to Subsection (g) of this Section to be necessary for the accomplishment of its purposes;~~

~~———— (i) ——— To the extent of uncommitted funds on deposit with the Hotel Development Fund, upon such terms and conditions as the Board may determine, to subsidize the cost of the construction of~~

~~new hotels and related facilities, or the expansion of existing hotels and related facilities, through outright cash grants or by other means approved by the Board, provided:~~

~~————— (1) That the subsidy may not in any case exceed ten percent (10%) of the cost of development of any qualifying facility; and~~

~~————— (2) That the amount and terms of the subsidy are approved by the Legislature. The approval of the Legislature shall be manifested by the adoption of a resolution approving the transaction, or by a failure of the Legislature to adopt a resolution of disapproval within the forty five (45) calendar days after it has received a written request for approval from the Board.~~

~~————— The lease or sale of property by the Corporation to private persons for the development and operation of hotels and related facilities, or for the expansion and hotels and related facilities at leases than fair market value shall not be considered a subsidy for the purpose of applying the limitation imposed under this Section; and~~

~~————— (j) To make loans and to guarantee loans, only if it finds that there are no practical alternate sources of financing available. The Corporation may charge a fee, in addition to interest on any loan which it makes or guarantees. The fee shall not exceed two percent (2%) of the amount of the loan. The fee shall be used by the Corporation to carry out the purposes of this Article. No loan made or guaranteed by the Corporation shall be assigned or otherwise transferred, directly or indirectly, without the consent of the Corporation. Same: powers and responsibilities. The Corporation is~~

authorized and empowered to do all things necessary or appropriate to carry out the purposes of this Article. It is expressly authorized.

(a) Information on tourism. To collect and disseminate information concerning Guam's tourist industry and the financial incentives offered by the government of Guam for the development, operation and ownership of hotels and tourist facilities in Guam;

(b) Coordination with government agencies. To assist persons interested in building or expanding hotels or tourist facilities in Guam in obtaining information from and coordinating with government of Guam agencies, public corporations and Federal agencies represented in Guam;

(c) Information on financing. To assist those persons interested in building or expanding hotels or tourist facilities in Guam in obtaining financing by maintaining and disseminating information regarding financing available through private and public sources; and

(d) Feasibility studies. To provide administrative and financial assistance, on such terms and upon such conditions as the Board may determine, with respect to the preparation of feasibility studies relating to specific proposals for the development or expansion of hotels or tourist facilities in Guam."

Section 4. §2804 of Article 8, Chapter 2, Title 12, Guam Code Annotated is hereby amended to read as follows:

"§2804. ~~Government Land for Development of Tourist~~

~~Facilities. Upon request by the Board, the Governor, with the consent of the Legislature, may convey in fee simple tracts of government-owned land suitable for development of tourist facilities in accordance with this Article. If the Government does not own tracts suitable for such purposes, the Governor may negotiate with private landowners for the acquisition of suitable property, provided, that funds have been appropriated for such acquisition. Same: definitions. For purposes of this Article and unless the context otherwise requires, "Hotel" means a building or buildings containing not less than two hundred (200) guest rooms held out to the public as a place where all transient persons, including but not limited to tourists, who come will be accommodated and entertained as guests for compensation whose facilities are open to the public as a whole; and "tourist facility" means a building or buildings whose construction cost is not less than Five Million Dollars (\$5,000,000) offering for compensation, sustenance, entertainment, or amusement of tourists, other transients, and other members of the public, the activities of which facility the Board finds beneficial to the development of Guam's tourist industry."~~

Section 5. §2805 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~"2805.—Appropriation Authorized. There is authorized to be appropriated to the Corporation, from time to time, such sums as may be necessary to enable the Corporation to accomplish the purpose of this Article. Business Privilege and Use Tax exemptions. The proceeds from any contract for building materials or supplies, or for labor or~~

supervision used in the construction of any new hotel or tourist facility in Guam, or for the expansion of any existing hotel, shall be exempt from the tax imposed under Subchapter B of the Business Privilege Tax Law; provided, that (a) the person providing the materials, supplies, labor or supervision has received a certificate of exemption from the Corporation; and (b) the person claims the exemption within the following period: Within one (1) year of the effective date of this Article or when the building permit for the project is issued, whichever first occurs. The exemptions authorized by this section shall be for a period not to exceed twenty-four (24) months, extendable, for cause, by the Board, for an additional period of up to twenty-four (24) months. The Corporation shall adopt reasonable rules and regulations in accordance with the Administrative Adjudication Law for the granting of certificates of exemption in order to ensure that certificates are issued only with respect to materials, supplies, labor or supervision furnished subsequent to the effective date of this Article and for the construction of a new hotel or tourist facility or the expansion of an existing hotel.

The owner of a hotel or tourist facility constructed under a contract, the proceeds from which have been exempted under this section from the tax imposed under Subchapter B of the Business Privilege Tax Law, shall be exempted from the Guam Use Tax Law, with respect to the property used to construct, furnish and equip the hotel or facility, for a similar period."

Section 6. §2806 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~"§2806. Tax Credits and/or Exemptions for Donations. The Corporation may receive donations of money which shall be expended to carry out the purposes of this Article. Donors incurring a tax obligation to the government of Guam under the Gross Receipts Tax (Subchapter B of Chapter VI of Title XX of the Government Code) or an income tax obligation to the government of Guam under the Guam Territorial Tax Law, at the donor's option and in lieu of the deduction provided for such a contribution by the Guam Territorial Income Tax Law, may receive a credit for the amount of money donated to the Corporation for the fiscal year of the donor during which the money is donated; provided, however, that the credit shall not exceed ten percent (10%) of the donor's total tax obligation to the government of Guam under Subchapters B and C of the Business Privilege Tax Law for the donor's fiscal year in which the donation is made. If the amount of money donated exceeds the credit allowed against the taxes imposed under Subchapters B and C of the Business Privilege Tax Law (Chapter VI of Title XX of the Government Code) for the donor's fiscal year in which the donation is made, then the excess may be deducted with respect to the donor's income tax obligations to the government of Guam under the Guam Territorial Income Tax Law, subject to the limitations imposed generally with respect to deductions for such contributions. In order to receive to receive the credit authorized by this Section, the donor must claim the credit in a manner established by the Department of Revenue and Taxation, not later than ninety (90) days following the end of the donor's fiscal year in which the donation was made. Consideration to existing hotels. The Board shall exercise~~

its powers with respect to this Article so as to promote the construction of new hotels, the expansion of existing hotels, and the construction of new hotels, the construction of tourist facilities in an orderly manner and with due regard being given to the profitability of existing hotels and tourist facilities."

Section 7. §2807 of Article 8, Chapter 2, Title 12, is hereby amended to read:

~~"§2807. Appropriation. There is appropriated to the Corporation, to be expended by it in carrying out the purposes of this Article, ten percent (10%) of all taxes collected pursuant to §19650 of the Government Code (the Excise Tax on Occupancy of Hotel and Similar Lodging House Facilities) from the effective date of the provisions of this Article until and including the date that this Section is repealed; provided, however, that the amount appropriated hereunder shall not exceed, during any one calendar year, Two Hundred Thousand Dollars (\$200,000). The funds appropriated hereunder shall be transferred to the Hotel Development Fund on a monthly basis. Tax rebates on certain rental income. A rebate of up to fifty percent (50%) of all income tax paid to the government of Guam by a Beneficiary on income derived from the lease of land, buildings, machinery or equipment to a Beneficiary of a Qualifying Certificate issued for a hotel or tourist facility covered by the provisions of this Article may be issued for a period not to exceed five (5) consecutive years from the effective date of a Qualifying Certificate therefor, and a rebate of up to twenty-five percent (25%) of such income tax for a period not to exceed~~

the next five (5) consecutive years; *provided*, that an application for such rebate is made within the effective period(s) of this Article, as set out in §2808, *infra*.

(b) *Income tax rebate on certain capital gains.* A rebate of up to fifty percent (50%) on all capital gain income taxes paid on income derived from the sale of land or other real property to a developer of a hotel or tourist facility covered by the provisions of this Article; *provided*, that an application of such rebate is made within the effective period(s) of this Article, as set out in §2808, *infra*."

Section 8. §2808 of Article, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~§2808. *Business Privilege Tax Exemption.* The proceeds from any contract for building materials or supplies, or for labor or supervision used in the construction of any new hotel or related facilities in Guam, or for the expansion of any existing hotel and related facilities shall be exempt from the tax imposed under Subchapter B of the Business Privilege Tax Law provided (a) the person providing the materials, supplies, labor or supervision has received a certificate of exemption from the Corporation; and (b) the person claims the exemption within one (1) year from the date that such materials, supplies, labor or supervision is furnished. The Corporation shall adopt reasonable rules and regulations in accordance with the Administrative Adjudication Act for the granting of certificates of exemption in order to ensure that certificates are issued only with respect to materials, supplies, labor or supervision furnished~~



~~subsequent to the effective date of this Article and for the construction or expansion of a qualifying hotel or related facility.~~

~~The owner of a facility constructed under a contract, the proceeds from which have been exempted under this Section from the tax imposed under Subchapter B of the Business Privilege Tax Law, shall be exempted from the Use Tax Law with respect to the property used to construct, furnish and equip the facility. "Sunset" provision. This Article shall take effect on its approval by the Governor and shall remain in effect for twenty-four (24) months thereafter, at the expiration of which period this Article shall automatically be deemed repealed; provided, however, that the Board, at its discretion, may extend the effectiveness of this Article for an additional twenty-four (24) months by adopting a resolution to such effect prior to the expiration of the first twenty-four (24) month period; and provided further, that any Qualifying Certificate issued for a period in excess of twenty-four (24) month periods shall remain in full force and effect until its term expires or it is cancelled on other grounds. The tax rebate on capital gains authorized by §2807 of this Article is available for any tax year of the Beneficiary any part of which falls within the twenty-four (24) month periods in which this Article is in effect."~~

Section 9. §2809 of Article 8, Chapter 2, Title 2, Guam Code Annotated, is hereby repealed.

Section 10. *Legislative findings and intent.* The Legislature finds that despite the burgeoning Guam economy, or perhaps because of the inflation brought about by such an active economy, all too many local residents are unable to affirm safe,

sanitary and decent housing, and the dearth of affordable single-family homes is threatening the fulfillment by many residents of the "American Dream"—a home of their own. The Legislature further finds that the action taken in the past to encourage various enterprises to invest in Guam by issuing them Qualifying Tax Certificates ("QCs") has worked out quite beneficially for the territory, there being hundreds of jobs and new enterprises in Guam that would not be here were it not for this QC program. The Legislature therefore, in view of the foregoing findings, declares that the intention of the next two sections of this act is to encourage developers to construct affordable housing in Guam by issuing them QCs pursuant to the GEDA Law.

Section 11. *Amendments to GEDA Law.* (a) §2404 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is hereby amended by amending subitem 8 thereof to read as follows:

"8. Improvement of real property ~~for~~ by constructing and selling affordable housing thereon, and for other purposes which are specifically determined by the Authority to be beneficial, desirable, and necessary for the economic development of Guam;"

(b) §2405.4 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read as follows:

"§2405.4. Affordable housing and Nneeded facilities.  
Creation of affordable housing or other vitally needed facilities;  
or"

(c) §2443 of Article 4, Chapter 2, Title 12, Guam Code Annotated,

is hereby amended by inserting a new line entitled "Construction of affordable housing" to read as follows:

"Construction of affordable housing                      \$750.00                      \$1,000.00."

Section 12. *Additions to GEDA Law.*

(a) New §2427.6 is hereby added to Article 4, Chapter 2, Title 12, Guam Code Annotated, to read as follows:

*"§2427.6. Development of affordable housing. All taxes levied by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated for a period up to twenty (20) years from the effective date of the Qualifying Certificate therefor, for those gross receipts derived from the construction of affordable housing; provided, that a Qualifying Certificate for such a tax abatement is granted pursuant to the provisions of this subsection. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the receipts the subject of the abatement are derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority."*

(b) New §2428.5 is hereby added to Article 4, Chapter 2, Title 12, Guam Code Annotated, to read as follows:

*"§2428.5. One hundred percent rebate on income from*

*constructing affordable housing.* A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Beneficiary on income received from the construction of affordable housing in Guam may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the income the subject of the rebate is derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority."

Section 13. *Severability.* If any of the provisions of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall *not* affect any other provision or application of this act which can be given effect *without* the invalid provision or application, and to this end the provisions of this act are *severable*.



Committee Report On Bill 606

Committee On Economic - Agricultural  
Development and Insurance  
Twenty-Third Guam Legislature  
424 W. O'Brien Dr., Julale Shopping Center,  
Suite #218

Committee Members :

Chairman: Joe T. San Agustin  
Vice Chairman: Sonny L. Orsini

John P. Aguon  
Anthony C. Blaz  
Mark Forbes  
Angel L. G. Santos  
Don Parkinson

Vicente C. Pangelinan  
Lou Leon Guerrero  
Francis E. Santos  
Carlotta Leon Guerrero

**I. BACKGROUND**

**BILL 606. AN ACT TO AMEND SUBSECTION 2801, 2802, 2803, 2804, 2805, 2806, 2807, AND 2808 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO REPEAL SECTION 2809 OF ARTICLE 8, TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES; AND TO AMEND SUBSECTION 2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW SUBSECTION 2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING.**

Bill 606 consist of two parts. (1) Hotel Development, and (2) Affordable Housing. These two parts are with respects to granting Qualifying Certificates to stimulate the needs for Hotels and Affordable Low Cost Housing. The Intention is to incite development within a short time frame. Right now, prices are too high. The Guam Economic Development Authority becomes the mechanism to monitor the two parts, but both talk about basic rebates. The purpose of this legislation is to encourage the development of additional hotel and tourist facilities, and using tax benefits generated by those accomodations available for the constuction of affordable housing. To achieve this, the Bill authorizes Qualifying Certificates to developers of affordable housing.

The ripple effect of these additional hotel accommodations and tourist

## **Committee Report on Bill. 606**

facilities is the creation of new jobs which will take the place of job loses being experienced by our downsizing economy.

As stated in the Bills section by section analysis, almost all sections of Bill 606 are amendments to existing provisions of the current GEDA law. The authors of the Bill recommend to amend said sections rather than to repeal and re-enact them, in keeping with the Ramsey vs. Chaco, 9th Circuit Court Ruling.

This legislation is not intended to negatively impact existing tourist hotels or tourist facilities. The notion by the Committe is that not enough hotel rooms exist on Guam and there are not enough recreational resources being used or created for our island tourist to experience.

As summarized in Bill 606's section by section analysis, this legislation as substituted by the Committee," is a unique attempt to blend attracting hotel and tourist developers with the need to provide funds for affordable housing". The intent of the authors is to persuade new hotels and tourist facilities to invest in Guam to meet the (5,000) five thousand additional hotel room requirement by the year 2001.

Also such developers will maximize their tax benefits by contibuting funds to our economy making affordable housing immediatley available to the people of Guam.

### **Committee Members Present For Hearing:**

Chairman: Joe T. San Agustin

Sen. John P. Aguon

Sen. Vicente C. Pangelinan

## **II. Summary of Testimony**

**Mr. Glenn Leon Guerrero; GEDA Administrator.** Testified in favor of Bill 606. GEDA favors a 4% gross receipts tax diminishment, in conjunction with the Qualifying Certificates given for the construction of new rooms and affordable housing. He is also in favor of the bill giving 50% rebate on income generating capital gains, or 10 year time from a 50% income tax rebate. The next 5 years will become a 25% income tax rebate. GEDA feels that the intention is to incite development within a short time frame. Right now the prices for a home is too high. Sen. Joe T. San Agustin questions whether or not there is a need for such a Bill. Mr. Leon Guerrero states that there is a great need for an incentive to build

## Committee Report on Bill. 606

affordable housing. Bill 606 gives GEDA great support to be on line in order to reach 12,000 rooms with regards to the Vision 2001 Goals.

**Mr. Bob Coe; Duty Free Shoppers / 2001 Task Force.** Testified in favor of Bill 606. Mr. Coe feels that this Bill is critical to convince perspective hotel investors that Guam is the best choice for investment. He informs the committee that the Vision Tasks Force on Tourism has located property sites both on and off Tumon Bay. He also mentions that consultants have been hired, working on an international basis with developers from the Mainland, Singapore, Hong Kong, and Taiwan. They are very well connected with developers and attraction development companies and potential developers for tourism. His key points to his testimony is that, incentives needs to be created that enables land owners to offer good value and provide investors with opportunity to construct hotels and attractions on Guam at the lowest possible costs. Bill 606 provides the incentives that's required to stimulate both investors interests as well as land owners interests. "Our goals are to rapidly bring both people to the table, put them into a position where they can negotiate a good deal for both of them and get the hotel expansion to where it is required". Bill 606 facilitates urgent negotiations, and more flexibility between land owners and negotiators. With this, he urges the passage and implementation of Bill 606 to "build a beautiful and better tomorrow for our island".

**Mr. Dave Tydingco; GHRA President,** Testified in favor of Bill 606. Mr. Tydingco mentions statistics to the committee stating that every room built employs about 1.7 persons directly. He feels that Bill 606 provides the added incentive for both local and international investors. GHRA (Guam Hotel and Restaurant Association) asks that Bill 606 be considered as an investment in Guam's future. Again, Bill 606 expands on Guam's growing tourism economy, which in turn creates jobs.

**Mr. Robert Payne; Vice President / General manger of Fletcher Pacific.** Supports Bill 606. Pros & Cons regarding Guam from his experience and observation:

- Pro's -
- Attractive to Developers
  - Attractive to Tourist
  - U.S. Legal System
  - U.S. Currency
  - Significant Air Service
  - Pro business attitude by the current government
- Con's-
- Poor Infrastructure
  - No realistic plan to rectify infrastructure.



## Committee Report on Bill. 606

- Business investors fear that they will pay the price to overhaul Guam's infrastructure.
- Lack of adequate locally trained service personnel for the hotel industry.

Bill 606 gives tax incentives which greatly helps make Guam a more competitive market places in our region. feels that the 50% and 100% rebates are a plus for convincing prospective investors not just for the hotel industry, but also for affordable housing.

**Mr. Tom Georgelas; G&S International Real Estate Development Company.** Makes two significant points about Bill 606. He first questions the definition of affordable housing. He states that affordable housing is the broad middle of the market which defines the affordability of housing on Guam. To G&S and Co., affordable housing represents housing up to the \$180,000 price range. Both husband and wife working, each making less than \$30,000.

His second point inquires about Qualifying Certificates. He feels that the balance for growth is with economic incentives for expanding the tourism economy in guam. He also feels that it is good for the average Guamanian to realize some of the shares of that economic prosperity by incentivising housing. Qualifying Certificates & Regulations, makes the market place best control for price fluctuations and control, not legislative action. It is not necessary to monitor and control the fluctuation of the market. it is not necessary for legislative control through Governmental Agency and action, on how these rebates are monitored or represented in sales prices.

