



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OCT 31 1995

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
155 Hessler Street
Agana, Guam 96910

Office of VICE-SPEAKER TED S. NELSON Received by	
Print Name	Initial
Date: 10/31/95	Time: 1:24 pm

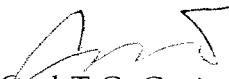
Dear Speaker Nelson:

Enclosed please find a copy of Bill No. I (4-S), "AN ACT TO AMEND RULE 5.1 OF THE SENATOR PAUL BORDALLO RULES AND REGULATIONS FOR THE CHAMORRO LAND TRUST COMMISSION, AS ESTABLISHED IN PUBLIC LAW 23-38", which I have **signed** into law today as **Public Law No. 23-47**.

I would like to thank you and your colleagues for acting promptly and positively on this Bill. Your efforts and those of the Senators that supported this measure indicates your collective desire to see that the Act is implemented in the fairest, most efficient and effective way possible.

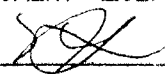
Just like you, it is my express desire to realize the full implementation of this Act which is long overdue. I hope that in the coming weeks the full body of the legislature will listen with open minds and open hearts to all of our people both here and abroad who deserve every conceivable opportunity to own a piece of their homeland.

Yours Truly,


Carl T.C. Gutierrez,
Governor of Guam

Attachment

230710

OFFICE OF THE LEGISLATIVE SECRETARY ACKNOWLEDGMENT RECEIPT	
Received By	
Time	2:04 pm
Date	10-31-95

Twenty Third Guam Legislature
1995 (Fourth) Special Session

CERTIFICATION OF EMERGENCY CONDITIONS WITH RESPECT TO BILL NO. 1 (4-S), AN ACT TO AMEND RULE 5.1 OF THE SENATOR PAUL BORDALLO RULES AND REGULATIONS FOR THE CHAMORRO LAND TRUST COMMISSION, AS ESTABLISHED IN PUBLIC LAW 23-38.

I, the Acting Speaker and Presiding Officer of the Twenty Third Guam Legislature, hereby certify, pursuant to §2103 of Title 2, Guam Code Annotated, that emergency conditions will exist involving danger to the public health and safety, so that the statutory requirement of a public hearing for Bill No. 1 (4-S) may be waived. Such emergency conditions result from the Governor's recent veto of legislation to extend the application deadline, and the potential problems associated with the "first come first served" application process of the Chamorro Land Trust Rules and Regulations, which may jeopardize public health and safety. Furthermore, upon the resignation of the Director and Administrative Director at 5:00 p.m., the Chamorro Land Trust Commission is without the administrative leadership necessary to carry out its duties and responsibilities, on November 1. Since this speedy resolution is in the public interest, I CERTIFY that (i) immediate action must be taken to address the concerns of the Governor, and (ii) there is no time for a public hearing on Bill No. 1 (4-S).

Dated: October 30, 1995



TED SGAMBELLURI NELSON
Acting Speaker

TWENTY-THIRD GUAM LEGISLATURE
1995 (FOURTH) Special Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 1 (4-S), "AN ACT TO AMEND RULE 5.1 OF THE SENATOR PAUL BORDALLO RULES AND REGULATIONS FOR THE CHAMORRO LAND TRUST COMMISSION, AS ESTABLISHED IN PUBLIC LAW 23-38", was on the 30th day of October, 1995, duly and regularly passed.



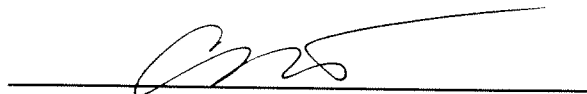
TED S. NELSON
Acting Speaker

Attested:



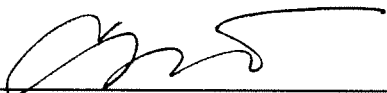
JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 30th day of OCTOBER,
1995, at 10:00 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 10-31-95

Public Law No. 23-47

TWENTY-THIRD GUAM LEGISLATURE
1995 (Fourth) Special Session

Bill No. 1 (4-S)
As Amended on the floor

Introduced by:

T. S. Nelson
J. P. Aguon
E. Barrett-Anderson
A. C. Blaz
J. M. S. Brown
F. P. Camacho
H. A. Cristobal
M. Forbes
A. C. Lamorena V
C. Leon Guerrero
L. Leon Guerrero
S. L. Orsini
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco,
at the request of the Governor
in accordance with the
Organic Act of Guam

AN ACT TO AMEND RULE 5.1 OF THE SENATOR PAUL
BORDALLO RULES AND REGULATIONS FOR THE
CHAMORRO LAND TRUST COMMISSION, AS
ESTABLISHED IN PUBLIC LAW 23-38.

1 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**
2 **Section 1. Legislative Findings.** The Chamorro Land Trust Commission
3 has raised serious concerns and questions relative to the implementation of

1 the process for application for land leases under the current mandate.
2 Likewise, public safety and public health officials have raised concerns about
3 the dangers to the health and safety of individuals, as well as, groups, if the
4 current application process is to be implemented. Additionally, questions
5 have been raised regarding the actual number of individual lots available
6 which would meet the infrastructure and environmental clearance
7 requirements under P.L. 23-38. The Guam Legislature finds that because of
8 the public safety and public health concerns raised and because of questions
9 regarding the actual number of qualified lots available for distribution, the
10 following legislation is need to insure the most effective and efficient
11 implementation of the Chamorro Land Trust Act as amended.

12 **Section 2. Amendment.** Rule 5.1 of the Senator Paul Bordallo Rules and
13 Regulations for the Chamorro Land Trust Commission, as established by P. L.
14 23-38, is hereby repealed and reenacted to read:

15 "5.1 Forms. Beginning on December 2, 1995, subject to approval of the
16 Rules and Regulations, applications for residential or agricultural leases shall
17 be made on forms, consistent with the Act and these rules and regulations,
18 provided by the Commission and shall be made under oath. Falsification of a
19 material fact for the purposes of making the applicant qualified on an
20 application form shall be grounds for removal of the applicant's name from
21 the waiting list, or cancellation of any lease awarded the applicant, and may
22 subject the applicant to liability for perjury. The Chamorro Land Trust
23 Commission shall publish, at least three (3) times in a daily newspaper of
24 general circulation, notice of the December 2, 1995, initial date for receiving
25 applications. Furthermore, the first of these publications shall be made to
26 appear no later than November 26, 1995. Said publications should provide, at
27 a minimum, information on the place, time and administrative procedures by

1 which applications will be received and other pertinent information as the
2 Commission may deem appropriate. Furthermore, public service
3 announcements on the electronic media shall be used to the maximum extent
4 possible."