**Mr. James Nelson; General Manager of The Guam Visitors Bureau.** Mr. Nelson is in favor of Bill 606. He testifies that our island is in a position to greet over 1 million people. The projected trend will be to welcome over 2 million with the turn of the century. Increasing the availability of hotels and overall interest in the growth of the island is substantial. Planning and implementation must take place immediately. Incentives must also be offered to provide an even more attractive locale in which to invest. GVB supports Bill 606, specifically the construction of tourism facilities to be eligible for incentives.

Mr. Nelson requested a minor amendment: Section 3, which amends section 2803 sub section A on Powers & Responsibilities, be revised as follows.....  
"Information on tourism, working with other entities to assemble and disseminate information concerning Guam's tourist industry and the financial incentives offered by the Government of Guam, for the development,

## Committee Report on Bill. 606

operation and ownership of hotels and tourist facilities in Guam."

As you may recall, P.L. 20-205, established the Bureau's research departments and authorized the Bureau to be the agency source to disseminate visitor industry statistics information. The above amendment would simply clarify that the bureau continues to serve in this capacity which authorizing GEDA to work with the Bureau to achieve its investment goals.

**Karen Storts; Executive Director for the Guam Contractors Association.** Mrs. Storts is in favor of Bill 606. However, she questioned Section 3b. Coordinating with the various government of Guam agencies as it may relate to the development of various properties. The association hopes that the Government will eliminate discouraging attitudes and bureaucratic red tape that she feels developers usually face, when trying to get their development plans to the drawing board and implemented.

She also questioned Section 4. Business use and business privilege and tax exemptions.

The GCA, long favored the exemption of GRT for the suppliers and sub-contractors involved in construction due to the multiplier effect of the tax. While this is clearly written out in the tourism section of the bill, the GCA would also like to see Section 12 apply to the affordable housing section of the bill. Especially to allow companies who supply large quantities of materials to qualify.

Mrs. Storts also inquired about what affordable housing really defines in regards to price range. She also questioned whether or not complexes or duplexes qualify or will only single family dwellings be considered. Also, she testified about concerns of infrastructure (power, water, etc...).

## II QUESTION AND ANSWERS:

**Senator John Aguon** directed questions towards Mr. Glenn Leon Guerrero, and Mr. Andy Gayle on the additional benefits for the developers and contractors. Mr. Leon Guerrero answered by stating that in tourism, 60% is our goal with equates to \$450 million dollars in revenues. Mr. Gayle talked about the business privilege and use tax. He mentions that there are benefits for those who build and for the owners of those who build. There are exceptional benefits for tourist development and hotels. Mr. Gayle points out that this type of development would then be exempt for a period of 2 years and can be extended for another period of 2

## Committee Report on Bill. 606

years by the GEDA board if necessary. The next is, rebate on income derived for the lease or the sale of that property.

Sen. Aguon also questioned whether this incentive is applicable to only new leases?, or could existing leases apply. He also questioned whether it was legal to reduce capital gain tax up to 50%. In regards to his first question, Mr. Gayle answered no. Just this particular 2 year window. The idea is that the price of land is too high. One reason why it's so high, is the seller knows that he is going to have to pay on his sales and on his income if he leases the property. The price may go down, so there's a 50% or 5 year deal on the income of the rent, and then can be extended another 5 years for a lower percentage of 25%.

In reference to Sen. Aguon's second question, Mr. Gayle testified that as long as capital gain tax reduced by 50% is considered a "rebate", it is legal. So long as the tax is paid and is rebated.

Mr. Gayle further discussed the abatement of GRT, and how income tax has to be paid, according to the Organic Act. He further mentions that the "Sunset Provision" in the bill would help to jump start construction of additional rooms and build the badly needed facilities for tourists. "If we want to reach the tourism goals of 2001, we have to start now!".

Sen Aguon also questioned whether or not existing Qualifying Certificates would be affected if this bill passes. Mr. Gayle answered no. When the contractors bring in the supplies and materials, he pays the 4% tax. In this case he would not pay the tax. Sen Aguon also inquired about the guarantee that a reduction in prices would be achieved. Mr. Gayle said that competition would take over to guarantee that.

Mr. Andy Gayle further explained to the committee what will happen only if there is a Qualifying Certificate. A Certificate of this kind would only go to people that come to GEDA and persuade them that they are entitled. Tax breaks will not be automatic. Tax breaks outlined by Bill 606 will only happen if promises are fulfilled to GEDA which our outlined when qualifying for this kind of certificate.

Sen. Aguon asked how can existing Qualifying Certificates turn around and just benefit from what we're offering here? Mr. Gayle doesn't think existing holders of Qualifying Certificates will benefit here. The Bill is designed to bring new hotels and new development. Maybe the same people who own hotels and hold Qualifying Certificates may buy new land and build new hotels. They don't get any benefit as an existing holder. They would only be on a new project, where they would have to obtain qualification for a new certificate.

## **Committee Report on Bill. 606**

**Sen. Ben Pangelinan** asked Mr. Gayle what the purpose for the 20 year Qualifying Certificates for the Housing was for. Mr. Gayle explained that the idea is to keep them on island to build more housing development. Sen. Pangelinan also inquired about a person who subleases to a developer, does he or she still get the benefits of a tax free capital gain? The answer is yes. If the developer meets the criteria to build within the required amounts. Only one side of the lease, the sublease, and not the original land owner.

**Mr. Joseph T. Duenas; Director of Revenue and Taxation**, commented that abating the use tax on anything they bring in. He stated that if this process is followed, you should put an abatement of the GRT, so that most of those contractors will be encouraged to buy their supplies locally and not off-island. He further gave comments that granting Qualifying Certificates should be on a more subjective level. Bill 606 is important and plays a vital role for diversifying and growing Guam's unique economy.

### **Sen. Joe T. San Agustin:**

With the telecommunications industry taking a strong area within Asia, luckily Guam will be the Hub! there's competition now! Outrigger hotels are looking at Guam, but it looks like they're going to Palau. We have a sizable workforce for tourism now, but we got to add more people and reduce the unemployment factor. We need take check with schools such as U.O.G., and G.C.C. to feed the tourism industry. Guam is isolated and we need to incite some sort of incentive program. Hopefully, this Bill will help in enforcing that. The tourism industry is a billion dollar industry. We need to grow that kind of industry and benefit from what we can expect out of that.

With regards to infrastructure on site, land resale etc.. we dealt with this in the past with the Kaiser project, where the houses were built at low costs, then were re-sold for double the price. We must ensure that with the affordable housing incentive given within this Bill, that does not happen again.

## **III FINDINGS**

After hearing all the testimonies presented, questions, and comments made by the committee members present, the Committee finds that there are minor amendments and other considerations that must be addressed with relation to this Bill.

1. Mr. James Nelson, GVB. requested a minor Amendment be made to

## **Committee Report on Bill. 606**

section 3, which amends section 2803 sub section A on Powers and Responsibilities, be revised as follows..."Information on tourism, to work with other entities to assemble and disseminate information concerning Guam's tourist industry and the financial incentives offered by the Government of Guam, for the development, operation and ownership of hotels and tourist facilities in Guam".

2. Overall, all who testified are in favor of Bill 606, but are concerned with infrastructure such as power, water, sewer systems that compliment and accommodate such building projects as hotels and housing units.

3. A more detailed definition of affordable housing needs to be addressed either in the Bill or by the guidelines to be set forth by GEDA.

### **III RECOMMENDATIONS**

After reviewing all written and considering all oral testimonies presented during the public hearing the Committee recommends that the Bill as substituted be passed with the following consideration addressed.

1. A more detailed definition of affordable housing in relation to price range and guidelines be addressed either in the Bill, or set forth by GEDA.

Attached is a section by section analysis of Bill 606 submitted for review by Mr. Andy Gayle.

#### **NOTE:**

1. As recommended, the Committee has ammended Section 3. 2803 of Article 8, Chapter 2, Title 12, Sub Section A to read as follows:  
"Information on Tourism. To work with the Guam visitors Bureau and other concerned agencies to collect and disseminate information concerning guam's tourist industry and the financial incentives offered by the government of Guam for the development, operation and ownership of hotels and tourist facilities in Guam".

LAW OFFICES  
**GAYLE & TEKER**  
 A PROFESSIONAL CORPORATION  
 220 EAST MARINE DRIVE  
 AGANA, GUAM 96910

ANDREW M. GAYLE  
 LAWRENCE J. TEKER  
 PHILLIP TORRES  
 ANA MARIA G. GABRIEL  
 WILSON A. QUINLEY

AGANA BAY BUILDING  
 TELEPHONE:(671) 477-9891/4  
 FACSIMILE:(671) 472-2601

September 4, 1996

The Honorable Joe T. San Agustin,  
 Chairman, Committee on Economic-  
 Agricultural Development,  
 Twenty-Third Guam Legislature,  
 Agaña, Guam 96910.

RECEIVED  
 COMMITTEE ON ECONOMIC- AGRICULTURAL  
 DEVELOPMENT INSURANCE

DATE: 9-5-96  
 TIME: 4 pm  
 REC'D BY: epo

Re: Section-by-section analysis of Bill No. 606.

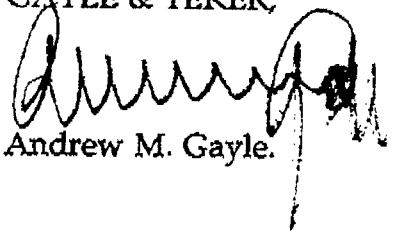
Dear Mr. Chairman:

I am enclosing the captioned analysis. *N.B.*: This is the analysis of the *substitute* bill which has the provisions about the Five Million Dollar cash advance by the hotel beneficiaries. It should *not* be confused with the original bill. I am sorry I have not been quicker about getting this over to you, but I have both been off-island and quite busy.

If you have any questions, or wish me to do anything further in connection with this legislation, please advise.

Very truly yours,

GAYLE & TEKER,

  
 Andrew M. Gayle.

AMG:ps  
 GEDA114:30655-72  
 cc: Mr. Ed Untalan, GEDA,  
 Mr. Allen Pickens, Deloitte & Touche,  
 Mr. Jerry Perez, Duty Free Shoppers.

SECTION-BY-SECTION ANALYSIS OF SUBSTITUTE BILL NO. 606 TO  
ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS  
AND TOURIST FACILITIES AND TO AUTHORIZE THE  
ISSUANCE OF QUALIFYING CERTIFICATES TO  
DEVELOPERS OF AFFORDABLE HOUSING

Section 1. §2801 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is amended to set out legislative findings that (i) additional hotel accommodations and tourist facilities are essential to the further development of Guam's tourism; (ii) additional hotel accommodations and facilities will create jobs to take the place of those lost in recent military base closures; (iii) the provision of such additional accommodations and facilities is declared to be a public purpose; (iv) funds are needed to "jump start" the provision of affordable housing for the people of Guam; (v) the Legislature finds that such funds might be attainable from hotel developers in exchange for enlarged tax benefits; and (vi) the enlargement of tax benefits to those developers which make funds available for affordable housing is declared to be a public purpose.

*N.B.:* Almost all of the sections of Substitute Bill No. 606 are amendments to existing provisions of the current GEDA law, it being thought best to amend said sections rather than to repeal and reenact them, in keeping with the *Ramsey vs. Chaco*, 9th Cir. ruling. Hereafter in this analysis, section references will only be to the section number and not to the article, chapter, and title, the latter being the same as for this §2801.

Section 2. §2802 is reworded to have GEDA promote the construction of new hotels, the expansion of existing hotels, and the construction of tourist facilities for the adequate accommodation, amusement of, and service to, tourists and other visitors to Guam.

Section 3. §2803 is amended to authorize GEDA to disseminate information on Guam's tourist industry, to assist in obtaining information from, and coordinating development with, government of Guam agencies, to provide information on financing and to assist in feasibility studies.

Section 4. §2804 is amended by adding a definition section. "Hotel" is defined as a building containing no less than two hundred (200) guest rooms open to the public, and "tourist facility" means a building or buildings whose construction cost is not less than Five Million Dollars (\$5,000,000) offering entertainment, etc. for tourists and other members of the public, the activities of which the GEDA board finds beneficial to the development of Guam's tourism.

Section 5. §2805 is amended to grant business privilege and use tax exemptions in connection with building a new hotel or tourist facility or expanding an existing hotel. The exemption from the tax must be claimed within one (1) year

from the effective date of the Act or when the building permit for the project is issued and the exemption applications must be made within a period of twenty-four (24) months extendible for cause by the GEDA board for an additional twenty-four (24) months. The owner of a hotel or tourist facility which has been exempted from the business privilege tax is also exempt from the use tax.

Section 6. §2806 is amended to provide that the GEDA board in issuing qualifying certificates is to promote both the construction of new hotels or the expansion of existing hotels in an orderly manner with due regard being given to the profitability of existing hotels and tourist facilities. In other words, the legislation is *not* intended to impact in a damaging way on existing tourist hotels or tourist facilities, the belief being that one of the problems the existing tourism industry faces in Guam is that there are not enough hotel rooms and there are not enough things for the tourists to do. With the provision of many such rooms and more entertainment facilities, all of Guam tourism will benefit, the old facilities as well as the new ones.

Section 7. §2807 is amended to give a rebate of up to fifty percent (50%) of all income tax paid on income derived from the lease of land, buildings, or machinery to a holder of a qualifying certificate issued for a hotel or tourist facility covered by the Act, which rebate can be for five (5) consecutive years and up to twenty-five percent (25%) for the next five (5) years, such rebate application having to be made within the effective period of the Act. Additionally, a rebate of up to fifty percent (50%) of all capital gain income tax paid on income derived from the sale of land to a developer of a hotel or tourist facility covered by the provisions of this Act is also available if the application for such rebate is made within the effective period of the Act.

Section 8. §2808 is amended to set out a Sunset provision to the effect that the Act takes effect on its approval but remains in effect for only twenty-four (24) months thereafter, although this twenty-four (24) month period can be extended by the GEDA board for an additional twenty-four (24) months. It is during this twenty-four (24) month period(s) that the applications for the various tax rebates and abatements set out in the Act must be made. The period of benefits can be greater than the twenty-four (24) months, but the application must be made within the period. The purpose of this limitation is to require developers to quickly do their various studies and get underway as soon as possible so as to reach the goal of five thousand (5,000) more hotel rooms by the year 2000.

Section 9. This section is the most unusual of all of the provisions of the Act. What it does is to amend §2809 to permit those hotel or tourist facilities developers who put up in cash to an affordable housing fund Five Million Dollars (\$5,000,000) each, to increase their qualifying certificate percentage of rebate from up to seventy-five percent (75%) to one hundred percent (100%) of all income tax paid for a period not to exceed twenty (20) years. The Five Million Dollar (\$5,000,000) advance is returned to the applicant *without* interest when the housing subdivision



for which the funds have been used by GEDA is completed and the units sold. GEDA will work with the Guam Housing Corporation ("GHC") which will endeavor to obtain permanent take-out financing and as the original mortgages are purchased by a permanent mortgagee, GHC will return to the housing fund the sale proceeds and GEDA then within sixty (60) days thereafter repays the qualifying certificate beneficiary as much of its Five Million Dollar (\$5,000,000) advance as such repayment permits and continues to do so until the advance is repaid in full, *without* interest. It is hoped that this particular provision will make money immediately available for affordable housing in Guam. For the potential developer, it is a question of sitting down with one's accountant and working out whether a twenty (20) year qualifying certificate at one hundred percent (100%) is worth so much more than such a certificate for seventy-five percent (75%) that the cost of putting up Five Million Dollars (\$5,000,000) for three (3) or more years without interest is not so great as to prevent the transaction. It is probable that the developer of a tourist facility that only costs Five Million Dollars (\$5,000,000) will not be particularly interested in putting up an additional Five Million Dollars (\$5,000,000) even if it obtains an additional twenty-five (25%) percent in the way of income tax rebate. Remember, until a facility or a hotel makes money, it does not pay *any* income tax anyway and a rebate does not do it any particular good. On the other hand, a major hotel of say, four hundred (400) rooms which will cost upwards of One Hundred Million Dollars (\$100,000,000) might very well deem an additional Five Million Dollars (\$5,000,000) which is returnable even without interest is a cheap price to pay to obtain an additional rebate of twenty-five percent (25%) on top of seventy-five percent (75%) for the full twenty (20) years.

The section goes on to set out the applicability of the other QC provisions, pointing out that a hotel developer can go either way, *i.e.*, seek the seventy-five percent (75%) without any Five Million Dollar (\$5,000,000) advance or make the advance and seek one hundred percent (100%) for twenty (20) years. GEDA is also directed in developing its affordable housing program to utilize as few contractors, architects and engineers as possible as well as to minimize design variations so as to achieve economies of scale and speedy construction at the lowest feasible costs.

Section 10. This section sets out legislative findings to the effect that too many local residents are unable to afford decent housing and that since the qualifying certificate program has worked for other developments, it might very well work for developing affordable housing and that therefore the intent of the next two section of the Act is to encourage developers to construct affordable housing by offering them qualifying certificates.

Section 11. This section amends §§2404, 2405.4 and 2443, all of Article 4, Chapter 2, Title 12, Guam Code Annotated, by including within the various definitions of available projects for qualifying certificates, constructing and selling affordable housing.

Section 12. This section adds two new sections to the GEDA law, namely, §§2427.6 and 2428.5. The first abates for twenty (20) years the gross receipts tax on the construction of affordable housing as long as the receipts the subject of the abatement are derived from the construction of no less than twenty-five (25) affordable housing units, and the latter section authorizes a rebate of one hundred percent (100%) of the income tax paid for up to twenty (20) years for income derived from the construction and sale of no less than twenty-five (25) affordable housing units.

Section 13. The last section of the Act is a standard severability clause.

#### *Summary*

Bill No. 606, as substituted by the Committee, is a unique attempt to blend attracting hotel and tourist developers with the need to provide funds for affordable housing. It is hoped and intended by the authors of the Act that not only will new hotels and tourist facilities be persuaded to immediately invest in Guam so as to meet the five thousand (5,000) additional hotel room requirement by the year 2000, but that such developers in order to maximize their tax benefits will contribute funds making affordable housing immediately available to the people of Guam. Not only will there be construction financing so provided, but as well, developers to do the actual construction and selling will be persuaded to do so by the very generous one hundred percent (100%) rebate on their income for such construction for a period of twenty (20) years.