5 **Section 3. Audit of Application Process.** The Office of the Public Auditor
6 shall conduct a pre- and post-audit of the methodology and procedure for the
7 acceptance of applications as established by the Chamorro Land Trust
8 Commission.

TWENTY-THIRD GUAM LEGISLATURE

1995 (FIRST) Regular Session
Fourth

Date: 10/30/95

VOTING SHEET

Bill No. 1 (4-5)
 Resolution No. _____
 Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C. <i>111*</i>		<input checked="" type="checkbox"/>		
AGUON, John P.				<input checked="" type="checkbox"/>
BARRETT-ANDERSON, Elizabeth	<input checked="" type="checkbox"/>			
BLAZ, Anthony C.	<input checked="" type="checkbox"/>			
BROWN, Joanne S.	<input checked="" type="checkbox"/>			
CAMACHO, Felix P. <i>111*</i>		<input checked="" type="checkbox"/>		
CHARFAUROS, Mark C		<input checked="" type="checkbox"/>		
CRISTOBAL, Hope A.	<input checked="" type="checkbox"/>			
FORBES, MARK	<input checked="" type="checkbox"/>			
LAMORENA, Alberto C., V	<input checked="" type="checkbox"/>			
LEON GUERRERO, Carlotta	<input checked="" type="checkbox"/>			
LEON GUERRERO, Lou				<input checked="" type="checkbox"/>
NELSON, Ted S.	<input checked="" type="checkbox"/>			
ORSINI, Sonny L.	<input checked="" type="checkbox"/>			
PANGELINAN, Vicente C		<input checked="" type="checkbox"/>		
PARKINSON, Don				<input checked="" type="checkbox"/>
SAN AGUSTIN, Joe T.	<input checked="" type="checkbox"/>			
SANTOS, Angel L. G. <i>1</i>		<input checked="" type="checkbox"/>		
SANTOS, Francis E. <i>11</i>	<input checked="" type="checkbox"/>			
UNPINGCO, Antonio R. <i>1</i>	<input checked="" type="checkbox"/>			
WONPAT-BORJA, Judith		<input checked="" type="checkbox"/>		

TOTAL 12 6 0 3

CERTIFIED TRUE AND CORRECT:

** 3 passes = "no" vote.*

Recording Secretary

Introduced

TWENTY THIRD GUAM LEGISLATURE
FIRST REGULAR (1995) SESSION

OCT 30 1995

Fourth special

Bill No. 1(4-S)
Introduced by:

At the Request of the Governor

An Act to amend Rule 5.1 of the Senator Paul Bordallo Rules and Regulations for the Chamorro Land Trust Commission, as established in Public Law 23-38 and to require the Chamorro Land Trust Commission to file a report.

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

1 **Section 1. Legislative Findings.** The Chamorro Land Trust Commission has
2 raised serious concerns and questions relative to the implementation of the process for
3 application for land leases under the current mandate. Likewise, public safety and public
4 health officials have raised concerns about the dangers to the health and safety of
5 individuals, as well as, groups, if the current application process is to be implemented.
6 Additionally, questions have been raised regarding the actual number of individual lots
7 available which would meet the infrastructure and environmental clearance requirements
8 under PL 23-38. The Guam Legislature finds that because of the public safety and public
9 health concerns raised and because of questions regarding the actual number of qualified
10 lots available for distribution, the following legislation is needed to insure the most
11 effective and efficient implementation of the Chamorro Land Trust Act as amended.

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1 forms, consistent with the Act and these rules and regulations, provided by the
2 Commission and shall be made under oath. Falsification of a material fact for the
3 purposes of making the applicant qualified on an application form shall be grounds
4 for removal of the applicant's name from the waiting list, or cancellation of any
5 lease awarded the applicant, and may subject the applicant to liability for perjury.
6 The Chamorro Land Trust Commission shall publish, at least three (3) times in a
7 daily newspaper of general circulation, notice of the December 2, 1995, initial date
8 for receiving applications. Furthermore, the first of these publications shall be
9 made to appear no later than November 26, 1995. Said publications should
10 provide, at a minimum, information on the place, times and methods by which
11 applications will be received and other pertinent information as the commission may
12 deem appropriate. Furthermore, public service announcements on the electronic
13 media shall be used to the maximum extent possible."

14 **Section 3. Chamorro Land Trust Commission to Report.** No later than
15 November 19, 1995, the Chamorro Land Trust Commission shall file, with the Office of
16 the Governor and the Office of the Speaker, a report which shall contain the following:

- 17 a) The actual number of lots available with the infrastructure and
18 environmental clearances required under Public Law 23-38.
- 19 b) A methodology and procedures for the acceptance of applications.
- 20 c) The general status of other available Chamorro homelands with respect to
21 location, size and availability.
- 22 d) Any other information pertinent to the most effective and expeditious
23 implementation of the Chamorro Land Trust Act.



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY
 ACKNOWLEDGMENT RECEIPT
 Received By Janet M. Alfie
 Time 2:50 pm
 Date 10/30/95

OCT 30 1995

The Honorable Ted S. Nelson
 Acting Speaker
 Twenty-Third Guam Legislature
 155 Hesler Street
 Agaña, Guam 96910

Office of
 VICE-SPEAKER TED S. NELSON
 Received by
John F. Balas
 Print Name Initials [Signature]
 Date: 10-30-95 Time: 2:43 pm

Dear Mr. Speaker:

Pursuant to §1423h of Subchapter 3 of the Organic Act of Guam, I hereby call the Guam Legislature into Special Session at 4:00 p.m., Monday, October 30, 1995, for the purpose of passing the attached bill.

Sincerely,

[Signature]
 Carl T. C. Gutierrez

Attachment

230708

Handwritten notes:
 Please print the bill
 for pickup session
 at 4:00 p.m. to
 the Honorable
 Speaker

TWENTY THIRD GUAM LEGISLATURE
FIRST REGULAR (1995) SESSION

Bill No. _____
Introduced by:

At the Request of the Governor

An Act to amend Rule 5.1 of the Senator Paul Bordallo Rules and Regulations for the Chamorro Land Trust Commission, as established in Public Law 23-38 and to require the Chamorro Land Trust Commission to file a report.