GL05:30685-72

# Committee on Economic- Agricultural Development and Insurance

Twenty-Third Guam Legislature  
Senator Joe T. San Agustin, Chairman

## Witness Sign in Sheet

May 20, 1996

(Date)

Subject: Bill No. 606

Name Please Print:	Representing Agency:	Testimony	
		Oral/ Written:	For/ Against:
✓ Nerson James		Written	For
✓ Bob Coe	DFS		For
✓ Robert Paine	Fletcher Const		For
✓ DAVID TYDINGCO	GHAHA	Written	FOR
Oceanis	Oceanis	Written	FOR
✓ Glenn Low GUERRAS	GEDA	Written	FOR
✓ KAREN STURTS	Guam Contractors ASSOC	ORAL	FOR
✓ J. ARTHUR CHAN	GCA		FOR
✓ Tom Georgelas	G&S International	ORAL	FOR
✓ Joey Duonan	Eco's TAX		



# Committee on Economic-Agricultural Development and Insurance

TWENTY-THIRD GUAM LEGISLATURE

424 W. O'Brien Dr., Julale Shopping Center, Suite #218  
Agaña, Guam 96910

Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

May 10, 1996

Mr. James Nelson  
General Manager  
Guam Visitors Bureau  
P. O. Box 3520  
Agana, Guam 96910

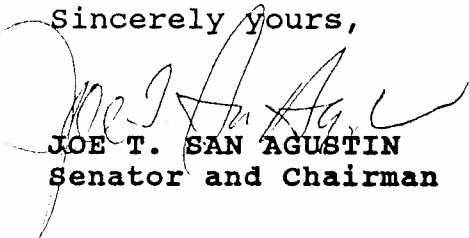
Dear Mr. Nelson:

The Committee on Economic-Agricultural Development and Insurance has rescheduled the public hearing on Bill No. 606 from Thursday, May 16, to Monday, May 20, 1996, at 4 p.m., in the Guam Legislature Public Hearing Room as follows:

Bill No. 606    AN ACT TO AMEND SUBSECTION 2801,2802,  
2803,2804,2805,2806,2807 AND 2808 OF ARTICLE 8,  
CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO  
REPEAL SECTION 2809 OF SAID ARTICLE TO ENCOURAGE  
THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST  
FACILITIES; AND TO AMEND SUBSECTION 2404 SUBITEM  
8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4,  
CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO  
ADD TO SAID ARTICLE NEW SUBSECTION 2427.6 AND  
2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING  
CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING.  
(Introduced by J. T. San Agustin, J. P. Aguon, F.  
E. Santos)

Thank you and we look forward to seeing you at the hearing.

Sincerely yours,

  
JOE T. SAN AGUSTIN  
Senator and Chairman



# Committee on Economic-Agricultural Development and Insurance

TWENTY-THIRD GUAM LEGISLATURE  
424 W. O'Brien Dr., Julale Shopping Center, Suite #218  
Agaña, Guam 96910  
Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

May 10, 1996

Mr. Glenn Leon Guerrero  
Administrator  
Guam Economic Development Authority  
Suite 911, GITC Bldg.  
590 S. Marine Drive  
Tamuning, Guam 96911


Dear Mr. Leon Guerrero:

The Committee on Economic-Agricultural Development and Insurance has rescheduled the public hearing for **Bill No. 606** from Thursday, May 16 to Monday, May 20, 1996, at 4 p.m., in the Guam Legislature Public Hearing Room as follows:

**Bill No. 606** AN ACT TO AMEND SUBSECTION 2801,2802, 2803,2804,2805,2806,2807 AND 2808 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO REPEAL SECTION 2809 OF SAID ARTICLE TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES; AND TO AMEND SUBSECTION 2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW SUBSECTION 2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING. (Introduced by J. T. San Agustin, J. P. Aguon, F. E. Santos)

Thank you and we look forward to seeing you at the hearing.

Sincerely yours,

  
JOE T. SAN AGUSTIN  
Senator and Chairman



# Committee on Economic-Agricultural Development and Insurance

TWENTY-THIRD GUAM LEGISLATURE  
424 W. O'Brien Dr., Julale Shopping Center, Suite #218  
Agaña, Guam 96910  
Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

May 10, 1996

Mr. Eduardo J. Calvo  
Chairman  
Guam Chamber of Commerce  
P. O. Box 283  
Agana, Guam 96910

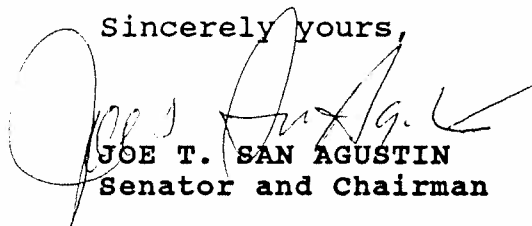
Dear Mr. Calvo:

The Committee on Economic-Agricultural Development and Insurance has rescheduled the public hearing for Bill No. 606 from Thursday, May 16 to Monday, May 20, 1996, at 4 p.m., in the Guam Legislature Public Hearing Room as follows:

Bill No. 606 AN ACT TO AMEND SUBSECTION 2801,2802, 2803,2804,2805,2806,2807 AND 2808 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO REPEAL SECTION 2809 OF SAID ARTICLE TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES; AND TO AMEND SUBSECTION 2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW SUBSECTION 2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING. (Introduced by J. T. San Agustin, J. P. Aguon, F. E. Santos)

Thank you and we look forward to seeing you at the hearing.

Sincerely yours,



JOE T. SAN AGUSTIN  
Senator and Chairman



# Committee on Economic-Agricultural Development and Insurance

TWENTY-THIRD GUAM LEGISLATURE  
424 W. O'Brien Dr., Julale Shopping Center, Suite #218  
Agaña, Guam 96910  
Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

May 10, 1996

Mr. James Sablan  
President  
Guam Housing Corporation  
P. O. Box 3457  
Agana, Guam 96910

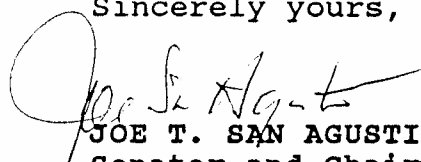
Dear Mr. Sablan:

The Committee on Economic-Agricultural Development and Insurance has rescheduled the public hearing on Bill No. 606 from Thursday, May 16, to Monday, May 20, 1996, at 4 p.m., in the Guam Legislature Public Hearing Room as follows:

Bill No. 606    AN ACT TO AMEND SUBSECTION 2801,2802,  
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CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING.  
(Introduced by J. T. San Agustin, J. P. Aguon, F.  
E. Santos)

Thank you and we look forward to seeing you at the hearing.

Sincerely yours,

  
JOE T. SAN AGUSTIN  
Senator and Chairman



# Committee on Economic-Agricultural Development and Insurance

TWENTY-THIRD GUAM LEGISLATURE  
424 W. O'Brien Dr., Julale Shopping Center, Suite #218  
Agaña, Guam 96910  
Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

May 10, 1996

Mr. David B. Tydingco  
President  
Guam Hotel & Restaurant Association, Inc.  
P. O. Box 8565  
Tamuning, Guam 96911

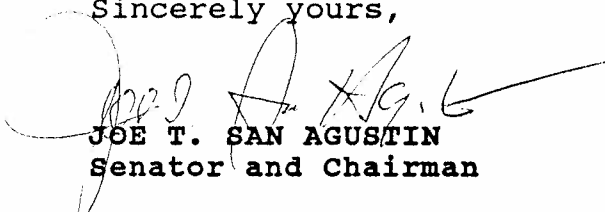
Dear Mr. Tydingco:

The Committee on Economic-Agricultural Development and Insurance has rescheduled the public hearing on **Bill No. 606** from Thursday, May 16, to Monday, May 20, 1996, at 4 p.m., in the Guam Legislature Public Hearing Room as follows:

**Bill No. 606**    **AN ACT TO AMEND SUBSECTION 2801,2802, 2803,2804,2805,2806,2807 AND 2808 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO REPEAL SECTION 2809 OF SAID ARTICLE TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES; AND TO AMEND SUBSECTION 2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW SUBSECTION 2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING. (Introduced by J. T. San Agustin, J. P. Aguon, F. E. Santos)**

Thank you and we look forward to seeing you at the hearing.

Sincerely yours,



**JOE T. SAN AGUSTIN**  
Senator and Chairman





# Committee on Economic-Agricultural Development and Insurance

TWENTY-THIRD GUAM LEGISLATURE

424 W. O'Brien Dr., Julale Shopping Center, Suite #218  
Agaña, Guam 96910

Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

May 10, 1996

Mr. Mark J. Mamczarz  
President  
Guam Contractors Association of Guam  
P. O. Box 2224  
Agana, Guam 96910

Dear Mr. Mamczarz:

The Committee on Economic-Agricultural Development and Insurance has rescheduled the public hearing for **Bill No. 606** from Thursday, May 16 to Monday, May 20, 1996, at 4 p.m., in the Guam Legislature Public Hearing Room as follows:

**Bill No. 606** AN ACT TO AMEND SUBSECTION 2801,2802, 2803,2804,2805,2806,2807 AND 2808 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO REPEAL SECTION 2809 OF SAID ARTICLE TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES; AND TO AMEND SUBSECTION 2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW SUBSECTION 2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING. (Introduced by J. T. San Agustin, J. P. Aguon, F. E. Santos)

Thank you and we look forward to seeing you at the hearing.

Sincerely yours,

  
JOE T. SAN AGUSTIN  
Senator and Chairman



# Committee on Economic-Agricultural Development and Insurance

TWENTY-THIRD GUAM LEGISLATURE

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Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

May 10, 1996

Mr. Joseph T. Duenas  
Director  
Department of Revenue & Taxation  
P. O. Box 23607  
GMF, Guam 96921

Dear Mr. Duenas:

The Committee on Economic-Agricultural Development and Insurance has rescheduled the public hearing on Bill No. 606 from Thursday, May 16, to Monday, May 20, 1996, at 4 p.m., in the Guam Legislature Public Hearing Room as follows:

Bill No. 606 AN ACT TO AMEND SUBSECTION 2801,2802, 2803,2804,2805,2806,2807 AND 2808 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO REPEAL SECTION 2809 OF SAID ARTICLE TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES; AND TO AMEND SUBSECTION 2404 SUBITEM 8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4, CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW SUBSECTION 2427.6 AND 2428.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING. (Introduced by J. T. San Agustin, J. P. Aguon, F. E. Santos)

Thank you and we look forward to seeing you at the hearing.

Sincerely yours,

  
JOE T. SAN AGUSTIN  
Senator and Chairman



Bob L. Coe  
Regional President

August 2, 1996

Senator Joe T. San Agustin  
Twenty-third Guam Legislature  
155 Hessler Street  
Agana, Guam 96910  
via facsimile: 477-5570

Dear Senator San Agustin

From the very beginning of the Vision 2001 thought process, you were very involved. You, more than anyone, know how important having a strategic plan is. You certainly added a lot to our thinking during those early meetings.

There are a number of Tourism 2001 strategic issues that we need your help in getting moved through the legislative process. I know you understand the strategies and how each of the items below fits into the overall plan that is so significant.

- Tumon Bay beautification and sewage upgrades remaining
- Two Lovers Point beautification/renovation
- Budgeting enough police officers per the new CATT Public Safety Tumon Bay Plan
- Bill 606 to intensify potential developers and landowners

I am working with Senator Aguon and the Governor on everything but Bill 606. I do not understand the job of being a senator and perhaps that is why I do not understand why it is taking so long to get Bill 606 through. I would greatly appreciate it if you could give this Bill your maximum attention. I do not think we have a chance in building the hotels required without the incentives. From your public hearing, my impression is that there is very little concern on the part of the public and general understanding of the importance of your Bill.

If I can be of any assistance, please let me know.

Thank you.

A handwritten signature in black ink, appearing to read "Bob", written over a rectangular box.

BOB L. COE



# Committee on Economic-Agricultural Development and Insurance

TWENTY-THIRD GUAM LEGISLATURE  
424 W. O'Brien Dr., Julale Shopping Center, Suite #218  
Agaña, Guam 96910  
Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

SENATOR JOE T. SAN AGUSTIN (D)  
CHAIRMAN

May 23, 1996

Mr. Joseph E. Rivera  
Acting Director  
BUREAU OF BUDGET & MANAGEMENT RESEARCH  
P.O. Box 2950  
Agana, Guam 96910

Dear Mr. Rivera:

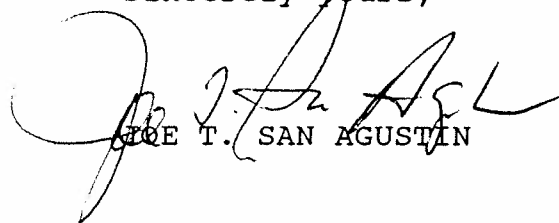
Pursuant to statutory requirements, the Committee would appreciate if the Bureau would evaluate, review and issue fiscal notes on the following bills:

1. Bill No. 606
2. Bill No. 299 As Introduced
3. Bill No. 299 As Substituted

Please note that Bill No. 299 (item 2 above) as introduced was publicly heard on September 18, 1995, and subsequent mark-up of said bill resulted in a substituted version of Bill No. 299 (item 3 above), which was then publicly heard on May 16, 1996. Bill No. 606 had a public hearing on May 20, 1996.

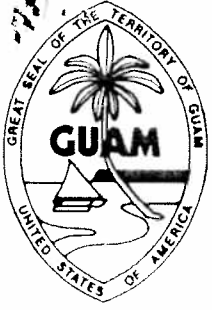
Once again, would you please provide the Committee with fiscal notes on each of the above 3 cited bills as soon as possible.

Sincerely yours,



JOE T. SAN AGUSTIN

attachments



# GUAM

ECONOMIC DEVELOPMENT AUTHORITY

*An Autonomous Agency of the Government of Guam, USA*



June 7, 1996

**RECEIVED**  
 COMMITTEE ON ECONOMIC- AGRICULTURAL  
 DEVELOPMENT INSURANCE  
 DATE: 6/18/96  
 TIME: AM  
 REC'D BY: [Signature]

Honorable Senator Joe T. San Agustin  
 Twenty-Third Guam Legislature  
 155 Hesler Street  
 Agana, Guam 96910

**Re: Bill 606 - Draft Flow Chart**

Bill 606

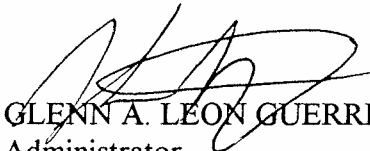
Dear Senator San Agustin:

The attached is a draft flow chart reflecting the procedures of the amendments proposed in Section 5 of the Bill.

In review of the Bill, Joe John Mantanona and I were exploring other avenues to pass on the intentions of this Section - which is to create "cost savings" features that will entice the owner/developer to take action immediately in developing more hotel room inventory for the Territory.

Please call us so we can meet on this matter.

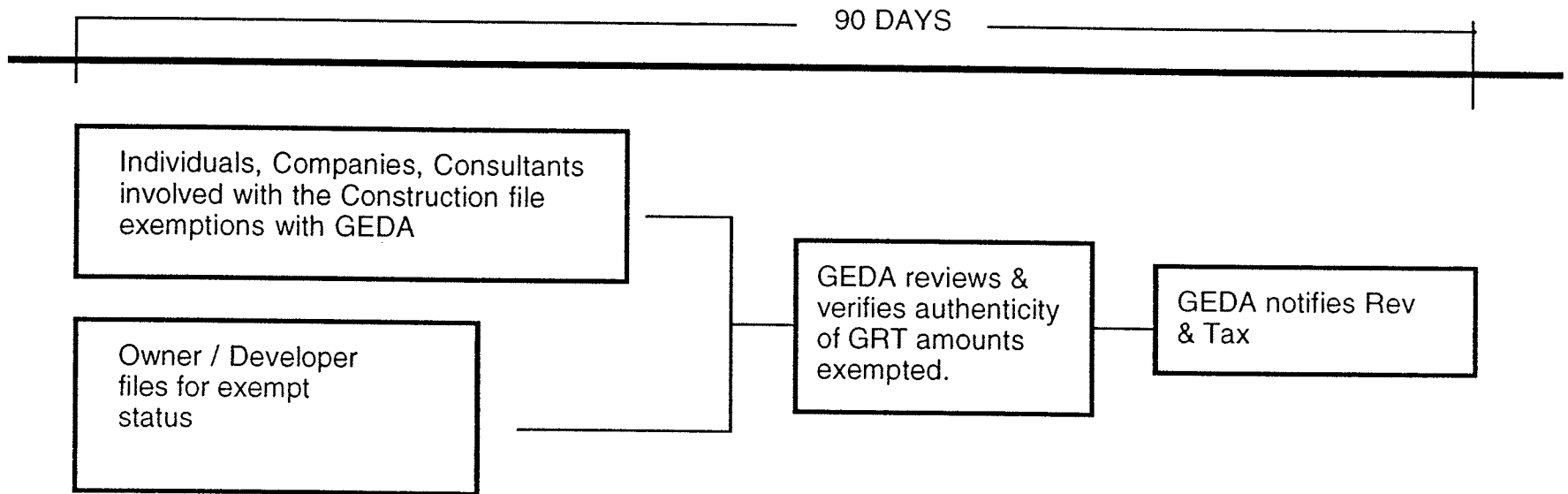
Sincerely,

  
 GLENN A. LEON GUERRERO  
 Administrator

Attachment

cc: Senator John Aguon  
 Joe John Mantanona

*Destination Guam, USA*  
*Tropical Paradise & Island of Opportunities*



**NOTES:**

1. This is a verification process which allows the Owner / developer to confirm with the various consultants of the construction phase, the savings that are passed on (4%) from the original costs.
2. GEDA will need to:
  1. Create policies procedures , forms for this program.
  2. Identify the resources needed to make up the review committee.



**Affordable Housing Task Force  
PROGRESS & CLOSE-OUT  
REPORT  
May 1996**

*"The foundation of the Guam we wish to see by the year 2001, is a society in which all elements of our community including the young, the old, as well as low to moderate income families, can achieve their dream of owning their own home."*

(Vision for Affordable Housing, VISION 2001)

If you require additional information, please do not hesitate to contact either:

**Mr. Thomas Young**  
Co-Chairman and  
Executive Vice-President  
Hawaiian Rock Products  
Phone: 734-2971

**OR**

**Mr. James Sablan**  
Co-Chairman and  
President  
Guam Housing Corporation  
Phone: 475-4904

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  - \* To Assist Lot Owners in Government Sponsored Land for the Landless Programs:
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## PREFACE

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It is with confidence and pride that I herewith submit this progress report of the Affordable Housing Task Force. This report represents "progress" and should not, by any means, represent the final report. There remains "*bula*" work to be done in the area of affordable housing for our people.

I would like to thank Thomas Young, Co-chair and Executive Vice-President, Hawaiian Rock Products; James Sablan, Co-chair and President of Guam Housing Corporation (GHC); Herminia Dierking, Advisor and Cheerleader; and Taling Taitano, Executive Director, Guam Housing and Urban Renewal Authority (GHURA) for their trust and support throughout the effort.

I would like to especially thank the support team of Antoinette Duenas, Jonathon Toves, Sita Manjares, Betty Bamba, and Dan Guerrero for believing in me, for believing in each other, and most importantly, for believing in themselves. Had it not been for their commitment, diligent and earnest efforts, this progress report would not have been possible.

I am fortunate to have been given the opportunity to be a part of the task force. My greatest reward is the opportunity given to provide "real" hope for homeownership for our people. Once again, thank you for your support and confidence.

### PURPOSE & SCOPE OF REPORT

Cognizant that the provision of affordable housing covers more than new construction, but also existing and rental housing units. It is necessary to state that the focus of this report is on creating new housing units that is affordable through a reduction in construction costs and/or creative financing mechanisms. More specifically, the focus will be on stimulating new housing construction in government-sponsored land for the landless properties and the realization of the Lada Estates Affordable Housing Project.

## EXECUTIVE SUMMARY

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It was on February 19, 1996 that staff members of the Governor's Office, the Guam Housing Corporation and the Guam Housing and Urban Renewal Authority were pulled together to provide the support necessary to facilitate the development of a strategic plan for affordable housing.

*Through the provision of affordable housing ...*

The premise, the social and economic benefits derived from the provision of affordable housing promote the essence of Vision 2001: "Improving Quality of Life & Strengthening the Economy."

The social benefits... providing for an environment that fosters family unity, stability, security, and pride will result in an improvement in the quality of life. The economic benefits... a stimulation in the construction industry providing for more employment and personal taxes will result in the strengthening of the economy.

I feel it safe to say that "we," all people residing and paying taxes on Guam, regardless of our ethnic origin, income level, political affiliation, etc. recognize that an affordable housing problem exists. It then becomes a matter of choice. Do we stop at the recognition stage and live with it or do we choose to do something about it. If not for ourselves, then for those who have placed their trust and confidence in us, whether it be as "public" servants or as an individual desiring good for everyone. The belief that, an individual, if given an opportunity (*"opportunity", as perceived and defined by that individual*) will act accordingly.

It is, therefore, the "choice" of our elected officials to do something about it. A decision to address those issues/factors within a degree of control and are impeding the provision of affordable housing opportunities and eliminate or reduce its influence on the homebuyer or the "market-place."

The problem is diverse and so will be its solutions. To fathom an idea that the development of a comprehensive plan is possible is unrealistic. This is due in part to a number of factors that are either within our control or due to the prevailing political conditions.

Recently, the Land for the Landless program, specifically the Umatac and the Ija Subdivisions have been the subject of political controversy. Whatever the allegations are, or even if they prove to be true... what we do know is... our people, Guam's people, are once again on the short end of the stick. It is our responsibility to ensure the proper welfare of our people, to see this program to the end. Government started something... Government should finish it.

Ed Untalan, Deputy Director, Guam Economic Development Authority (GEDA) raised an interesting point in his letter to the task force dated April 10, 1996. The letter was in response to the incentive program recommendations made by the task force. In his letter, Mr. Untalan states "...with the land being the most limited resource available, the task force must clearly distinguish if the goal is to get everyone a lot with a home or to get everyone a home to live in." Point well taken and definitely worth addressing.

## **ROLE OF GOVERNMENT**

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As government, we are challenged with providing homeownership opportunities for the people of Guam. Cognizant that the provision of affordable housing is by no means a "one-time" effort, furthermore, by no means a "one task force" effort, the task force has taken those variables within a degree of control and managed its performance to achieve "affordability..."

**"Affordable: to meet the expense of without serious consequences."  
(Random House Dictionary)**

... therefore, a function of one's expense relative to one's income. Based on this, "affordable housing" is a function of monthly housing cost, including principal, interest, taxes, and insurance (PITI) relative to one's gross monthly income, i.e., a residential dwelling with a monthly housing cost burden exceeding thirty percent (30%) of a family's gross monthly income, adjusted for family size, is unaffordable. Unfortunately, for many low-income families today, this is the scenario...homeownership for them remains unattainable.

In a study conducted by the Urban Land Institute on the Housing Needs for Guam 1993-1998, October 1994, it was determined that:

- \* Affordability is the biggest problem facing Guam's households, with about 22% or 7,997 households paying excessive housing cost burdens.
- \* An estimated 12% or 4,323 of Guam's households live in housing that is severely physically inadequate and 14 percent or 5,123 are crowded.
- \* Very low-income households, particularly renters, are the most likely to have affordability problems, 85% of very low-income renters faced housing affordability problems in 1993.

For families of low income, the greatest barrier to homeownership will be sufficient income to cover the downpayment requirement and monthly payments, not to mention, their credit history. These households are further faced with other obstacles, outside their control, affecting affordability. Guam's affordable housing problem is the result of many factors. Each contributing to the housing crisis. The problem has taken years to evolve and, even with concentrated efforts, it will take

years to level out. It therefore is the strategy of the task force to identify those factors within control and address them. We will focus on factors such as providing incentives for developers to produce lower cost housing, creative financing mechanisms, and alternative building systems.

Further into the report is a concept of the "housing equation." A term used at one of the "Chairs" meetings, I decided to research it a bit further. Immediately thereafter is the "formula for affordable housing." The formula takes the variables in the housing equation and identifies those that are 'controllable' and those 'uncontrollable.'

Once again, I must reiterate that this report represents "progress" and should not, by any means, be considered the final report. There remains "*bula*" work to be done in the area of affordable housing for our people.

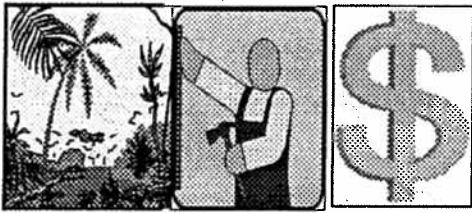
The seed has been planted... it is now time to foster its growth and development.

### THE EQUATION for HOUSING ... "simplified"

Vital to the successful implementation and completion of a home construction project are the building plans, construction site, building technology/contractor, cost to construct, and the client. An analysis of the process to construct a home concludes that achieving homeownership can be expressed in the form of an equation. Therefore, the provision of housing, in simplified terms, is a function of land, construction, financing, and a homebuyer.


$$f(\text{HOUSING}) = [(\text{LAND}) + (\text{CONTRACTOR}) + (\text{LENDER})] + (\text{HOMEBUYER})$$

VARIABLES CONTROLLABLE BY GOVERNMENT

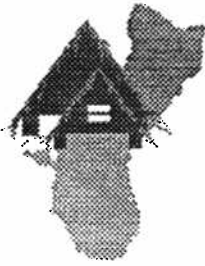


LAND      CONTRACTOR      LENDER

UNCONTROLLABLE VARIABLE



HOMEBUYER



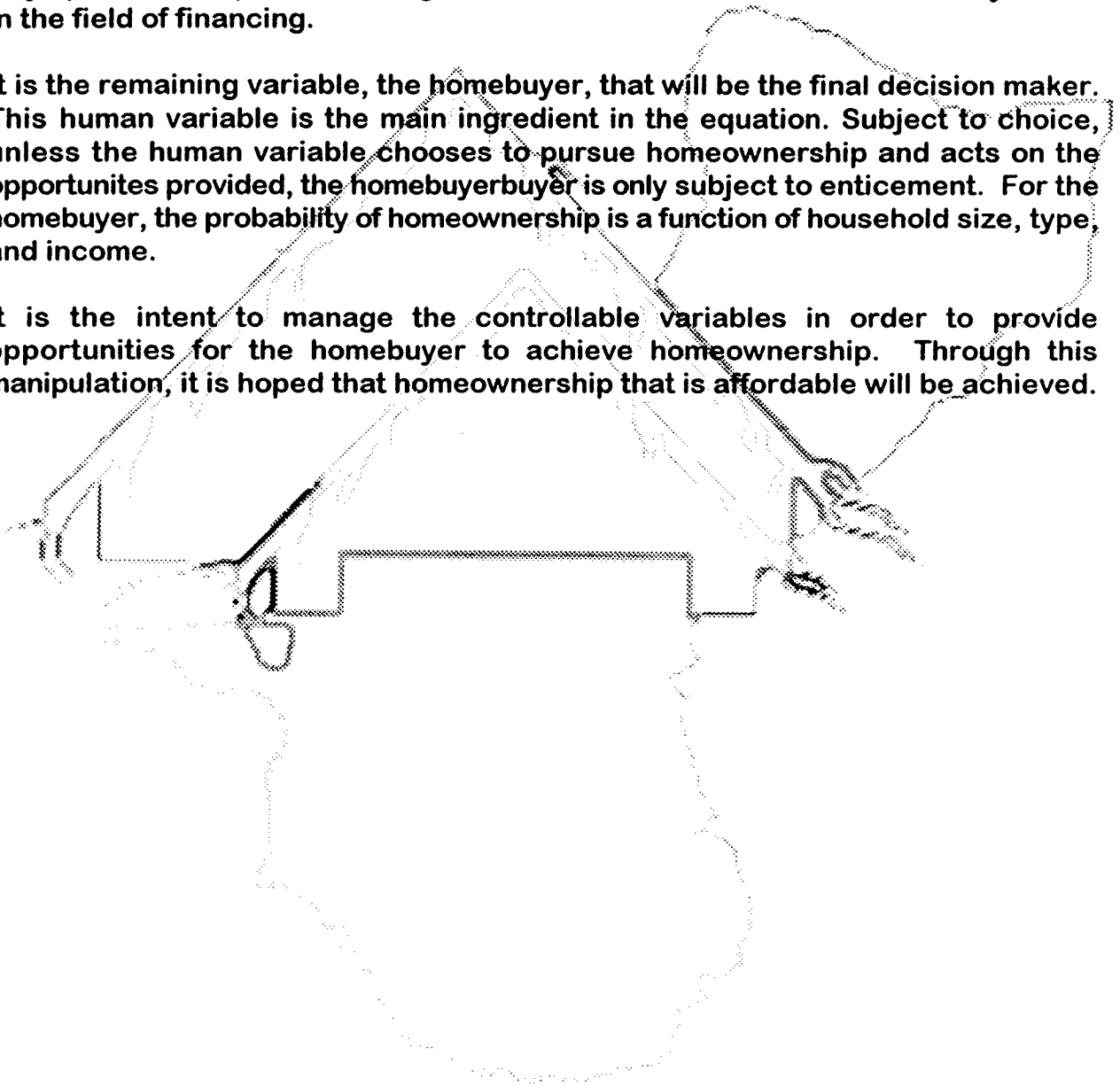
HOMEOWNERSHIP

## FORMULA FOR AFFORDABLE HOUSING...

Of the variables in the housing equation, the variables of Land, Contractor and Lender are "controllable" by government. "Controllable" is used in the sense that through regulatory mechanisms and incentives, government is able to manage or manipulate their behavior. Recognizing the lending institutions as a stakeholder and a crucial component to homeownership, meetings to assess the availability of homeownership programs are on-going. Guam Housing Corporation will sponsor a symposium with private lending institutions in June to discuss affordability issues in the field of financing.

It is the remaining variable, the homebuyer, that will be the final decision maker. This human variable is the main ingredient in the equation. Subject to choice, unless the human variable chooses to pursue homeownership and acts on the opportunities provided, the homebuyer is only subject to enticement. For the homebuyer, the probability of homeownership is a function of household size, type, and income.

It is the intent to manage the controllable variables in order to provide opportunities for the homebuyer to achieve homeownership. Through this manipulation, it is hoped that homeownership that is affordable will be achieved.



## **Some Factors Contributing to Guam's Affordable Housing Problem**



### **HIGH REAL ESTATE PRICES and LIMITED LAND RESOURCES**

The competition for land is one of the biggest deterrents to developing housing at any price. It is perceived to have far more commercial value than residential value, therefore driving the price up.

### **HIGH CONSTRUCTION COSTS**

The price of building materials is another factor affecting the cost of housing significantly. The cost of shipping will always keep building materials at a premium because they come from off-island.



### **LACK OF PRIVATE MORTGAGE INSURANCE**

### **SINGLE SECONDARY MARKET INVESTOR**

### **LIMITED PARTICIPATION IN FHA INSURANCE PROGRAM**

Interest rates over this period have also contributed to the escalating cost of homes. The high interest rates of prior years that drove the market in both mortgage and construction costs will take years to level out. We are now living with those higher rate investments.

### **HIGH COST OF LIVING caused by DISPROPORTION BETWEEN INCOMES AND HOUSING PRICES**

Guam's evolving building codes although meant to make homes safer, artificially add an extra expense to the building of homes.

### **LACK OF HOMEBUYER COUNSELING PROGRAMS**



the "GOAL" ...

It is the goal of the Affordable Housing Task Force to increase the rate of homeownership through an increase in the number of owner-occupied housing units in the Territory of Guam. As a result, the Territory should realize lower public expenditures. Overall, communities with a high proportion of owner-occupied, single family homes remain more economically stable and physically attractive.

#### GUAM'S HOMEOWNERSHIP RATIO ...

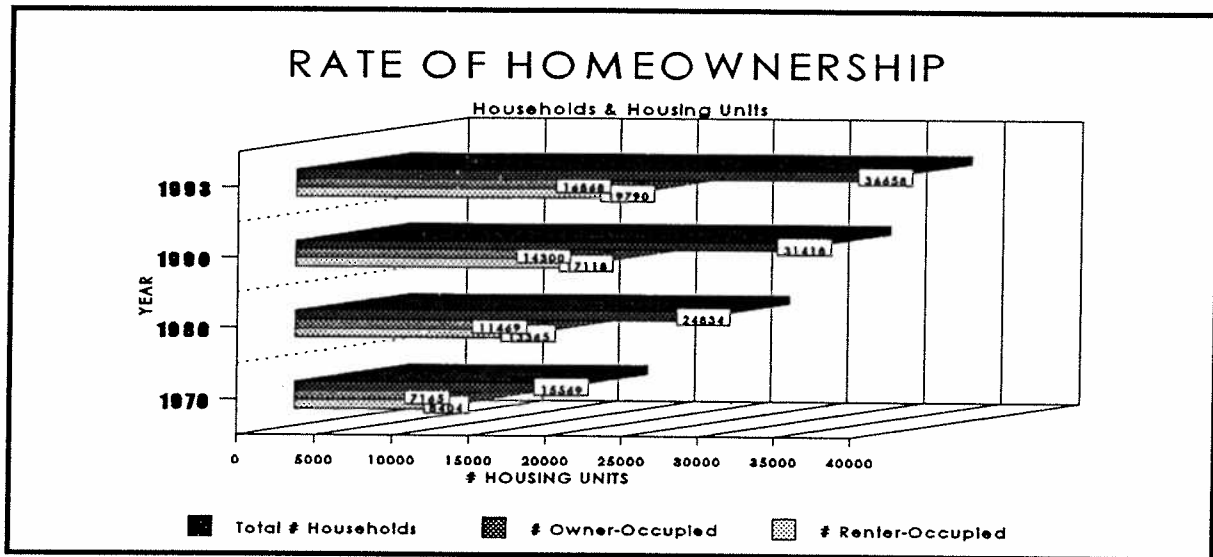
Guam's housing tenure ratio is marked by a majority of renter-occupied dwelling units to owner-occupied units.

#### HOUSING TENURE RATIO

YEAR	TOTAL # HOUSEHOLDS	# OWNER OCCUPIED	% OF TOTAL	# RENTER OCCUPIED	% OF TOTAL
1970	15,569	7,165	46.02	8,404	53.98
1980	24,834	11,469	46.18	13,365	53.82
1990	31,418	14,300	45.52	17,118	54.48
1993	36,658	16,868	46.01	19,790	53.99

SOURCE:1990 Guam Annual Economic Review and Bureau of Census

The Affordable Housing Task Force recognizes the benefits that homeownership can give to families and to our island. Families will realize a sense of security and control over their living situation, pride, personal wealth, greater stability and certainty. It is the goal of the task force to pursue opportunities for affordable homeownership by laying a strong foundation, managing the controllable forces through sound planning efforts.



SOURCE: 1990 Guam Annual Economic Review and Bureau of Census

the "CURRENT SITUATION" ...

- \* Through government-sponsored land for the landless programs created in 1990, specifically the Astumbo, Dededo, As-Lucas, Pigua, Ija, and Umatac Subdivisions, an estimated 1425 residential lots have been awarded through lotteries to eligible applicants for the purpose of constructing a permanent residential dwelling. THE CONSTRUCTION OF A RESIDENTIAL DWELLING IN THESE PROPERTIES IS STAGNANT.
- \* Beginning May 29, 1996 and 180 days thereafter, the Guam Housing and Urban Renewal Authority (GHURA) suspended the application intake for the Section 8 and Public Housing Assisted Programs. At that time, approximately 1573 families had been deemed eligible for the housing assistance programs; 1073 applicants on the Section 8 waiting list and approximately 500 applicants on the Public Housing waiting list. Intake will commence on November 26, 1996.