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5 individuals, as well as, groups, if the current application process is to be implemented.
6 Additionally, questions have been raised regarding the actual number of individual lots
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19 b) A methodology and procedures for the acceptance of applications.

20 c) The general status of other available Chamorro homelands with respect to
21 location, size and availability.

22 d) Any other information pertinent to the most effective and expeditious
23 implementation of the Chamorro Land Trust Act.



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

COPY

October 30, 1995

The Honorable Ted S. Nelson,
Acting Speaker
Twenty-Third Guam Legislature
155 Hessler Street
Agana, Guam 96911

Dear Mr. Speaker.

Mr. Speaker I am writing to you regarding your submission of Bill 1 (3-S) and indeed about the future of the Chamorro Land Trust Act. This issue has been obscured and distorted, in recent weeks, by a series of lies, rumors and innuendoes put forth by those who wish to manipulate the process for their own personal gain. Let us set aside these distortions and address the true facts of the matter. It is these same facts that compel me to take the following action with respect to the measure.

I have decided to veto Bill No. 1(3-S) for the following reasons:

1. The Attorney General in the attached legal opinion advises me that the bill is invalid because it is in direct violation of 5 GCA §9303 (b). This section provides that in the submission of rules and regulations for approval, certain procedures must be followed. These procedures were not followed in the case of the Chamorro Land Trust Regulations or in the amendments to it incorporated into Bill No.1 (3-S). Consequently, the validity of these amendments are in question.

Further legal difficulties are created as Section 4 of the bill amends the previous reference to Chamorro Homelands to "public lands". However, no definitions of "public lands" exists in the bill. Most disturbing of all is the new language providing that only an affidavit is required as proof of occupancy. Enactment of this section would cause confusion as to who is actually entitled to remain on the lands in question, and subsequently takes these lands out of the application process.

Additionally, there is the question of the validity of the Legislature's action in substituting the original bill submitted with an entirely new measure. I draw your attention to Section 1423h. of the Organic Act which states clearly that "*No legislation shall be considered at any special session other than that specified in the call therefor or in any special message by the Governor to the Legislature while in such session.*" Clearly, the Legislature in this case addressed a different measure than the one submitted.

Furthermore, in enacting a new date for the commencement of the application process, Bill NO. 1 (3-S) fails to repeal the Nov. 1 date stipulated in the current law. Enactment of Bill No. 1 (3-S) would place into statute two different commencement dates thus compounding the level of legal deficiencies even more.

2. Beyond the legal concerns, are the moral concerns as well. This legislation, as substituted by Senator Angel Santos represents one of the most irresponsible and underhanded legislative measures ever produced. I am specifically referring to the affidavit scheme which is found in Section 4 of the amended bill. This section pushed by Senator Santos, amends the qualification process so that persons only have to provide affidavits to assert that they were occupying any public lands before July 12, 1995. By doing so they would not be required to participate in the application process. This section clearly states:

"Persons not holding land us permits shall submit sworn affidavits under penalty of perjury attesting to their occupation of public land prior to July 12, 1995"

Does this mean that persons other than Chamorros can remain on public lands by simply submitting a sworn affidavit? Furthermore, does this mean that anyone could in fact claim rights through an affidavit to any parcel owned by the government circumventing the application process?

This is dangerous and foolhardy legislation which opens the way for anyone to claim land without having to prove they were really occupying the parcel. There is nothing in the law ~~that~~ allows the Commission to challenge these affidavits. Since there is no authority to challenge them, conceivably, all Chamorro lands and public lands could be claimed via affidavit potentially depleting the inventory before even the first application could be received from decent and law abiding Chamorros. Hasty and forced legislation such as this could be challenged in the future which would further delay the implementation of the Act. Moreover, this provision completely eviscerates the law.

And who would be hurt by all of this? Certainly not Angel Santos, Mark Charfauros, Ben Pangelinan , Tom Ada, or their supporters.. The ones

that would be really be hurt are the vast majority of Chamorros who are decent law abiding citizens and would be cheated out of their fair chance to receive lots under the Act.

Senator Angel Santos has been quoted as saying that to occupy a lot, all you need is a machete to begin to clear the land. Now under his amendment, you don't even need a machete just an unchallengeable affidavit. This is grossly irresponsible and representative of the underlying deceit and lack of foresight that has entered into the development of this legislation.

Mr. Speaker, I know that you and the vast majority of your colleagues share my view that the Chamorro Land Trust should not be manipulated for the sake of politics, ambition or personal gain. Unfortunately, that's exactly what will happen if Section 4 of the measure is allowed to become law. This provision of Bill No. 1 (3-S) not only spurns the public interest, but betrays it by succumbing to a scheme clearly designed to benefit a few at the expense of the vast majority of law-abiding and decent Chamorros. Some of your colleagues may be comfortable in allowing themselves to be bullied by Senator Angel Santos and a few people pounding on windows, but let me state very clearly that I will not be bullied. I will stand by the vast majority of Guam's people who have a stake in this Act and who do not pound on windows or camp at Adelup.

The Chamorro Land Trust Act is too important to allow manipulation by Senator Angel Santos and a few of his colleagues like Senators Charfauros, Pangelinan, Ada and others. Senator Santos has further harmed the process by continually representing that there are some 32,000 residential lots that would be immediately available or available in a short period of time. This is simply not true. The law clearly states that all lots must have infrastructure including water, power, roads and sewer installed before the commission can lease them. None of the properties currently available have all the required infrastructure except for 22 lots, 18 of which are located in Agana adjacent to the Julale Shopping Center and four others that appear to be currently occupied. Anyone who claims that there are 32,000 lots immediately available is engaging in a deliberate attempt to mislead our people. This deception has got to stop.

Furthermore, the concept proposed for prioritizing applications simply does not solve the problem. Even if you only accept priority one applicants in the first day, you would still be faced with up to 7,000 people rushing to be first in line.

Since our inauguration, this Administration has been committed to the successful and timely implementation of the Chamorro Land Trust Act. This Act is profoundly important to our people and to the future of our island. As I had pointed out when I signed Bill No. 317 (LS) into law, it had

deficiencies which I had hoped would be corrected through subsequent legislation. No such legislation has been forthcoming. These flaws have become increasingly evident in the past few weeks.

I have tried my best to make this law work. We have fully supported all reasonable efforts to ensure that the land is distributed promptly and equitably. It was in this same spirit, that I called the Legislature into Session on October 27 to act on a bill which deals with fundamental flaws in the application process. Bill No. 1 (3-S), as submitted to the Legislature, would have provided for a lottery system that would have been workable and more importantly, would have avoided the inherent discrimination against Chamorros with disabilities, the aged, the ill, or who are off-island for education, military or work-related matters, as well as those who live here but cannot participate for one reason or another.