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## the "OBJECTIVES"

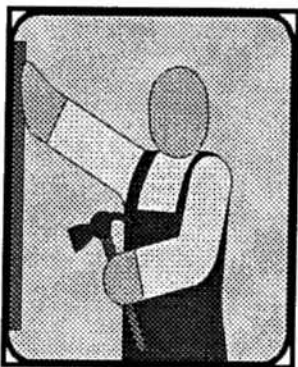
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### TO PROVIDE LAND AT LOW COST FOR HOUSING (GUTIERREZ/BORDALLO HOMESTEAD ACT)

"Develop and implement programs designed to improve available land for housing in programs such as the Chamorro Land Trust Act and the Land for the Landless." (Vision 2001)



### TO ASSIST LOT OWNERS IN GOVERNMENT SPONSORED LAND FOR THE LANDLESS PROGRAMS

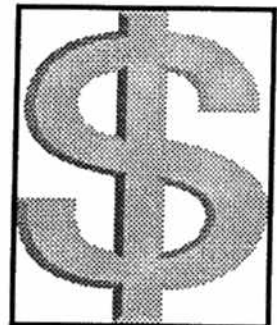


### TO STRUCTURE INCENTIVE PROGRAMS FOR BUILDING AFFORDABLE HOUSING

MANPOWER RESOURCE: TO STREAMLINE THE ALIEN  
LABOR CERTIFICATION

### ISSUANCE OF \$63 MILLION SINGLE FAMILY MORTGAGE REVENUE BOND

"Seek out single family home financing through revenue bonds or private sources to provide low interest mortgage financing to help people build their own homes at the most affordable prices." (Vision2001)



### IMPLEMENTATION OF LADA ESTATES AFFORDABLE HOUSING PROJECT

"Complete the Lada Estates project as a successful model development and seek out similar community development opportunities in both the public and the private sectors based on this model." (Vision2001)

### IMPLEMENTATION OF A HOMEOWNERSHIP EDUCATION & COUNSELING PROGRAM

## **A BARRIER "MANAGED" ... MORTGAGE LIMIT RAISED FOR GUAM**

**"We will continue to work to raise the mortgage limit for federal housing administration loan programs. Building on this success, we must continue to seek ways to maximize federal support for housing." (VISION 2001)**

**ACCOMPLISHED. As stated in a letter from Jill B. Hurt, Director, Single Family Housing Division, US Department of Housing and Urban Development, Hawaii State Office dated July 13, 1995, "...effective immediately, Guam mortgage limits for the FHA mortgage insurance program are increased."**

<u>UNIT SIZE</u>	<u>ONE</u>	<u>TWO</u>	<u>THREE</u>	<u>FOUR</u>
<b>OLD LIMIT</b>	<b>\$142,500</b>	<b>\$160,500</b>	<b>\$195,100</b>	<b>\$225,000</b>
<b>NEW LIMIT</b>	<b>\$180,500</b>	<b>\$203,300</b>	<b>\$247,000</b>	<b>\$285,000</b>

**With these programs in place, we can provide the maximum of opportunities for our people to own homes on our limited land resources.**

affordable housing task force

Passage of Bill 208:  
Chamorro  
Homesteading  
Program



objective

## **TO PROVIDE LAND AT LOW COST FOR HOUSING: GUTIERREZ/BORDALLO HOMESTEADING PROGRAM**

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"Develop and implement programs designed to improve available land for housing in programs such as the Chamorro Land Trust Act and the Land for the Landless." (Excerpt from Vision 2001)



**It is the objective of the task force to lobby the passage of Bill 208 into law. To be administered under the provisions of the Chamorro Land Trust Act by the Chamorro Land Trust Commission, the Gutierrez-Bordallo Homestead Act, Bill 208 would change the present leasehold interest status and allow fee simple ownership of residential land (by Native Chamorros only) under the jurisdiction of the Commission. Bill 208 has been referred to Committee, but no further action is anticipated until January 1997.**

**If Bill 208 becomes law, two (2) benefits would be realized. (1) Ownership in fee simple title would ease the mortgaging problem currently experienced under leasehold interest; and (2) Qualify the property to be assessed for real estate taxes.**

**The Chamorro Land Trust Commission has completed its review of the 321 lots (approximately 10,000 acres) in its inventory and should begin to assert its ownership and jurisdiction over other identified lands pursuant to the Total Land Inventory and the review of Public Law 22-18. The availability of land and funding is dependent on Legislative action and the amending and correction of certain requirements.**

TASK FORCE:

Affordable Housing Task Force

LONG-TERM OBJECTIVE:

Provide Land at Low Cost for Housing (Chamorro Land Trust Commission)

Key Results/Action Items	Time Table	Resources Needed	Accountability	Feedback Mechanism
Bill 208 becomes law.	January 1997	Public Information and Education	<ul style="list-style-type: none"> <li>• CLTC</li> <li>• Governor's Office</li> <li>• Legislature</li> </ul>	<ul style="list-style-type: none"> <li>• FLOWCHART</li> <li>• Bill passed by Legislature</li> <li>• Governor signs Bill into Law</li> </ul>
Installation of Infrastructure in Subdivisions.	Five years from 1996	\$40 million	<ul style="list-style-type: none"> <li>• CLTC</li> <li>• PUAG</li> <li>• GPA</li> <li>• GTA</li> <li>• Legislature</li> </ul>	INFRASTRUCTURE INSTALLED
Correct Relative Lot Size as per Rules & Regulations (P.L. 23-38)	January 1997	Time - Legislative Amendment	<ul style="list-style-type: none"> <li>• CLTC</li> <li>• Governor's Office</li> <li>• Legislature</li> </ul>	Rules & Regulations corrected/amended
Mortgaging Capability	January 1997	Time - Legislative Amendment	<ul style="list-style-type: none"> <li>• CLTC</li> <li>• Governor's Office</li> <li>• Legislature</li> </ul>	CLTA amended to allow for mortgaging to lending institutions
Availability of Land for Home Building	Presently reviewing land inventory	<ul style="list-style-type: none"> <li>• \$40 million infrastructure for new subdivision</li> <li>• Some lots ready</li> </ul>	<ul style="list-style-type: none"> <li>• CLTC</li> </ul>	Leases/Deeds executed

Developed by Joe Borja, Administrative Director, Chamorro Land Trust Commission

# affordable housing task force

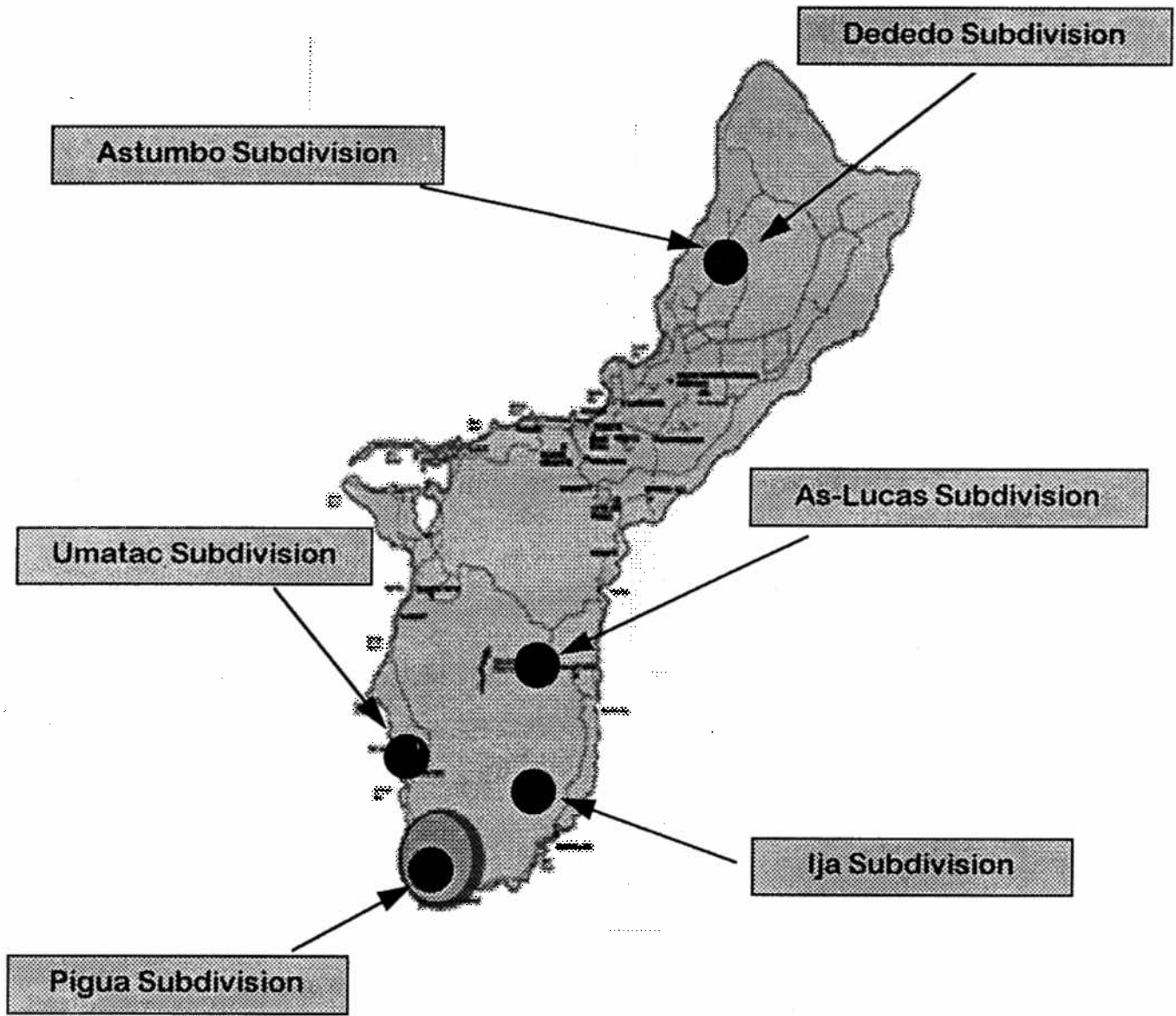
To Assist Lot Owners in  
Government Sponsored  
Land for the Landless  
Programs

Dededo Subdivision  
As-Lucas Subdivision



objective

**To Assist Lot Owners in Government Sponsored Land for  
the Landless Programs**



## **TO ASSIST LOT OWNERS IN GOVERNMENT SPONSORED LAND FOR THE LANDLESS PROGRAMS**

In 1990, the government began a "Land for the Landless" program; a program to develop and subdivide government lands to be sold to eligible applicants at \$2500 for the purpose of constructing a permanent residential dwelling. At that time, it was the premise that because land was limited and expensive, if it were to be provided at below market price, households of low income would be able to construct a home. Today we are finding that this is not the case and the construction of a residential dwelling on these properties is stagnant. Therefore, it is the objective to assist these lot owners achieve their housing goal. Following are six properties that have been identified for the task force to focus its efforts. Collectively, there are approximately 1425 residential lots, priced below fair market value at \$2500 each and sold to eligible participants identified in a lottery.

PROPERTY	LOCATION	TOTAL RESIDENTIAL LOTS	TOTAL LOTS PAID IN FULL	AGENCY
Astumbo Subdivision	Dededo	503	283 (as of 2/28/96)	GHURA
Dededo Subdivision	Dededo	165	39 (as of 2/28/96)	DLM
As-Lucas Subdivision	Talofoto	222	105 (as of 2/28/96)	DLM
Umatac Subdivision	Umatac	98	no info	DLM
Ija Subdivision	Inarajan	305	27 (as of 4/18/96)	DLM
Pigua Subdivision	Merizo	132	23 (as of 4/15/96)	DLM
<b>TOTAL</b>		<b>1425</b>	<b>477</b>	

Of these properties, the task force focused its efforts on the Astumbo Subdivision, the Dededo Subdivision and the As-Lucas Subdivision because infrastructure is available on these properties. Infrastructure installation in the Pigua Subdivision, Merizo commenced in March 1996 with completion estimated in six months.

The task force, assisted by staff of the Department of Land Management, compiled the necessary information to contact each lot owner in the Dededo, As-Lucas, and Pigua Subdivisions. Information on the Astumbo Subdivision lot owners is compiled, but needs to be updated. As instructed, this information has been transmitted to GHC. GHC will conduct a preliminary interview on each client to determine financial capability to pursue homeownership.



## **STRATEGY TO ACHIEVE OBJECTIVE:**

- 1. Identification of Lot Owners. Develop a master list of lot owners in each of the six properties.**
- 2. Determine Payment Status of each Lot. Identify those lot owners that have paid for their lot in full and those that have not.**

**FOCUS efforts on those lot owners who have paid for their lots in full. Interview to obtain pertinent information (household size, income, debts, etc.) and determine prequalification level.**

- 3. Gather and analyze information pertaining to each property, ie. Conveyance documents, Enabling legislations, etc.**
- 4. Development of Population Profile. Through telephone surveys, personal interviews, mail return questionnaires, etc. compile client data such as income, household size, etc. in order to develop a population profile. This population profile will be used to develop financing and housing construction programs.**

**A critical issue currently being addressed is the lack of current and pertinent information on each lot owner to develop a population profile. This profile will be provided to financing institutions and developers of housing. In an attempt to resolve this issue, the task force staff members concentrated its efforts on contacting each lot owner in the Astumbo Subdivision via telephone to obtain the necessary information, ie., gross income, household size, etc. Results of the telephone survey conducted are, of the 283 lot owners who have paid for their lot in full, the staff was successful with only 19. Many of the telephone numbers were no longer in service. A mass mailing survey is now being considered.**

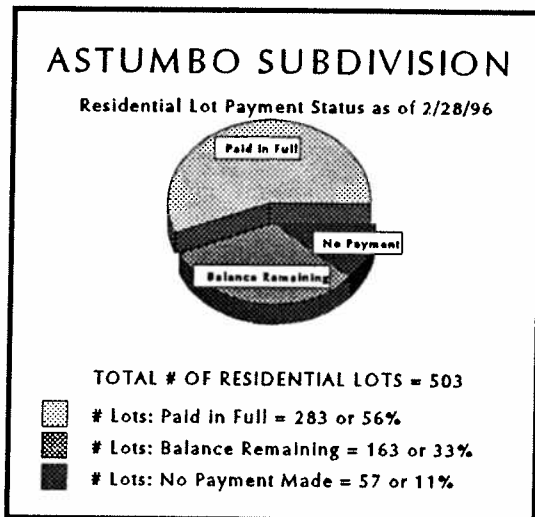
**OBJECTIVE: TO ASSIST 50 LOT OWNERS IN THE ASTUMBO SUBDIVISION ACHIEVE HOMEOWNERSHIP**

HOUSING EQUATION VARIABLES		IMPEDIMENTS TO IMMEDIATE IMPLEMENTATION	COMMENTS
LAND	Astumbo Subdivision Lots		<p><b>FINANCING MECHANISMS FOR HOMEBUYERS:</b></p> <p><b>PREQUALIFICATION PERIOD:</b> GHC is currently interviewing lot owners to determine their financial capacity to obtain a mortgage loan.</p> <p><b>PRIORITY OF FINANCING FOR HOMEBUYERS:</b></p> <p><b>FIRST:</b> Pursue conventional lending with lending institution without financial assistance from GHURA or GHC, based solely on the client's ability.</p> <p><b>SECOND:</b> Pursue conventional lending and if financial assistance is needed by the Homebuyer for downpayment and/or closing cost, use HOME '95 Grant funds.</p> <p><b>FINAL OPTION:</b> Qualify under GHC Regular Loan Program.</p>
CONTRACTOR "Construction Mechanisms"	For GHC Loan Program, need to identify Contractor through Bid Process.	Approval from DPW to commence Bid process.	
LENDER "Financing Mechanisms"	<p>Conventional Lending</p> <p>GHC: Regular Loan Program (appx \$700,000)</p> <p>GHURA: Home '95 Grant (appx \$900,000) CAHAT Program</p> <p>First Savings &amp; Loan: FHLB of Seattle Grant (appx \$50,000)</p>	<p>Qualification by Lending Institution</p> <p>Eligibility criteria of 3 denials</p> <p>Partnership w/ lending institution</p> <p>Eligibility criteria of 50% median &amp; Homebuyer Program</p>	
HOMEBUYER	<p><b>PRIORITY TO:</b> * Astumbo Lot Owner * Lot Paid in Full * Tenant of Section 8 or Public Hsg Program</p> <p><b>THEREAFTER:</b> * Astumbo Lot Owner * Paid in Full</p>		

## ASTUMBO SUBDIVISION

The Guam Housing & Urban Renewal Authority as authorized by Guam Public Law 14-138 and through funding assistance from the Community Development Block Grant Program, developed 503 residential lots in the Astumbo Subdivision, Municipality of Dededo. Within the subdivision, there will be a fire station, a community center, and three commercial lots.

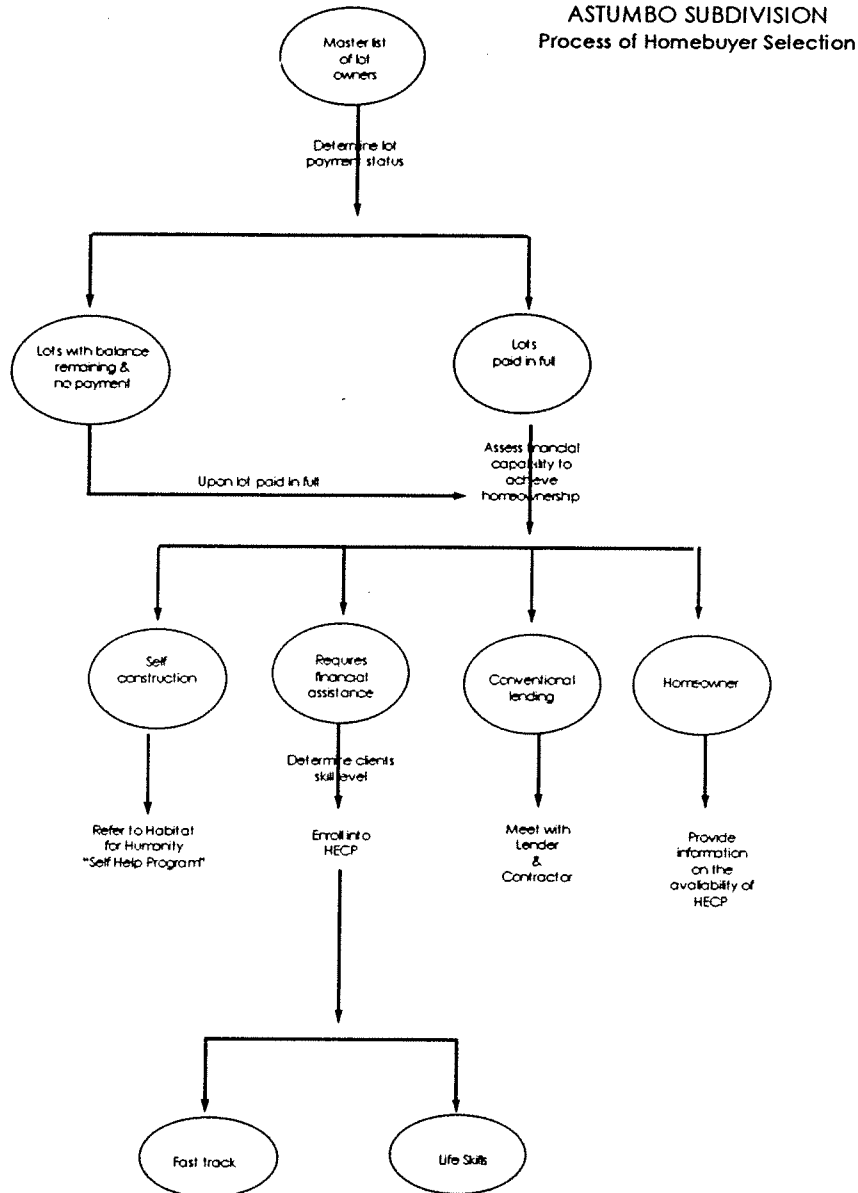
The residential lots average 10,900 square feet in size with the necessary infrastructure: water, power, sewer, telephone, and streets. Each residential lot was sold to eligible purchasers at \$2500 per lot.



The lot must be used for residential purposes only and allows for the construction of duplexes. To be eligible, the applicant must be a bonafide resident of Guam, of legal age, without fee title to any real property in or out of the Territory, with an income not exceeding the limits established for a low-income family residing in low rent housing, and must meet one of four preference categories.