The Legislature has chosen to entirely substitute this bill with their own version. I have concluded that this version effectively does nothing to address the concerns raised by the Commission regarding the workability and fairness of the current law. Contrary to his protestations and stated intentions, the version sponsored by Senator Angel Santos has, in fact, created more obstacles to the fair and workable distribution of land leases to the Chamorro People. Under the pretext of justice and fairness to the Chamorro People, Senator Santos has produced a document that compounds the injustice and unfairness inherent in the current law.

Notwithstanding these gross deficiencies, Senator Nelson, you are to be commended for recognizing that the present regulations have created a situation that endangers the public safety and health. Your statesmanship, in this regard, certainly was a welcome contrast to the actions of Speaker Don Parkinson who turned a blind eye to this emergency and then flew off to the Philippines again.

I also wish to commend Senator Joe T. San Agustin and Senator Tony Blaz for courageously speaking the truth about the current regulations, even though it was a truth that some did not want to hear ---- that the law does not provide for equitable distribution to qualified Chamorros. It was encouraging to see that at least some of my former colleagues remember the people outside the Legislature Building, even if others do not.

I was also pleased that the Legislature, at least, recognized that the process is deeply flawed as evidenced by this body's effort, in Bill No. 1 (3-S), to not only delay the application filing dates, but also changes the law substantially. A delay in the date of the beginning of the application process does not solve the problem. It merely postpones the inequities to a later date. I have noted that, aside from the date change, the measure goes further to alter the regulations. However, these new amendments to the regulations do

little to resolve the significant flaws in the process. In fact, they compound them.

Under the original Chamorro Land Trust Act, it was the Chamorro Land Trust Commission that was to prepare the regulations and bear the responsibility to implement the Trust. However, the Legislature intruded on this process by interfering with the considered judgment of the Commission and by its deliberate distortion of the Commission's recommended regulations. As a result of the Legislature's interference and meddling, this body has created a regulatory structure enacted into law, that is unworkable, unjust, and ultimately harmful to the interests of the Chamorro People.

Mr. Speaker, I appeal to both you and your colleagues to reconsider its collective actions in this matter over the preceding two months. I ask you to respect the recommendations of the Commission members who were confirmed by this Legislature and who have worked hard to develop a fair and workable process for implementing the Chamorro Land Trust Act. It is clear, based on the findings of the commission that there are numerous weaknesses in the application process that ultimately can only be resolved by the use of a lottery as espoused in the regulations recommended by the Commission.

This Administration stands ready to work with you and your colleagues to support the work of the Commission in providing a process that is fair, practical, and provides for the prompt distribution of land. I urge the this body to set aside petty politics, schemes and hidden agendas, and to work positively to arrive at responsible Trust Regulations that will ensure that the true intent of the Chamorro Land Trust Act is realized as speedily as possible.

Mr. Speaker I know that you share my concerns for fair solutions to these difficulties. I know that you do not want to be misled by Senator Angel Santos who has been bent on following his own dictates and that of a select few. And now we see exactly what they had in mind with their affidavit scheme. Reasonable suggestions have not been met with consideration but with confrontation. All too often the agenda seems to consist of demands and not deliberation. Our people deserve better than this. They deserve a process that is prompt, fair and will be looked at by future generations with pride.

Think back Mr. Speaker, of these past few months of considerations on the Chamorro Land Trust Act rules and regulations. This should have been a time of hope and pride for our people. And yet for so many of them, this period seems to have been marred by ugliness, hatred and discord. Pitting Chamorro against Chamorro. Again I say Mr. Speaker, our people deserve better than this.

The Lt. Governor and I stand ready to work constructively for an equitable solution. The members of the Chamorro Land Trust Commission stand ready to work toward an equitable solution. The people of Guam expect us as leaders to work toward an equitable solution. I ask you to begin with me in taking the first step.

Yours truly,

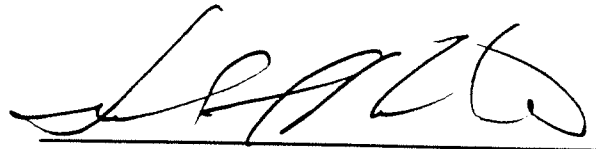


Carl T.C. Gutierrez,
Governor of Guam

TWENTY-THIRD GUAM LEGISLATURE
1995 (THIRD) Special Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 1 (3-S), "AN ACT TO AMEND RULES 5.1 AND 6.4(b), AND TO ADD A NEW SUBSECTION TO RULE 5.3, ALL OF THE SENATOR PAUL BORDALLO RULES AND REGULATIONS FOR THE CHAMORRO LAND TRUST COMMISSION, AS ESTABLISHED IN PUBLIC LAW 23-38," was on the 27th day of October, 1995, duly and regularly passed.



TED S. NELSON
Acting Speaker

Attested:



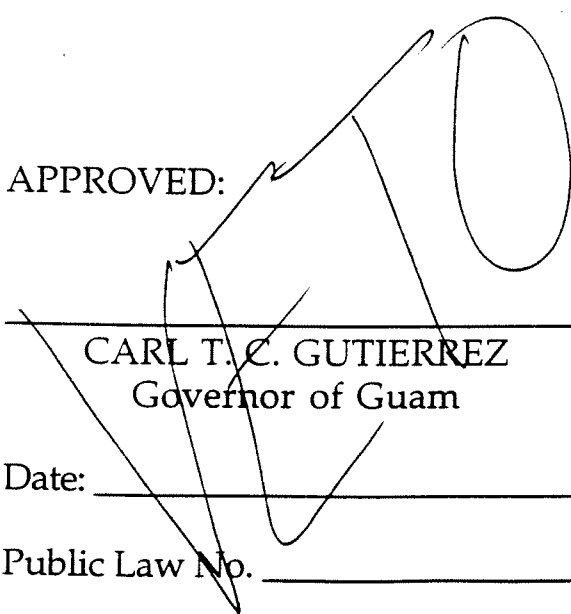
JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 27th day of OCTOBER,
1995, at 10:27 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: _____

Public Law No. _____

Twenty Third Guam Legislature
1995 (Third) Special Session

CERTIFICATION OF EMERGENCY CONDITIONS WITH RESPECT TO BILL NO. 1 (3-S), AN ACT TO REPEAL AND REENACT PORTIONS OF RULE 5 OF THE SENATOR PAUL BORDALLO RULES AND REGULATIONS FOR THE CHAMORRO LAND TRUST COMMISSION RELATIVE TO APPLICATIONS FOR THE LEASES.

I, the Acting Speaker and Presiding Officer of the Twenty Third Guam Legislature, hereby certify, pursuant to §2103 of Title 2, Guam Code Annotated, that emergency conditions exist involving danger to the public health and safety, so that the statutory requirement of a public hearing for Bill No. 1 (3-S) may be waived. Such emergency conditions result from the concern that potential problems associated with the application requirement of the Chamorro Land Trust Act, in reference to the "first come first serve" basis, may jeopardize public safety. Additionally, upon the resignation of the Director and Administrative Director, the Chamorro Land Trust Commission is without the administrative leadership to carry out its duties and responsibilities. Since this speedy resolution is in the public interest, I CERTIFY that (i) immediate action must be taken on Bill No. 1 (3-S), and (ii) there is no time for a public hearing thereon.

Dated: October 27, 1995


TED SGAMBELLURI NELSON
Acting Speaker

TWENTY-THIRD GUAM LEGISLATURE
1995 (Third) Special Session

Bill No. 1 (3-S)
As Substituted

Introduced by:

T. S. Nelson
A. L. G. Santos
M. C. Charfauros
J. T. San Agustin
T. C. Ada
J. P. Aguon
E. Barrett-Anderson
A. C. Blaz
J. M. S. Brown
F. P. Camacho
H. A. Cristobal
M. Forbes
A. C. Lamorena V
C. Leon Guerrero
L. Leon Guerrero
S. L. Orsini
V. C. Pangelinan
D. Parkinson
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja,
at the request of the Governor
in accordance with the Organic
Act of Guam

AN ACT TO AMEND RULES 5.1 AND 6.4(b), AND TO
ADD A NEW SUBSECTION TO RULE 5.3, ALL OF THE
SENATOR PAUL BORDALLO RULES AND
REGULATIONS FOR THE CHAMORRO LAND TRUST
COMMISSION, AS ESTABLISHED IN PUBLIC LAW 23-
38.

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

2 **Section 1.** Rule 5.1 of the Senator Paul Bordallo Rules and Regulations
3 for the Chamorro Land Trust Commission, as established by P. L. 23-38, is
4 amended to read:

5 **"5.1 Forms.** Beginning on December 2, 1995, subject to approval of
6 the Rules and Regulations, applications for residential or
7 agricultural leases shall be made on forms, consistent with the Act
8 and these rules and regulations, provided by the Commission and
9 shall be made under oath. Falsification of a material fact for the
10 purposes of making the applicant qualified on an application form
11 shall be grounds for removal of the applicant's name from the
12 waiting list, or cancellation of any lease awarded the applicant, and
13 may subject the applicant to liability for perjury. The Chamorro Land
14 Trust Commission shall publish, at least three (3) times in a daily
15 newspaper of general circulation, notice of the December 2, 1995,
16 initial date for receiving applications. Furthermore, the first of these
17 publications shall be made to appear no later than November 26,
18 1995. Said publications should provide, at a minimum, information
19 on the place and times that applications will be received and other
20 pertinent information as the commission may deem appropriate.
21 Furthermore, public service announcements on the electronic media
22 shall be used to the maximum extent possible."

23 **Section 2.** The existing Subsection (b) of Rule 5.3 of the Senator Paul
24 Bordallo Rules and Regulations for the Chamorro Land Trust Commission,
25 as established by P. L. 23-38, is hereby renumbered as Subsection (c) of that
26 same Rule.

1 **Section 3.** A new Subsection (b) is hereby added to Rule 5.3 of the
2 Senator Paul Bordallo Rules and Regulations for the Chamorro Land Trust
3 Commission, as established in P. L. 23-38, to read:

4 "(b) Inaugural processing of applications shall take into account the
5 order of priority set forth in Rule 6.2(c). For this inaugural event, the
6 following dates shall be used for receiving applications:

7 Priority 1 residential applicants December 2 through December 22,
8 1995;

9 Priority 2 residential applicants December 23 through December
10 29, 1995;

11 Priority 3 residential applicants December 30, 1995, through
12 January 5, 1996;

13 Agricultural tract applications shall be accepted from January 6
14 through January 19, 1996.

15 If the time periods referenced under Priority 1, 2, 3, or referenced
16 under the Agricultural tract applications fall on weekends or holidays,
17 the Commission is authorized to conduct official business for such hours
18 and such days as the Commission deems necessary to fulfill the
19 inaugural processings of applications so long as the Commission
20 complies with the notice provisions of Section 1 of this Act and the hours
21 of operations are contained in the notice. The Office of the Public
22 Auditor shall audit the application process."

23 **Section 4.** Subsection (b) of Rule 6.4 of the Senator Paul Bordallo Rules
24 and Regulations for the Chamorro Land Trust Commission, as established by
25 P. L. 23-38, is amended to read:

26 "(b) Persons presently holding land use permits and who qualify under
27 section 5.2 will hereby maintain their home or farms, adhering to all

1 other requirements of the Act and these rules and regulations. Persons
2 not holding land use permits shall submit sworn affidavits under
3 penalty of perjury attesting to their occupation of public land prior to
4 July 12, 1995."



Calvin E. Holloway, Sr.
Attorney General

Phone: (671) 475-3324
Telefax: (671) 472-2493

Office of the Attorney General
Territory of Guam

Gus F. Diaz
Chief Deputy Attorney General

October 30, 1995

The Honorable Carl T.C. Gutierrez
Governor of the Territory of Guam
Office of the Governor
Adelup Complex
Agana, Guam 96910

Re: Bill No. 1(3-S)

Dear Governor Gutierrez:

Hafa Adai!

This is in response to your concern regarding the validity of Bill 1(3-S).

I. VALIDITY OF BILL 1(3-S)

This bill should not be signed into law because it violates 5 G.C.A §9303 (b) which provides that in the submission of rules and regulations for approval, the following procedure must be followed. After the agency has promulgated the rules they must first be submitted to the Attorney General for approval and then the agency must:

Submit the original approved copy to the Governor who, if he approves the same, shall transmit the proposed rules to the Legislature in the form of a bill for adoption, amendment, modification or rejection by the Legislature. . .

In this case the original rules were never adopted by the Commission. Thus, the bill as passed by the Legislature had not complied with the requirements of the Administrative Adjudication Law.