# HOMEBUYER SELECTION

Selecting eligible and qualified homebuyers is vital to the success of the program. In the selection process, GHURA will develop a marketing plan which will include affirmative marketing, identifying and selecting qualified homebuyers. Prospective homebuyers who meet the basic requirements will be required to complete the Homeownership Education Counseling Program in order to receive assistance.



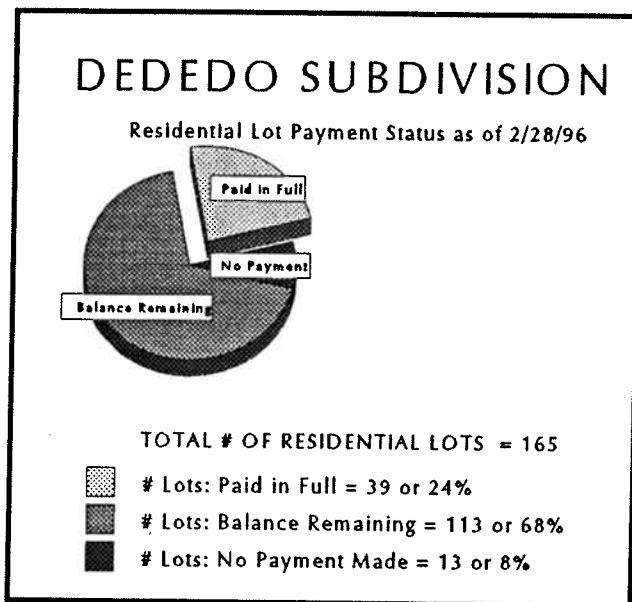
## DEDEDO SUBDIVISION PROPERTY INFORMATION

The Dededo Subdivision, Tract 1113, is an emergency housing program created to assist the disaster victims of Typhoons Russ, Omar, and Yuri. Enabling legislations are Public Laws 21-60, 21-72, 21-146, and 22-65. From the information submitted to and obtained by the Task Force, the following can be concluded.

In the Dededo Subdivision, ownership to one-hundred sixty five (165) lots have been identified. Of the 165 lots, 96 lots are the Sagan Linahyan Subdivision.

The Sagan Linahyan Housing Subdivision, located in Astumbo, Dededo, consists of ninety-six (96) single family dwellings of one-, two-, and three-bedroom sizes. The subdivision is the result of a joint development effort between the Government of Guam and the Federal Emergency Management Agency (FEMA) in the wake of

major typhoon damage due to Typhoon Omar. It was the intent to provide permanent homes at \$1.00 each to families devastated by Typhoon Omar. The families were selected by FEMA in 1993. The subdivision was completed and opened in March 1994. These 96 families have been identified and shaded on the list transmitted to GHC. The actual number to assist is 165 less 96 equals 69 lot owners.



As of February 28, 1996, of the 165 lots:

>Thirty-nine (39) or 24% have been paid in full;

>One hundred thirteen (113) or 68%

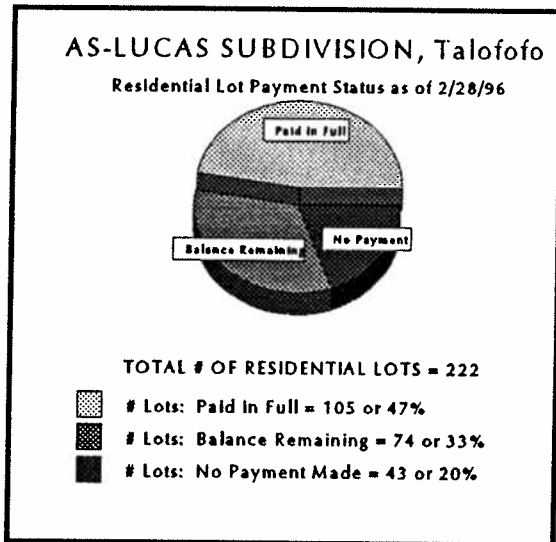
have a remaining balance; and

>Thirteen (13) or 8% have not made any payments.

Of the 39 paid in full, twenty-one (21) are of the Sagan Linahyan Subdivision. Of the 113 with a balance remaining, seventy-one (71) are of the Sagan Linahyan Subdivision. Of the 13 who have not made any payments, four (4) are of the Sagan Linahyan Subdivision.

**Status of Housing Construction.** As of February 28, 1996, the subdivision contained 103 concrete structures, including 96 in Sagan Linahyan; 22 tin/container structures; 7 under construction; and 33 vacant.

## AS-LUCAS SUBDIVISION PROPERTY INFORMATION



A Government-sponsored Land for the Landless Program located in Talofofu, Guam. The Government of Guam embarked on a program of developing government lands to be subdivided and sold to eligible applicants to construct a permanent residential dwelling. Infrastructure available on-site include power, water, cable and telephone. Currently in progress is the installation of sewer and roadways. According to the Mayor of Talofofu, completion date is scheduled for February 1997. From the information submitted to and obtained by the Task Force, the following can be concluded.

In the As-Lucas Subdivision, ownership to two-hundred twenty two (222) lots have been identified through a lottery system which occurred in September 1991. Each lot is to be sold for \$2500 each. As of February 28, 1996, of the 222 lots:

- >One-hundred five (105) or 47% have been paid in full;
- >Seventy-four (74) or 33% have a remaining balance; and
- >Forty-three (43) or 20% have not made any payments.

Status on Infrastructure Installation. (Village News, Pacific Daily News, May 19, 1996.)

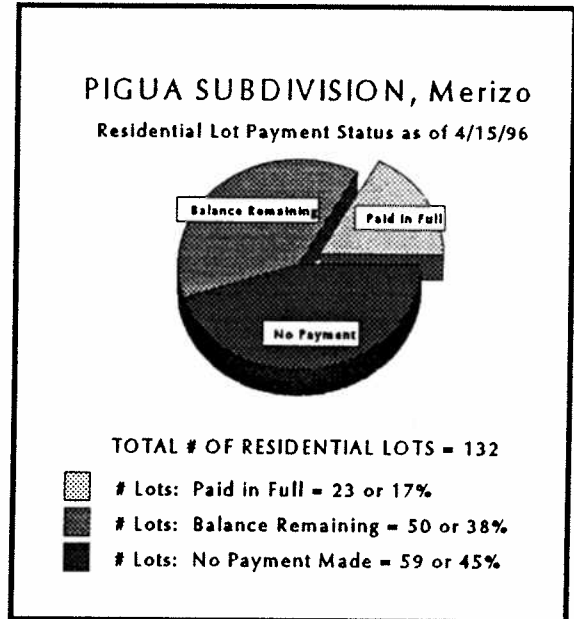
- \* Construction on the sewer wastewater collector system has started.
- \* GPA capital improvement involves pole hardening, reconductoring and providing a secondary underground system.
- \* Paving will follow the completion of the sewer system.
- \* Anticipated date of completion is December 1996.

## PIGUA SUBDIVISION PROPERTY INFORMATION

Located in Merizo, Tract 3821, the Pigua Subdivision contains 132 residential lots. The creation of the Pigua Subdivision is authorized under P.L. 20-72 dated September 14, 1989 and P.L. 20-217

To be eligible for a lot in the subdivision, an applicant must own no land and in order of priority:

1. Tenants of any portion of the government land being subdivided;
2. Resident of Merizo who are veterans;
3. Married couples and single parents who are residents of Merizo.



## UMATAC SUBDIVISION PROPERTY INFORMATION

The subject of political controversy. Stated in a Pacific Daily News Article dated May 27, 1996 regarding Tract 3241; of the 241 lots, 110 are either wetland areas or too mountainous to be developed, therefore undevelopable or too costly to develop.

## IJA SUBDIVISION PROPERTY INFORMATION

Another subject of political controversy. This situation involves the government awarding property that it does not legally own, no legal title to the property.

A total of 305 residential lots have been awarded to eligible applicants. Of this amount, 27 lot owners have paid for their lot in full and 165 have executed conditional contracts to deeds.

Presently, infrastructure is not available on the property. GHURA is conducting an income survey of the 305 lot owners to determine if CDBG funds can be used to cover infrastructural costs in the Subdivision. Pursuant to the regulations, at least 51% of the lot owners must be at or below 80% of income median adjusted for household size. Determination of funding eligibility is estimated in June 1996.

## PROPERTY INFORMATION

PROPERTY	ASTUMBO SUBDIVISION	DEDEDO SUBDIVISION	AS LUCAS SUBDIVISION	UMATAC SUBDIVISION Phase I	IJA SUBDIVISION	PIGUA SUBDIVISION
LOCATION	Dededo Tract 240	Dededo Tract 1113	Talofofa Tract 2831	Umatac Tract 3241 Tract 104	Inarajan Tract 3734	Merizo Tract 3821
ADMINISTERING AGENCY	GHURA	Dept of LandMgmt	Dept of Land Mgmt.	Dept of Land Mgmt.	Dept of Land Mgmt.	Dept of Land Mgmt.
IMPLEMENTATION DATE	1993	1991	Lottery in Sept 1991			
GOVERNING REGULATIONS	P.L. 14-138 P.L. 20-113 P.L. 20-217 P.L. 22-65 P.L. 22-70	P.L. 21-60 P.L. 21-72 P.L. 21-146 P.L. 22-65	P.L. 16-118 P.L. 20-217	P.L. 20-133 P.L. 20-217	P.L. 16-97 P.L. 20-217	P.L. 20-71 P.L. 20-72 P.L. 20-217
PROGRAM TYPE	Land for the Landless	Emergency Housing Program	Land for the Landless	Land for the Landless	Land for the Landless	Land for the Landless
NO. RESIDENTIAL LOTS	503	165 includes Sagan Linahyan units = 96	222	Tract 3241 = 64 Tract 104 = 34	305 # Paid in Full = 27	132
TYPE OF CLIENTELE	Low Income	Preference to Typhoon Russ Disaster Victims				
PRICE PER LOT	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500
LOT OWNERS	Identified	Identified	Identified	Identified	Identified	Identified
INFRASTRUCTURE	Available	Available	Currently Available: Power, Water, Cable, & Telephone  Currently In-progress: Sewer & roads  Est. Completion in Feb 1977.		As of May 19, 1996, not available. GHURA is currently conducting an income survey of the residential lots owners to determine at least 51% L/M eligibility for use of CDBG funds. Determination to be made in June 1996.	Installation Commenced in March 1996

\* Public Law 20-217 waives all requirements of Article 5 of Chapter 62, Title 21 GCA (the Subdivision Law). The Subdivision Law is inapplicable to the "Land for the Landless" Subdivision Projects.



**ANALYSIS OF DOCUMENTS USED BY THE DEPARTMENT OF LAND MANAGEMENT  
(DLM) IN THE LAND FOR THE LANDLESS PROGRAMS:**

- 1. Conditional Contract to Deed**
- 2. Waiver**
- 3. Conditional Deed of Conveyance**

**CONDITIONAL CONTRACT TO DEED:**

THE ASTUMBO SUBDIVISION WILL BE USED AS THE WORKING MODEL TO FACILITATE PILOT PROGRAMS. THE PROCESSES AND MECHANISMS, IF SUCCESSFUL, WILL BE REPLICATED IN THE OTHER SUBDIVISIONS.

affordable housing task force

Implementation of  
the Lada Estates  
Affordable Housing  
Project



objective

# IMPLEMENTATION OF LADA ESTATES AFFORDABLE HOUSING PROJECT

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and seek out similar community development opportunities in both the public and private sectors based on this model." (VISION 2001)

It is the objective to complete the Lada Estates Affordable Housing Project by July 1998.

The project requires the cooperation of three agencies:

1. Guam Housing Corporation (GHC)
2. Department of Public Works (DPW)
3. Guam Economic Development Authority (GEDA)

**GUAM HOUSING CORPORATION.** The overall Project Manager. Responsible for identifying and prequalifying potential homebuyers, conduct lottery, servicing of financing mechanism, developing the rules and regulations

**DEPARTMENT OF PUBLIC WORKS.** Responsible for the Construction Mechanisms of the project; from the preparation of bid specifications through the award of contract, design approval and construction completion.

**GUAM ECONOMIC DEVELOPMENT AUTHORITY.** Responsible for the issuance of the \$63 million Mortgage Revenue Bond to be used as the financing mechanism.

## FACTORS CRITICAL TO THE PROJECT'S SUCCESS AND TIMELY IMPLEMENTATION:

1. The development of the Project's Rules and Regulations by GHC;
2. The approval of the Project's Rules and Regulations by the Legislature; and
3. The plan/layout of the property.

The Rules and Regulations must be approved before a lottery can occur. The plan/layout of the property must be decided before bid specifications issued in Invitation to Bid. A lottery must occur before Award of Contract.

The timeline specified is preliminary. Until the approval of the rules and regulations and the plan/layout is obtained, a concrete timeline cannot be set.

Concluded at a May 24, 1996 meeting at Guam Housing Corporation, the project's rules and regulations need to be presented to the Legislature. DPW is currently negotiating the plan/layout of the property.

A meeting was held on Thursday, May 9, 1996 at Guam Housing Corporation to discuss the progress and implementation of the Lada Estates Affordable Housing Project. In attendance were representatives from the Department of Public Works (DPW), Guam Housing Corporation (GHC), and Mr. Thomas Young, Co-Chair of the Affordable Housing Task Force. Transpired at the meeting are as follows:

**PROJECT INFORMATION**

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**ENABLING LEGISLATION:** P.L. 20-225 dated January 11, 1991  
**LOCATION:** Dededo  
**OWNERSHIP:** Fee Simple  
**TYPE:** Turnkey Development Project  
**NO. OF UNITS:** Four hundred (400) units  
 Townhome style of living  
**SIZE OF UNITS:** Three (3) and four (4) bedrooms w/ 2 baths

**TARGET MARKET:**

120 units to families whose incomes are up to 100% of median  
 200 units to families whose income is between 100% to 130% of median  
 80 units to families whose income is between 130% to 150% of median

**IDENTIFICATION OF HOMEBUYERS**

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Guam Housing Corporation will identify at least 400 qualified homebuyers within each required unit allocation. It is critical that before the Award of Contract on August 30, 1996 the homebuyers have been selected and qualified through a lending institution to receive a mortgage loan.

KEY ACTIONS	IMPLEMENTATION DATE
Solicitation for Applications	Completed
Screening of Applications	Completed
Identification and Prequalification of Potential Homebuyers	In Process
Lottery to Identify Homebuyers	June 30, 1996

## CONSTRUCTION SCHEDULE

The Department of Public Works will prepare the Bid Specifications and publish the "Invitation to Bid" advertisement on or before May 31, 1996.

KEY ACTIONS	IMPLEMENTATION DATE
Preparation of Bid Specifications and Advertise "Invitation to Bid"	by May 31, 1996
Bid Opening	July 31, 1996 (60 days following Invitation to Bid)
Award of Contract	August 30, 1996 (30 days following Bid Opening)
Design and Review Period	September 1996 - February 1997 (180 days following Contract Award)
Design Approval by DPW	February 28, 1997
Notice to Proceed	March 3, 1997
Construction Period	March 1997 - July 1998
Completion of Lada Estates	July 1998

Issue regarding Off-site Infrastructure: According to the enabling legislation, P.L. 20-225, Section 6: "The cost of off-site infrastructure and off-site access roads shall be the responsibility of the government of Guam."

Due to the precarious financial position of the government, I recommend the amend the public law to permit the Contractor to finance the off-site infrastructure and off-site access roads and pro-rate the costs to the homebuyers.

### FINANCING MECHANISMS:

**Conventional Lending.** Due to the income levels of the homebuyers, it will be Guam Housing Corporation's (GHC) intent to promote conventional lending as the main source of homebuyer financing. GHC will encourage the private lending institutions to develop a loan program to meet the needs of the homebuyers while satisfying the needs of the project using the developed property and the structure as collateral to achieve a 0% downpayment program.

Guam Housing Corporation will convene a meeting the first week of June 1996 with interested lending institutions to solicit their participation, to provide information on the project and the prequalified homebuyers, address potential concerns/impediments, and discuss alternative programs (ie. extension of commitment period, bank guarantee).

**Proposed Mortgage Revenue Bond. On May 2, 1996, while in New York, Mr. Ed Untalan, Deputy Director of the Guam Economic Development Authority (GEDA) and myself met with the Financial Advisors on the bond issue, Ramirez and Company. It was agreed that Ramirez and Company will present two (2) scenarios using the Mortgage Revenue Bond as "take-out" financing.**

**Please note: the above information had been transmitted to the Governor on May 13, 1996 under Mr. James G. Sablan's signature, President, Guam Housing Corporation.**

**TASK FORCE:**  
**LONG-TERM OBJECTIVE:**

**Affordable Housing Task Force**  
**Implementation of Lada Estates Affordable Housing Project**

Key Results/Action Items	Time Table	Resources Needed	Accountability	Feedback Mechanism
Construction of Lada Estates Project	785 days from March 1996	<ul style="list-style-type: none"> <li>* Financing</li> <li>* Construction</li> <li>* Infrastructure</li> <li>* Proposed legislation at Governor's Office for Review.</li> <li>* Bid Specifications</li> </ul>	<ul style="list-style-type: none"> <li>* Guam Housing Corporation</li> <li>* Dept. Of Public Works</li> </ul>	<ul style="list-style-type: none"> <li>* Development of structural planning policy and procedure</li> <li>* Development of Bid Specs for Construction</li> </ul>
NOTE: See attached Guam Housing Corporation Timetable.				

**IDENTIFICATION OF HOMEBUYERS**

Guam Housing Corporation will identify at least 400 qualified homebuyers within each required unit allocation. It is critical that before the Award of Contract on August 30, 1996 the homebuyers have been selected and qualified through a lending institution to receive a mortgage loan.

KEY ACTIONS	IMPLEMENTATION DATE
Solicitation for Applications	Completed
Screening of Applications	Completed
Identification and Prequalification of Potential Homebuyers	In Process
Lottery to Identify Homebuyers	June 30, 1996

**CONSTRUCTION SCHEDULE**

The Department of Public Works will prepare the Bid Specifications and publish the "Invitation to Bid" advertisement on or before May 31, 1996.

KEY ACTIONS	IMPLEMENTATION DATE
Preparation of Bid Specifications and Advertise "Invitation to Bid"	by May 31, 1996
Bid Opening	July 31, 1996 (60 days following Invitation to Bid)
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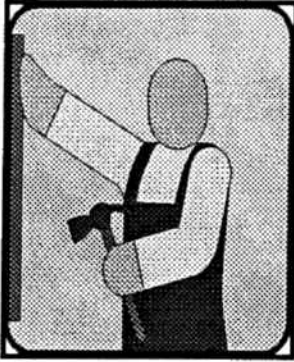


# affordable housing task force

To Structure Incentive  
Programs for Building  
Affordable Housing



objective



## **TO STRUCTURE INCENTIVE PROGRAMS FOR BUILDING AFFORDABLE HOUSING**

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To be administered by the Guam Economic Development Authority whose mission is to promote economic development in the Territory of Guam. The Task Force transmitted four (4) incentive program recommendations to the Guam Economic Development Authority for their review on January 29, 1996. On-going communication to further clarify the recommendations for the incentive program is in progress between GEDA and the Task Force.