Second, there is substantial ambiguity which must be clarified prior to the signing of this bill regarding the lands referenced in section 6.4 of the Rules and Regulations. In the original



Commonwealth Now!

version of the Rules and Regulations there is reference to the commission not evicting individuals presently residing on "Chamorro homelands". Chamorro Homelands are specifically defined in the Definitions section of the Rules and Regulations at 4 (e) being specific lands ascertainable by referencing 21 G.C.A. §75105. In Bill 1(3-S) as passed by the Legislature on October 27, 1995, section (b) of Rule 6.4 has now been amended to make reference to "public lands" instead of "Chamorro Homelands". No definition of "public lands" exists in the bill and it is impossible to determine what is meant by "public lands". This could cause much confusion in determining who shall be allowed to remain on presently occupied lands.

Further, in Bill 1(3-S) a new class of exemptions appears to have been created. Persons who hold no land use permits simply submit an affidavit attesting to their occupation of public lands (as opposed to Chamorro Homelands) and will not be evicted. There is little or no way to verify the validity of their claims and this ambiguity would create great confusion in determining who is actually entitled to remain on the lands in question.

II. IT IS NOT POSSIBLE TO IMPLEMENT BILL 371 ON NOVEMBER 1, 1995.

It is not possible to implement Bill 371 on November 1, 1995 for a variety of reasons.

- a. Section 5.1 provides that "the Chamorro Land Trust Commission shall publish, at least three (3) times in a daily newspaper of general circulation, notice of the November 1, 1995, initial date for receiving applications". It is not possible at this late date to comply with the requirement of three publications prior to November 1, 1995. That this section has not been complied with makes the implementation of the application process subject to challenge for failure to comply with this requirement. It is necessary that the publication requirement be met prior to the acceptance of any applications and this cannot be accomplished prior to November 1, 1995.
- b. The impact of the implementation of the application process on the public health and welfare would be enormous were it to proceed as planned on November 1. At present an inordinately large number of employees of government agencies have submitted leave requests for November 1. Should the application process proceed as originally planned it would decimate the health care providers at the hospital, the patrol force of the Guam Police Department and leave other agencies severely hampered in providing essential public services.
- c. Although an exhaustive search has been conducted for a proper location to conduct the "first-come, first-served" application process, no such location has been found. The only logical location, the old V-Q 1 hanger at Tiyan, is unavailable at this time due to the non-completion of the removal of asbestos in the structure. Other locations have equally serious problems. The fieldhouse at the University of Guam was considered and dismissed as being too disruptive of classes being conducted in the facility. The Paseo was impractical due to weather considerations and traffic congestion. At present there is no suitable location where the applications can be safely taken.

III. IF A SPECIAL SESSION OF THE LEGISLATURE AS CALLED BY THE GOVERNOR ADJOURNS SINE DIE, THAT IS, WITHOUT ASSIGNING A DATE FOR A FURTHER HEARING, BUT FAILS TO DO SO BY ROLL CALL VOTE, CAN THE GOVERNOR CALL THAT SAME SPECIAL SESSION BACK INTO SESSION FOR FAILURE OF THE LEGISLATURE TO PROPERLY ADJOURN SINE DIE?

Section 11.11 of the 23rd Guam Legislature's Standing Rules requires that "Adjournment sine die shall be by roll call vote." Even though the Third Special Session of the 23rd Guam Legislature last Friday, October 27, 1995 as called by the Governor moved to adjourn, it did not do so by roll call.

According to Mason's Legislative Manual which is followed by the Guam Legislature, a duly convened session cannot adjourn sine die except in a "legal manner" (Sec. 445) or except in a "manner provided by law" (Sec. 781). When no time to reconvene is determined by the adjourning legislative session, the adjournment sine die has the effect of dissolving the body, terminating all unfinished business and all legislation pending upon adjournment. But, because an adjournment sine die requires that the legal procedure to do so be followed, if roll call was not taken by the Third Special Session of the 23rd Guam Legislature, that special session was not properly adjourned and therefore has not expired yet.

It is in the best interest of the public at large and the thousands of law abiding citizens who have waited patiently to comply with a legally promulgated process that the Governor veto Bill 1 (3-S) and request that the Legislature meet to reconsider further its decision not to pass the legislation proposed by the Governor.

Dangkolo Na Agradesimento - Thank You Very Much!

Very truly yours,



CALVIN E. HOLLOWAY, SR.
Attorney General



GUAM ENVIRONMENTAL PROTECTION AGENCY



AHENSIAN PRUTEKSION LINA'LA GUAHAN

P.O. BOX 22439 GMF • BARRIGADA, GUAM 96921 • TEL: 472-8863 • FAX: 477-9402

MEMORANDUM

OCT 30 1995

TO: Governor of Guam

FROM: Administrator

SUBJECT: Chamorro Land Trust Lands and Infrastructure Requirements

It has been brought to my attention that certain Chamorro Home Lands delineated for lease distribution on November 1, 1995 are not serviced with basic infrastructure necessary for protecting island water resources. The parcels under immediate consideration, Lot No. 7138-R2, Yigo, Lot No. 10125-R10, Dededo, Lot 10125-R9, Dededo, and Lot No. 350-R5, Agat are former Land For The Landless subdivisions which were surveyed having individual lots areas of 10,000 square feet. Subdivisions having 10,000 sq. ft. lots must be serviced with adequate public sewer in most cases and especially so when located over Guam's Principal Source Aquifer and Northern Lens. As you know, as much as 70% of the islands potable water and future sources are found in this hydrogeologic feature.

The Water Resource Conservation Act, Chapter 46, Title 10, GCA and Wellhead Protection Program, the Water Pollution Control Act, Chapter 47, Title 10, GCA and Guam Water Quality Standards and Non-Point Source Management Program regulate and in some cases prohibit the development of land areas without adequate wastewater disposal infrastructure. In this respect, this is to advise your office that the above identified subdivisions must be provided adequate public sewer and stormwater drainage systems in order to protect both surface and ground water quality for the purposes of public health and safety. The Northern Guam Lens Study commissioned by Guam EPA in 1982 provided the necessary guidance for groundwater protection and management and included strong recommendations for land use density in the Northern Aquifer where public sewer is unavailable. Over the years the Legislature has twice reduced the unsewered minimum lot size criteria in direct conflict with the Northern Lens Study and Agency Policy from one (1) to as many as four (4) residential dwelling units per acre (P.L 22-161). The Agency is in the process of recommending changes to the Subdivision and Zoning Laws to revert the minimum lot sizes to 20,000 sq. ft. per dwelling unit where sewer is not available. Anything less is viewed by this Agency as an unacceptable risk to groundwater and therefore, potable water quality. This policy has been historically unpopular with past legislatures and administrations; however any scenario which introduces unacceptable risks of pollution to our drinking water supply is equally if not more alarming.

The rules and regulations promulgated by the Chamorro Land Trust Commission (CLTC) clearly state that the minimum lot size shall be 20,000 sq. ft. when public sewer is not available.

The subdivisions which are considered by many as "ready for occupation" appear to be surveyed in direct conflict with the CLTC rules. This problem must be resolved quickly by either increasing the individual lot sizes or by providing public sewer systems prior to residential development. Guam EPA will not permit residential or similar development of these subdivisions (Dededo and Yigo) unless one of the above is accomplished. Events are unfolding which will cause further delay and pressure between potential Chamorro Homeland lessees and this Agency.

Any promise of a public sewer system for the subdivisions might be reasonable over the next two (2) to four (4) years given the typical CIP project development and construction time lines and additional problems related to *retrofitting* such a system. This also assumes that funding is identified; however, home owners will not appreciate having to connect to sewer so soon after paying for septic systems as part of the home construction price tag.

The Agat subdivision poses different potential problems yet similar solutions. Agat Bay has exhibited seasonal pollution trends for fecal coliform above Guam EPA acceptable limits. Much of this is suspected to be a direct result of a deteriorating and overburdened sewer system and treatment plant/outfall. In addition, inadequate storm drainage and poor development controls have lead to chronic flooding problems in low elevation areas of Agat. Couple this with rural and back yard raising of live stock, chickens, ducks etc. and the potential health hazards increase exponentially from non-point sources. Many of the lower residential areas of Agat were originally wetlands and later converted to rice fields prior to and during WWII. Since that time the area has slowly developed to residential area without adequate storm drainage infrastructure to replace the flood attenuation and control functions of the lost wetlands not to mention functions for water quality maintenance.

Soils at the Agat site are Akina Badlands and Pulantat Clay, both of which are poorly suited to septic tank and leaching field operations due to poor percolation and absorption rates. In these soils type areas the Agency normally requires that each residential lot have adequate reserve area for leaching fields in case the original system fails. Lots with 10,000 sq. ft may be adequate depending on the location of *a single dwelling unit*, accessory buildings and other potential land uses; however, eventually these subdivisions should be sewered simply because they are just large enough to prompt the desire to construct ~~additional~~ or second dwelling units, usually for younger family members.

Even if the individual lot sizes were increased to 20,000 sq. ft. the Agency would still recommend that the subdivisions be sewered in the near future. Public sewer system provide the necessary environmental protection of our water resources and at the same time allow for higher densities and growth.

Memo to Governor,
CLTC Lands, page 3.

Additional constraints which impact some areas and must be fully evaluated prior to release of the lots for development include wetlands and topography. There are some surveyed lots which because of topography do not meet the minimum required size for on-site sewage disposal. This also is true for some lots which have delineated wetlands that decrease their effective area. Finally, three (3) road crossings in the Agat subdivision will require wetland permits from the Army Corps of Engineers and the Territorial Land Use Commission for fill, bridges, culverts or other engineered methods for crossing wetlands.

In closing, it is important for all involved to recognize that the substandard development of government projects sends the wrong message to private sector developers who have been consistently subject to the above stated regulations and standards at considerable effort and expense. Over the years private development has, for the most part, contributed to maintaining our environment and therefore ensuring some level of sustainable development potential for Guam. The CLTC and any other government entity contributing to the development of our island should expect no less in the interest of public health, safety and welfare.

Should you have any questions or need additional information I am available at any time. Your attention and cooperation in this matter is greatly appreciated.



JOSEPH C. CRUZ

CC: Executive Director, Chamorro Land Trust Commission
Chairman, Chamorro Land Trust Commission
U.S. EPA, Region IX



Governor's Office Complex
 P. O. Box 786
 Agaña, Guam 96910

GOVERNMENT OF GUAM

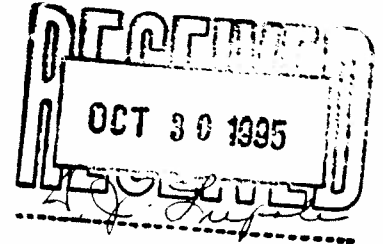
AGANA, GUAM 96910



Office: (671) 472-6940
 (671) 477-8461
 Fax: (671) 477-8777

OCT 30 1995

The Honorable Carl T.C. Gutierrez
 Governor of Guam
 Office of the Governor
 Executive Chambers, Adelup
 P.O. Box 2950
 Agana, Guam 96910



Dear Governor Gutierrez:

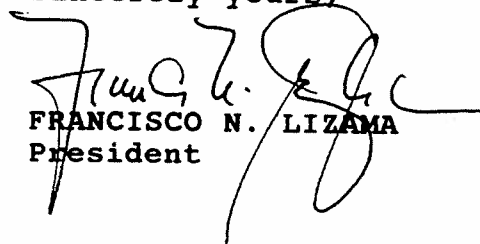
I am writing this letter in response to the recent controversies surrounding the implementation of the Chamorro Land Trust Act and the process by which applications will be accepted. I have polled all Mayors to find out the feelings of their constituencies relative to the issue of a lottery system verses a first come first served basis for accepting applications.

My findings are that an overwhelming majority of Mayors favor a lottery system as being the most effective, equitable, and just for all qualified Chamorros. Eighteen (18) of the nineteen (19) Mayors responded to my inquiry and all were in favor of the lottery system.

Governor, it is of the utmost importance, for the protection of the right of Chamorros to their homelands, and more critically, to prevent disharmony among our people, that this issue be revisited and a joint public hearing be conducted with the Chamorro Land Trust Commission Members focused on the issue of a lottery versus a first come first served system. In my opinion, this would clear up this controversy once and for all and the true voice of the grassroots will be heard.