GEDA transmitted a letter dated April 10, 1996 commenting on the proposed incentive programs.

### **PROPOSED LEGISLATION IN THE WORKS...**

**BILL \_\_\_** introduced by Senator Carlotta Leon Guerrero targetted at first time homebuyers. Intended to satisfy the basic need of residents of Guam to own their own homes and will encourage construction and, therefore, economic development, Bill \_\_\_ will provide tax rebates to homebuyers to encourage first time home ownership. (Attached as Exhibit \_\_.)

**BILL 606** introduced by Senator Joe T. San Agustin and Senator John P. Aguon targetted at developers, contractors and subcontractors authorizes the issuance of Qualifying Certificates (QC) to developers of affordable housing. Provides for the abatement of all gross receipts taxes, and a rebate of one hundred percent (100%) of all income tax paid to the government of Guam for a period of up to twenty (20) years from the date of the QC derived from the construction of no less than twenty-five (25) affordable housing units. (Attached as Exhibit \_\_.)

affordable housing task force

Manpower Resource:  
to Streamline the Alien  
Labor Certification



objective

## MANPOWER RESOURCE: TO STREAMLINE THE ALIEN LABOR CERTIFICATION PROCESS

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Under the jurisdiction of the Alien Labor Processing and Certification Division of the Department of Labor, it is the objective to identify areas within the process to allow for expeditious certification.

The Guam Contractors' Association (GCA) raised several critical labor issues in a letter to the Governor dated April 26, 1996. The task force received a copy and addressed the issues with Linda San Nicolas of the Alien Labor Processing and Certification Division, Department of Labor. Following are four (4) point issues raised in the letter.



**ISSUE 1:** *"the lack of a current Prevailing Wage Survey, as, despite repeated requests for an updated survey, we are still using wage rates developed in 1992;"*

**RESPONSE:** See attached Executive Summary Briefing dated May 1, 1996: Status of Implementation of New Prevailing Wage Rates for H-2 Labor Certification.

**ISSUE 2:** *"the assessment of needs pertaining to job or trade classifications, for example, abnormally high levels of certain trade categories, such as plasterers;"*

**RESPONSE:** The Department of Labor has meet with the Guam Contractors' Association on this issue.

**ISSUE 3:** *"the consolidation of similar trades, for example, a single trade category for all masonry trades to allow increased flexibility on jobsites; and"*

**RESPONSE:** Currently in the process of developing a proposal to amend the local rules and regulations governing the processing of applications for temporary laborers. The estimated date of proposal completion is August 1996. Upon completion, a public hearing will be held to allow for public comments.

**ISSUE 4:** *"enforcement of Department of Labor Rules and Regulations, especially regarding the common practice of what we call "labor brokers" who "rent out" alien labor on a short-term basis, and the current level of field enforcement."*

**RESPONSE:** The Department of Labor employs Labor Law Enforcement Specialists to conduct inspections and enforce the Department's Rules and Regulations. Inspections for compliance are based on the information submitted to the Department. The "labor broker" issue is a concern to the Department, but unless a formal complaint is filed, an investigation will not occur.

### ATTACHMENTS

- \* Status Report on Manpower Resourcing from Linda San Nicolas, Alien Labor Processing and Certification Division (ALPCD), Department of Labor
- \* Executive Summary Briefing dated May 1, 1996: Status of Implementation of New Prevailing Wage Rates for H-2 Labor Certification. Prepared by Gary A. Hiles, Senior Economist, Department of Labor, Guam
- \* Letter to Governor dated April 26, 1996 from the Guam Contractor's Association regarding the Alien Labor Processing & Certification Division, Guam Department of Labor
- \* ALPCD Clearance Sheet and Temporary Alien Employment Certification Checklist

TASK FORCE:

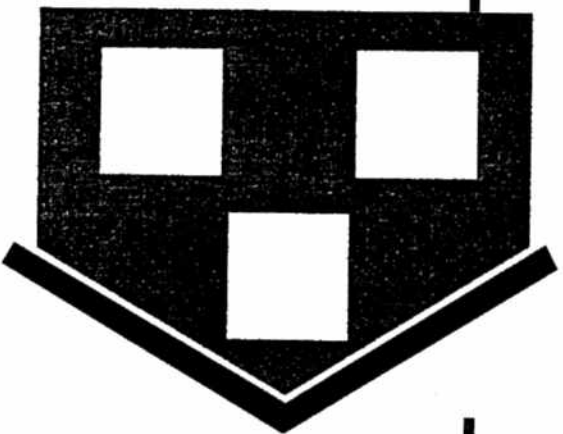
Affordable Housing Task Force

LONG-TERM OBJECTIVE:

Manpower Resource: Improving Alien Labor Process and Certification

Key Results/Action Items	Time Table	Resources Needed	Accountability	Feedback Mechanism
Procedures require that the Application for Temporary Labor Certification be submitted to DOL at least 40 days before the worker's services are needed.	40 days begins from the time application was filed to DOL.	Local funding is essentially needed for recruitment purposes of at least 3 more caseworker	Reviews application for completeness and conformity to DOL requirement and to allow the employer for the 30 days recruitment of U.S. workers and the 10 days or less processing time by DOL.	To allow an employer to file the required Temporary labor certification issued by the Governor to THE appropriate INS office in a timely manner.
Registration of Temporary Alien Workers; Identification Badges	Temporary Worker shall be registered within 24 hours. Upon arrival in Guam.	It is essential to the operation of this program that local funding be granted to recruit 3 more inspectors.	A violation to this provision may be subject to administrative penalties.	The offender may either pay the fine, or appeal to the Director of Labor for a hearing.
Temporary Alien Worker A. Exit Clearance B. Notification of Departure	A. 15 days prior to the departure. B. Within 10 days after the departure.	It is essential to the operation of this program that local funding be granted to recruit 3 more inspectors.	A violation to this provision may be subject to administrative penalties.	The offender may either pay the fine, or appeal to the Director of Labor for a hearing.
Monies collected as follows: 1. Registration 2. Penalties 3. Lost ID 4. Wage Bond 5. Repatriation Guarantee Bond	Usually the same day.	It is imperative that local funding be provided to recruit for an Accountant for the program and also a Data Entry Clerk.	To collect and deposit monies received in the form of cashier's checks, money orders, TCDs, and insurance bonds.	1. Proper maintenance of records and accounts between DOL and DOA.  2. Adequate reporting is provided to the Guam Legislature with respect to the registration and penalty fees collected.
A temporary labor certification issued by the Department shall be limited to one employer and only to those projects approved by the Department, shall be non-transferable, and shall valid only for the specific activity designated in the certificate and only for the occupation specified for each temporary worker covered by the certificate.	Effective the date the approval was issued.	Again, as mentioned earlier local funding is needed to recruit 3 more inspectors.	A violation to this provision may be subject to administrative penalties.	The offender may either pay the fine or appeal to the Director of Labor for a hearing.

# affordable housing task force



Implementation of a  
Homeownership &  
Education &  
Counseling Program

objective

## **IMPLEMENTATION OF A HOMEOWNERSHIP EDUCATION & COUNSELING PROGRAM**

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The island is experiencing a critical need for the implementation of a Homeownership Education and Counseling Program. Currently no such program exists.

The lack of a Homeownership Education and Counseling Program is an obstacle to affordable housing because completion of such a program is a prerequisite to receiving financial assistance with federal funds. As government, collectively we will pursue the most efficient, cost effective way to implement a program. Cognizant of the expertise required to operate the program, in the first year, the program will be contracted to a private organization(s) identified through a "Request for Proposal" bid submission. Concurrently, GHURA and GHC will be in the process of identifying and developing the capacity to include certifying existing personnel who will operate the program in year two.



In a partnership effort between the Guam Housing and Urban Renewal Authority (GHURA) and the Guam Housing Corporation (GHC) a "Request for Proposals" was published on April 16 & 17, 1996.

**Target Population and Number to Assist.** INITIALLY, the program will target the residential lot owners who have paid their lot in full and have stable income and require government financial assistance to obtain a mortgage. Based on the program's requirements, an average cycle is 24 weeks, dependent on the client's credit history and worthiness. The program will seek to assist a minimum of seventy-five (75) clients in one cycle.

**RESPONSE TO "RFP."** Eleven (11) proposal packets had been obtained by interested persons/organizations. At close of proposal submission, GHURA had received two proposal submissions from two (2) private education institutions.

**PROGRAM IMPLEMENTATION.** A recommendation for contract award to implement the Homeownership Education & Counseling Program will be presented to the Board of Commissioners of the Guam Housing and Urban Renewal Authority by the Executive Director on May 29, 1996. If approved, contract execution will occur May 30, 1996 and program implementation in June 1996.

**TASK FORCE:**  
**LONG-TERM OBJECTIVE:**

**Affordable Housing Task Force**  
**Implementation of the Homeownership Education & Counseling Program**

Key Results/Action Items	Time Table	Resources Needed	Accountability	Feedback Mechanism
<p>Development of the Homeownership Education &amp; Counseling Program</p> <ul style="list-style-type: none"> <li>-Determine Goals &amp; Objectives</li> <li>-Establish Loan Policies and Procedures</li> <li>-Determine Target Population</li> <li>-Determine Organizational Structure</li> <li>-Determine Program Components</li> <li>-Determine Financing Requirements</li> <li>-Identify Roles and Responsibilities of Partnership Members</li> <li>-Develop Program Monitoring &amp; Evaluation Controls for Organization</li> </ul>	<p>March 1996</p>	<p>Staff with expertise in the related program areas.</p>	<ul style="list-style-type: none"> <li>• Guam Housing &amp; Urban Renewal Authority (GHURA)</li> <li>• Guam Housing Corporation(GHC)</li> <li>• Agency for Human Resource Development (AHRD)</li> </ul>	<ul style="list-style-type: none"> <li>• Development of Program (Scope of Work)</li> </ul>
<p>Identification of Organization to Implement Program through Publication of "Request for Proposals"</p> <ul style="list-style-type: none"> <li>-Solicitation of Proposals. Publish "Request for Proposals"</li> <li>-Evaluate Organization's Capacity to Carry Out the Program</li> <li>- Presentation to the Board of Commissioners</li> <li>-Execute Subrecipient Agreement to Perform Services</li> </ul>	<p>April 16 &amp; 17, 1996            May 3, 1996            May 29, 1996            May 30, 1996</p>	<p>\$ Funds \$</p> <p>NOTE: Funding for the first year of program implementation &amp; operation has been secured by GHURA through a grant from the U.S. Dept. of Housing and Urban Development (HUD).</p>	<ul style="list-style-type: none"> <li>• GHURA</li> <li>• GHC</li> <li>• AHRD</li> </ul>	<ul style="list-style-type: none"> <li>• Organization Identified</li> </ul>
<p>Implementation of Program</p> <ul style="list-style-type: none"> <li>-Conduct Marketing &amp; Outreach to Identify Potential Homebuyers</li> <li>-Initiate HUD-Approved Housing Counseling Certification Process</li> </ul>	<p>June 1996</p>	<p>Certified Housing Counselor</p>	<ul style="list-style-type: none"> <li>• GHURA</li> <li>• GHC</li> </ul>	<ul style="list-style-type: none"> <li>• Potential Homebuyers Identified</li> </ul>
<p>Monitor &amp; Evaluate Program &amp; Organization's Effectiveness</p> <ul style="list-style-type: none"> <li>-Review of Policies and Procedures</li> <li>-Collect, Analyze &amp; Report on Impact Data</li> <li>-Review &amp; Comply with Contractual Obligations</li> <li>-Assess Evolving Client Needs &amp; Degree Program is Meeting Needs</li> </ul>	<p>Ongoing</p>	<p>Staff to monitor program compliance.</p>	<ul style="list-style-type: none"> <li>• GHURA</li> <li>• GHC</li> <li>• AHRD</li> </ul>	<ul style="list-style-type: none"> <li>* Potential Homebuyers become Homeowners</li> </ul>



affordable housing task force

Issuance of \$63  
Million Single  
Family Mortgage  
Revenue Bond



objective



## **ISSUANCE OF \$63 MILLION SINGLE FAMILY MORTGAGE REVENUE BOND**

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"Seek out single family home financing through revenue bonds or private sources to provide low interest mortgage financing to help our people build their own homes at the most affordable prices." (Excerpt from Vision 2001)

Initiated by Guam Housing Corporation, GHC proposes to use the \$63 million Mortgage Revenue Bond to support the provision of low interest mortgage financing to homebuyers in the Lada Estates Affordable Housing Project (\$50 million) and to assist lot owners in government sponsored land for the landless programs (\$13 million). The completion and issuance of the Mortgage Revenue Bond has been tasked to the Guam Economic Development Authority (GEDA) since GHC is not authorized to issue bonds.

GEDA has expressed that completion of the MRB is contingent upon the completion of a number of issues including updating the housing study accounting for the current environment to determine a sufficient demand level to utilize the entire bond proceeds within a 2-3 month period to avoid unnecessary interest rate risk and the establishment of lending mechanisms from which the mortgages are originated.

**UPDATE:** On May 2, 1996, while in New York, Mr. Ed Untalan, Deputy Director of the Guam Economic Development Authority (GEDA) and myself met with the Financial Advisors on the bond issue, Ramirez and Company. It was agreed that Ramirez and Company will present two (2) scenarios using the Mortgage Revenue Bond as "take-out" financing.

**TASK FORCE:  
LONG-TERM OBJECTIVE:**

Affordable Housing Task Force  
Issuance of \$63 Million Single Family Mortgage Revenue Bond

Key Results/Action Items	Time Table	Resources Needed	Accountability	Feedback Mechanism
Feasibility Study on proposed Tax-Exempt Bond Financing.	Completed	Completed	GHC	Completed.
Preparation of proposed legislation	Completed presently At Governor's Office	Governor's Approval	GEDA	Introduction to the Legislature at the Request of the Governor
Introduction to the Legislature at the Request of the Governor.		Legislature Approval	GEDA	
Public Hearing	Concurrent with presentation to the Legislature prior to legislative approval	Support from the Community	GEDA GHC Lending Institutions	Support from Senator.
Issuance of Family Mortgage Revenue Bond			GEDA	

**ACTIONS COMPLETED:**

- Bond Underwriters, Bond Council and Financial Advisor have been selected.
- Preliminary draft, Official Statement and Bond Indenture completed.

Developed by James Sablan, President, Guam Housing Corporation

**Proposed Mortgage Revenue Bond Update:**

On May 2, 1996, while in New York, Mr. Ed Untalan, Deputy Director of the Guam Economic Development Authority (GEDA) and myself met with the Financial Advisors on the bond issue, Ramirez and Company. It was agreed that Ramirez and Company will present two (2) scenarios using the Mortgage Revenue Bond as "take-out" financing.

## **CRITICAL SUCCESS FACTORS**

- \* **PARTNERSHIP WITH LENDING INSTITUTIONS.** A key player, crucial in the quest for affordable housing development. Understanding the concerns and “doing something about it” is of utmost importance if government agencies want the participation of the lending institutions. When both parties’ interests are met, the development of financial mechanisms to meet the needs of our people will follow.
- \* **DEVELOPMENT OF CLIENT PROFILE.** Critical to the success of any project undertaking is the availability of current and accessible information. This is not the case with the lot owners in each subdivision. The concern, once again, how do we know what is needed if we don’t even know what we have.

## **OUTSTANDING ISSUES/RECOMMENDATIONS**

- \* **CONTINUITY OF THE TASK FORCE.** Now that the foundation is settling and ready to take effect, it becomes even more important to continue the efforts of the task force. Continuity of the task force will serve as the coordinating entity to monitor and ensure the realization of the objectives in a timely manner.
- \* **“ONE-STOP” FOR DEVELOPERS OF AFFORDABLE HOUSING**
- \* **TO DEVELOP PROGRAMS TO ASSIST “MEDIUM” INCOME FAMILIES**
- \* **NEED FOR FINANCIAL ASSISTANCE TO FAMILIES PURSUING “SELF-CONSTRUCTION”**
- \* **\$\$\$ FOR START-UP COSTS, ie., Appliances, Furniture, Beds, etc.**
- \* **COORDINATED EFFORT BY GOVERNMENT AGENCIES TO AVOID DUPLICATION OF SERVICES.** Housing is currently being provided by several government agencies: the Guam Housing Corporation, the Guam Housing and Urban Renewal Authority, the Chamorro Land Trust Commission, the Department of Administration and the Department of Land Management.
- \* **RE-ASSESS EACH GOVERNMENT AGENCY’S MISSION AND PURPOSE**
- \* **FIRM COMMITMENT FROM EACH AGENCY TO WORK TOGETHER**
- \* **HOUSING FOR THE DISABLED.** The Vision for Affordable Housing does not make reference to housing for persons with disabilities.

**LACK OF COORDINATION.** No coordination amongst government agencies to provide assistance to the lot owners. Upon full payment of the lot, there are no homeownership programs for the client. The Department of Land Management is charged with administering the Land for the Landless Program. During a discussion with the Land Agents on the process a client go through, when the lot is paid in full, no referral is made to the client for further assistance.

**LIST OF EXHIBITS:**

**Bill introduced by Senator Carlotta Leon Guerrero**

**Bill 606 introduced by Senator Joe T. San Agustin and Senator John P. Aguon**

**Memorandum dated April 10, 1996 from Ed Untalan, Deputy Director, Guam Economic Development Authority to Co-Chairs, Affordable Housing Task Force**

**Status Report on Bill 208: Gutierrez/Bordallo Homesteading Program from Joe Borja, Administrative Director, Chamorro Land Trust Commission**

**Status Report on Manpower Resourcing from Linda San Nicolas, Alien Labor Processing and Certification Division, Department of Labor**

**Public Law 20-225: Enabling Legislation for the Lada Estates Project**

**Lada Estates Project Proposal by Thomas Young**

**Executive Summary Briefing dated May 1, 1996: Status of Implementation of New Prevailing Wage Rates for H-2 Labor Certification. Prepared by Gary A. Hiles, Senior Economist, Department of Labor, Guam**

**Letter to Governor dated April 26, 1996 from the Guam Contractor's Association regarding the Alien Labor Processing & Certification Division, Guam Department of Labor**

**Comprehensive**

**VISION 2001**  
**AFFORDABLE HOUSING STRATEGIC PLANNING TASK FORCE**

**THOMAS Y. YOUNG, Co- Chairman**  
Executive Vice President  
Hawaiian Rock Products  
Phone No. 734-2971

**JOHN T. ANDERSON, Member**  
Chief Territorial Planner  
Department of Land Management

**QUIRINO H. BASBAS P.E., Member**  
Chief Engineer  
Public Utility Agency of Guam

**NELSON DEL CARMEN, Member**  
Vice President  
Inland Builders

**M. CLARISSA GAPUZ, Member**  
Vice President  
Rosario and Associates

**HERMINIA D. DIERKING, Member**  
BRACC '95

**DAVID S. SUMAGAYSAY, Support Staff**  
Guam Housing & Urban Renewal Authority

**BETTY BAMBA, Support Staff**  
Guam Housing & Urban Renewal Authority

**MAGNOSITA MANJARES, Support Staff**  
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**JAMES G. SABLAN, Co-Chairman**  
President  
Guam Housing Corporation  
Phone No. 475-4904

**JOSEPH M. BORJA, Member**  
Administrative Director  
Chamorro Land Trust Commission

**BILL LEON GUERRERO, Member**  
Exec VP/Chief Operating Officer  
Bank of Guam

**ED BORJA, Member**  
Chief Building Inspector  
DPW One Stop Service Center

**EDWARD UNTALAN, Member**  
Econ. & Public Finance Manager  
Guam Economic Dev. Authority

**LINDA SAN NICOLAS, Member**  
Program Coordinator IV  
Department of Labor

**JONATHON TOVES, Support Staff**  
Governor's Office

**ANTOINETTE DUENAS, Support Staff**  
Guam Housing Corporation

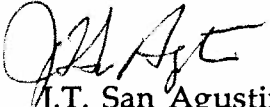
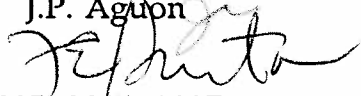
TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) REGULAR SESSION

**Introduced**

APR 17 1996

Bill No. 606 (LS)

Introduced by:

  
J.T. San Agustin  
J.P. Aguon  


AN ACT TO AMEND §§2801, 2802, 2803, 2804, 2805, 2806, 2807  
AND 2808 OF ARTICLE 8, CHAPTER 2, TITLE 12, GUAM CODE  
ANNOTATED, AND TO REPEAL §2809 OF SAID ARTICLE TO  
ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS  
AND TOURIST FACILITIES; AND TO AMEND §§2404  
SUBITEM 8, 2405.4, 2427.5 AND 2443 OF SAID ARTICLE 4,  
CHAPTER 2, TITLE 12, GUAM CODE ANNOTATED, AND TO  
ADD TO SAID ARTICLE NEW §§2427.6 AND 2428.5 TO  
AUTHORIZE THE ISSUANCE OF QUALIFYING  
CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING.

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

Section 1. §2801 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is  
hereby amended to read:

"§2801. *Legislative findings.* ~~Adequate hotel accommodations,  
with related facilities and services, are essential to the sound  
development of Guam's economy and particularly to the continued  
growth of Guam's tourist industry. The enhancement of the tourist  
industry by providing more hotel accommodations with related~~



~~facilities and services will create more jobs to aid Guam's ailing job market. The provision of such accommodations, facilities and services is declared to be a public purpose. Additional hotel accommodations and tourist facilities and services are essential to the further development of Guam's tourist industry, now the island's principal industry, in view of the downsizing of the territory's military facilities. Additional hotel accommodations and tourist facilities will create jobs to take the place of those lost in such military base closures. The provision of such additional accommodations and facilities is declared to be a public purpose."~~

Section 2. §2802 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

*"§2802. GEDA to Ppromote Hotel-Development additional hotels and tourist facilities. The Corporation shall promote the construction and operation of new hotels and the expansion of existing hotels, with incidental and related facilities for the adequate accommodation of tourist and other visitors in Guam. of new hotels, the expansion of existing hotels, and the construction of tourist facilities for the adequate accommodation, amusement of, and service to, tourists and other visitors to Guam."*

Section 3. §2803 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read as follows:

*"2803. Same: Powers and Responsibilities Relative to Hotel*

~~Development. Except as otherwise provided by law, the Corporation is authorized and empowered to do all things necessary or appropriate to carry out the purposes of this Article. It is expressly authorized:~~

~~—————(a)———— To establish a Hotel Development Fund and to deposit the fund in a bank licensed to do business in the territory of Guam. The Hotel Development Fund shall at all times be held and administered separate and apart from other government of Guam funds. The Hotel Development Fund shall be subject to audit by the Territorial Auditor or his successor and to such other audits as may be from time to time authorized by the Board. The Board shall submit a report to the Governor and the Legislature, at least annually, setting forth the financial position of the Hotel Development Fund and a description of the accomplishments of the Corporation in respect to this Article;~~

~~—————(b)———— To collect and disseminate information concerning Guam's tourist industry and the financial incentives offered by the government of Guam for the development, operation and ownership of hotels and related facilities and services in the territory of Guam;~~

~~—————(c)———— To assist persons interested in building or expanding hotels and related facilities and services in Guam in obtaining information from and coordinating with government of Guam agencies, public corporations and Federal agencies represented in Guam;~~

~~—————(d)———— To assist those persons interested in building or expanding hotels and related facilities in the territory of Guam in~~

~~obtaining financing, by maintaining and disseminating information regarding financing available through private and public sources;~~

~~————— (e) ——— To provide administrative and financial assistance, on such terms and upon such conditions as the Board may determine with respect to the preparation of feasibility studies relating to specific proposals for the development or expansion of hotels and related facilities in Guam;~~

~~————— (f) ——— With the prior consent of the Legislature by resolution, may lease government owned land at less than fair market value or sell land acquired by the Corporation to persons for the development and operation of new hotels and related facilities, or for the expansion of existing hotels and related facilities. The provisions of the Chamorro Land Trust Act (Chapter VI, Title XIV of the Government Code) shall not be application to transactions authorized by this Section;~~

~~————— (g) ——— To prepare or have prepared assessment of the infrastructure facilities or services required for the construction and support of additional funds, expansion of existing hotels, and the construction and use of related facilities;~~

~~————— (h) ——— To expend, on such terms and upon such conditions as it shall determine, such part of its funds may then be uncommitted to pay for in whole or in part, additional infrastructure facilities or services which it has determined pursuant to Subsection (g) of this Section to be necessary for the accomplishment of its purposes;~~

~~————— (i) ——— To the extent of uncommitted funds on deposit with the Hotel Development Fund, upon such terms and conditions as the Board may determine, to subsidize the cost of the construction of~~

~~new hotels and related facilities, or the expansion of existing hotels and related facilities, through outright cash grants or by other means approved by the Board, provided:~~

~~————— (1) That the subsidy may not in any case exceed ten percent (10%) of the cost of development of any qualifying facility; and~~

~~————— (2) That the amount and terms of the subsidy are approved by the Legislature. The approval of the Legislature shall be manifested by the adoption of a resolution approving the transaction, or by a failure of the Legislature to adopt a resolution of disapproval within the forty five (45) calendar days after it has received a written request for approval from the Board.~~

~~————— The lease or sale of property by the Corporation to private persons for the development and operation of hotels and related facilities, or for the expansion and hotels and related facilities at leases than fair market value shall not be considered a subsidy for the purpose of applying the limitation imposed under this Section; and~~

~~————— (j) To make loans and to guarantee loans, only if it finds that there are no practical alternate sources of financing available. The Corporation may charge a fee, in addition to interest on any loan which it makes or guarantees. The fee shall not exceed two percent (2%) of the amount of the loan. The fee shall be used by the Corporation to carry out the purposes of this Article. No loan made or guaranteed by the Corporation shall be assigned or otherwise transferred, directly or indirectly, without the consent of the Corporation. Same: powers and responsibilities. The Corporation is~~

authorized and empowered to do all things necessary or appropriate to carry out the purposes of this Article. It is expressly authorized.

(a) Information on tourism. To collect and disseminate information concerning Guam's tourist industry and the financial incentives offered by the government of Guam for the development, operation and ownership of hotels and tourist facilities in Guam;

(b) Coordination with government agencies. To assist persons interested in building or expanding hotels or tourist facilities in Guam in obtaining information from and coordinating with government of Guam agencies, public corporations and Federal agencies represented in Guam;

(c) Information on financing. To assist those persons interested in building or expanding hotels or tourist facilities in Guam in obtaining financing by maintaining and disseminating information regarding financing available through private and public sources; and

(d) Feasibility studies. To provide administrative and financial assistance, on such terms and upon such conditions as the Board may determine, with respect to the preparation of feasibility studies relating to specific proposals for the development or expansion of hotels or tourist facilities in Guam."

Section 4. §2804 of Article 8, Chapter 2, Title 12, Guam Code Annotated is hereby amended to read as follows:

~~"§2804. Government Land for Development of Tourist~~

~~Facilities. Upon request by the Board, the Governor, with the consent of the Legislature, may convey in fee simple tracts of government-owned land suitable for development of tourist facilities in accordance with this Article. If the Government does not own tracts suitable for such purposes, the Governor may negotiate with private landowners for the acquisition of suitable property, provided, that funds have been appropriated for such acquisition. Same: definitions. For purposes of this Article and unless the context otherwise requires, "Hotel" means a building or buildings containing not less than two hundred (200) guest rooms held out to the public as a place where all transient persons, including but not limited to tourists, who come will be accommodated and entertained as guests for compensation whose facilities are open to the public as a whole; and "tourist facility" means a building or buildings whose construction cost is not less than Five Million Dollars (\$5,000,000) offering for compensation, sustenance, entertainment, or amusement of tourists, other transients, and other members of the public, the activities of which facility the Board finds beneficial to the development of Guam's tourist industry."~~

Section 5. §2805 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~"2805.—Appropriation Authorized. There is authorized to be appropriated to the Corporation, from time to time, such sums as may be necessary to enable the Corporation to accomplish the purpose of this Article. Business Privilege and Use Tax exemptions. The proceeds from any contract for building materials or supplies, or for labor or~~

supervision used in the construction of any new hotel or tourist facility in Guam, or for the expansion of any existing hotel, shall be exempt from the tax imposed under Subchapter B of the Business Privilege Tax Law; provided, that (a) the person providing the materials, supplies, labor or supervision has received a certificate of exemption from the Corporation; and (b) the person claims the exemption within the following period: Within one (1) year of the effective date of this Article or when the building permit for the project is issued, whichever first occurs. The exemptions authorized by this section shall be for a period not to exceed twenty-four (24) months, extendable, for cause, by the Board, for an additional period of up to twenty-four (24) months. The Corporation shall adopt reasonable rules and regulations in accordance with the Administrative Adjudication Law for the granting of certificates of exemption in order to ensure that certificates are issued only with respect to materials, supplies, labor or supervision furnished subsequent to the effective date of this Article and for the construction of a new hotel or tourist facility or the expansion of an existing hotel.

The owner of a hotel or tourist facility constructed under a contract, the proceeds from which have been exempted under this section from the tax imposed under Subchapter B of the Business Privilege Tax Law, shall be exempted from the Guam Use Tax Law, with respect to the property used to construct, furnish and equip the hotel or facility, for a similar period."

Section 6. §2806 of Article 8, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~“§2806. Tax Credits and/or Exemptions for Donations. The Corporation may receive donations of money which shall be expended to carry out the purposes of this Article. Donors incurring a tax obligation to the government of Guam under the Gross Receipts Tax (Subchapter B of Chapter VI of Title XX of the Government Code) or an income tax obligation to the government of Guam under the Guam Territorial Tax Law, at the donor’s option and in lieu of the deduction provided for such a contribution by the Guam Territorial Income Tax Law, may receive a credit for the amount of money donated to the Corporation for the fiscal year of the donor during which the money is donated; provided, however, that the credit shall not exceed ten percent (10%) of the donor’s total tax obligation to the government of Guam under Subchapters B and C of the Business Privilege Tax Law for the donor’s fiscal year in which the donation is made. If the amount of money donated exceeds the credit allowed against the taxes imposed under Subchapters B and C of the Business Privilege Tax Law (Chapter VI of Title XX of the Government Code) for the donor’s fiscal year in which the donation is made, then the excess may be deducted with respect to the donor’s income tax obligations to the government of Guam under the Guam Territorial Income Tax Law, subject to the limitations imposed generally with respect to deductions for such contributions. In order to receive to receive the credit authorized by this Section, the donor must claim the credit in a manner established by the Department of Revenue and Taxation, not later than ninety (90) days following the end of the donor’s fiscal year in which the donation was made. Consideration to existing hotels. The Board shall exercise~~



its powers with respect to this Article so as to promote the construction of new hotels, the expansion of existing hotels, and the construction of new hotels, the construction of tourist facilities in an orderly manner and with due regard being given to the profitability of existing hotels and tourist facilities."

Section 7. §2807 of Article 8, Chapter 2, Title 12, is hereby amended to read:

~~"§2807. Appropriation.—There is appropriated to the Corporation, to be expended by it in carrying out the purposes of this Article, ten percent (10%) of all taxes collected pursuant to §19650 of the Government Code (the Excise Tax on Occupancy of Hotel and Similar Lodging House Facilities) from the effective date of the provisions of this Article until and including the date that this Section is repealed; provided, however, that the amount appropriated hereunder shall not exceed, during any one calendar year, Two Hundred Thousand Dollars (\$200,000). The funds appropriated hereunder shall be transferred to the Hotel Development Fund on a monthly basis. Tax rebates on certain rental income. A rebate of up to fifty percent (50%) of all income tax paid to the government of Guam by a Beneficiary on income derived from the lease of land, buildings, machinery or equipment to a Beneficiary of a Qualifying Certificate issued for a hotel or tourist facility covered by the provisions of this Article may be issued for a period not to exceed five (5) consecutive years from the effective date of a Qualifying Certificate therefor, and a rebate of up to twenty-five percent (25%) of such income tax for a period not to exceed~~

the next five (5) consecutive years; *provided*, that an application for such rebate is made within the effective period(s) of this Article, as set out in §2808, *infra*.

(b) *Income tax rebate on certain capital gains.* A rebate of up to fifty percent (50%) on all capital gain income taxes paid on income derived from the sale of land or other real property to a developer of a hotel or tourist facility covered by the provisions of this Article; *provided*, that an application of such rebate is made within the effective period(s) of this Article, as set out in §2808, *infra*."

Section 8. §2808 of Article, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read:

~~§2808. Business Privilege Tax Exemption. The proceeds from any contract for building materials or supplies, or for labor or supervision used in the construction of any new hotel or related facilities in Guam, or for the expansion of any existing hotel and related facilities shall be exempt from the tax imposed under Subchapter B of the Business Privilege Tax Law provided (a) the person providing the materials, supplies, labor or supervision has received a certificate of exemption from the Corporation; and (b) the person claims the exemption within one (1) year from the date that such materials, supplies, labor or supervision is furnished. The Corporation shall adopt reasonable rules and regulations in accordance with the Administrative Adjudication Act for the granting of certificates of exemption in order to ensure that certificates are issued only with respect to materials, supplies, labor or supervision furnished~~

~~subsequent to the effective date of this Article and for the construction or expansion of a qualifying hotel or related facility.~~

~~The owner of a facility constructed under a contract, the proceeds from which have been exempted under this Section from the tax imposed under Subchapter B of the Business Privilege Tax Law, shall be exempted from the Use Tax Law with respect to the property used to construct, furnish and equip the facility. "Sunset" provision. This Article shall take effect on its approval by the Governor and shall remain in effect for twenty-four (24) months thereafter, at the expiration of which period this Article shall automatically be deemed repealed; provided, however, that the Board, at its discretion, may extend the effectiveness of this Article for an additional twenty-four (24) months by adopting a resolution to such effect prior to the expiration of the first twenty-four (24) month period; and provided further, that any Qualifying Certificate issued for a period in excess of twenty-four (24) month periods shall remain in full force and effect until its term expires or it is cancelled on other grounds. The tax rebate on capital gains authorized by §2807 of this Article is available for any tax year of the Beneficiary any part of which falls within the twenty-four (24) month periods in which this Article is in effect."~~

Section 9. §2809 of Article 8, Chapter 2, Title 2, Guam Code Annotated, is hereby repealed.

Section 10. *Legislative findings and intent.* The Legislature finds that despite the burgeoning Guam economy, or perhaps because of the inflation brought about by such an active economy, all too many local residents are unable to affirm safe,

sanitary and decent housing, and the dearth of affordable single-family homes is threatening the fulfillment by many residents of the “American Dream”—a home of their own. The Legislature further finds that the action taken in the past to encourage various enterprises to invest in Guam by issuing them Qualifying Tax Certificates (“QCs”) has worked out quite beneficially for the territory, there being hundreds of jobs and new enterprises in Guam that would not be here were it not for this QC program. The Legislature therefore, in view of the foregoing findings, declares that the intention of the next two sections of this act is to encourage developers to construct affordable housing in Guam by issuing them QCs pursuant to the GEDA Law.

Section 11. *Amendments to GEDA Law.* (a) §2404 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is hereby amended by amending subitem 8 thereof to read as follows:

“8. Improvement of real property ~~for~~ by constructing and selling affordable housing thereon, and for other purposes which are specifically determined by the Authority to be beneficial, desirable, and necessary for the economic development of Guam;”

(b) §2405.4 of Article 4, Chapter 2, Title 12, Guam Code Annotated, is hereby amended to read as follows:

“§2405.4. Affordable housing and Needed facilities.  
Creation of affordable housing or other vitally needed facilities;  
or”

(c) §2443 of Article 4, Chapter 2, Title 12, Guam Code Annotated,

is hereby amended by inserting a new line entitled "Construction of affordable housing" to read as follows:

"Construction of affordable housing                      \$750.00                      \$1,000.00."

Section 12. *Additions to GEDA Law.*

(a) New §2427.6 is hereby added to Article 4, Chapter 2, Title 12, Guam Code Annotated, to read as follows:

*"§2427.6. Development of affordable housing. All taxes levied by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated for a period up to twenty (20) years from the effective date of the Qualifying Certificate therefor, for those gross receipts derived from the construction of affordable housing; provided, that a Qualifying Certificate for such a tax abatement is granted pursuant to the provisions of this subsection. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the receipts the subject of the abatement are derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority."*

(b) New §2428.5 is hereby added to Article 4, Chapter 2, Title 12, Guam Code Annotated, to read as follows:

*"§2428.5. One hundred percent rebate on income from*

*constructing affordable housing.* A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Beneficiary on income received from the construction of affordable housing in Guam may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the income the subject of the rebate is derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority."

Section 13. *Severability.* If any of the provisions of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall *not* affect any other provision or application of this act which can be given effect *without* the invalid provision or application, and to this end the provisions of this act are *severable*.