I hope you will positively consider this request. If you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely yours,


 FRANCISCO N. LIZAMA
 President

cc: Chairperson, CLTC
 All Senators
 Mayors & Vice Mayors



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of
ICE DEPARTMENT OF JUSTICE
Date: 10/27/95 4:30pm

October 27, 1995

The Honorable Ted S. Nelson,
Acting Speaker
Twenty-Third Guam Legislature
155 Hessler Street
Agana, Guam 96910

Via the office of Speaker Don Parkinson

Dear Acting Speaker Nelson:

I am writing this letter as a final appeal to you and your colleagues to reconsider and act on Bill No. 408 or Bill No. S-2 which I submitted to you on Wednesday, October 25, 1995. I cannot express enough the importance of revisiting these amendments in light of the confusion and unfairness that the present rules and regulations as written will cause relative to the process of accepting applications. It appears that Speaker Parkinson's narrow interpretation of the law mandating public hearings prevented the merits of the Bills from even being publicly considered. I see no reason that the discussion of the problems could not have been publicly held on the floor during yesterday's session.

I have made my position perfectly clear relative to the fairness and equality of the "first come first served" basis for distribution. I have received continuous calls to my office from our Chamorro people who are in a near state of panic because they will not be able to attend the line up for one reason or another. Moreover, our own governmental agencies and departments will be severely impacted by this process as their employees deserve fair treatment and we cannot prevent them from participating. There is no doubt in my mind that a well thought out Lottery system for distribution of these leaseholds would solve these problems.

The Chamorro Land Trust Commission has been working diligently on this issue for the last five weeks. However, they too are realizing that there is no easy solution to the proper and safe application process using "first come first served" basis. I understand that the director and the deputy director and at least three commission member have indicated that they are resigning before November 1st not only because of the impossibility of the task but also in fear


of their personal safety. More and more questions are still arising and our people are becoming more and more confused.

I implore you to reconsider and amend the process to a Lottery system. The legislative body can decide who will oversee the lottery, including a certified accounting firm, the Attorney General's office, the Chairman of the committee on housing or whomever you see fit.

For your information Bill No S-2 which I submitted included a time extension which would allow us the time to effectively plan and implement the system of accepting applications.

I am requesting that as acting speaker you read for the record the attachments I submitted with Bill S-2 yesterday and this letter. The people of Guam deserve to hear both sides of the story and clearly understand the reasons for this administration's concerns.

Yours Truly,


Carl T.C. Gutierrez,
Governor of Guam

Chamorro Land Trust Commission

P.O. Box 2860 Agaña, Guam 96910

Phone: 475-4281 Fax: 477-8882

Carol A. Ibanez, Chairperson
Rita C. Okada, Commissioner
John Q. Finona, Commissioner
Joseph T. Gumataog, Commissioner
Tomas T. Aguon, Commissioner

Joseph M. Borja
Administrative Director

Lydia T. Cruz
Deputy Administrative Director

27 October 1995

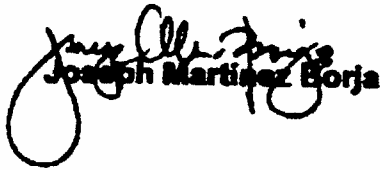
TO: Chairperson Carol Ann Ibanez

FR: Joseph Martinez Borja

RE: Resignation

Please be advised that I will be submitting my resignation effective 5:00 pm Monday, October 30, 1995.

It has been a pleasure and an honor to serve the Commission.


Joseph Martinez Borja

Chamorro Land Trust Commission

P.O. Box 2960 Agaña, Guam 96910

Phone: 478-4251 Fax: 477-8082

Carol A. Ibanez, Chairperson
Rita C. Okada, Commissioner
John Q. Finona, Commissioner
Joseph T. Gumataotao, Commissioner
Tomas T. Aguon, Commissioner

Joseph M. Borja
Administrative Director

Lydia T. Cruz
Deputy Administrative Director

October 27, 1995

MEMORANDUM

CLTCTY-11

Thru: Chairman
Chamorro Land Trust Commission

To: Honorable Governor Carl T.C. Gutierrez
Governor of Guam

From: Administrative Director

Subject: Letter of Resignation

Effective October 31, 1995 at 5:00 p.m., I will be resigning my position as the Deputy Administrative Director of the Chamorro Land Trust Commission.

My belief in fairness, prompted me to submit this resignation. The land issue in the Chamorro Land Trust Commission is a very significant step forward in the history of the island. It is a chronicled event that involved many man-hours of meticulous research, resulting in discoveries of violations, improper land taking, boundary disputes and most importantly the proposed placement of indigenous persons on the land. As a leader in the Commission, the "first come, first serve" process is not the most viable process, secondly, I feel that the Commission is micro-managed by political elements thereby preventing the Department from implementing the Land Program properly.

It was my pleasure to work as one of your team members in the Way Forward Program for the People.

Lydia T. Cruz
LYDIA T. CRUZ



Ignacio Q. Peredo
Deputy Director

CUSTOMS & QUARANTINE AGENCY

Ahensian Reditu Yan Kuarentona
GOVERNMENT OF GUAM
AGANA, GUAM 96910

1503 Central Ave
Tiyán, Guam 96913
Tel. 475-6201/2/4 Fax.475-6227



John M. Quinata
Director

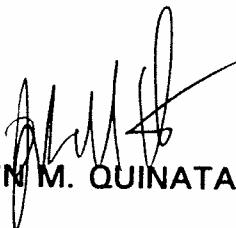
CQA-DIR-020-96

Memorandum

Date: October 27, 1995
To: Governor of Guam
From: Director of Customs
Subject: Impact Assessment
Ref: November 1, 1995

Over the past few days, I have received numerous requests from my employees to be afforded time to participate in the Chamorro Land Trust parcel distribution which will take place on November 1, 1995. Thus far, sixty-two (62) of my seventy-nine (79) employees qualify for this program and have expressed their desire to be off on November 1. As a law enforcement organization responsible for protecting our island and our borders, I cannot afford to have over 78% of my work force absent from the job-site...otherwise, our borders will be left virtually unprotected and almost all customs services to the public will cease.

Because I and my employees cannot forego our responsibility to the People of Guam, we will in effect be denied consideration and the opportunity to participate in the Chamorro Land Trust Program. I solicit your assistance in resolving this situation, and ensuring that both my employees, and all other qualified persons, receive the same opportunity and consideration for this rare benefit. If you would like to discuss this matter further, I am available at your convenience.


JOHN M. QUINATA



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CARL T. C. GUTIERREZ
GOVERNOR

MADELEINE Z. BORDALLO
LT. GOVERNOR

GOVERNMENT OF GUAM
DEPARTMENT OF CORRECTIONS

Post Office Box 3236
Agaña, Guam 96910
U.S. Territory of Guam



EDUARDO C. BITANGA
DIRECTOR

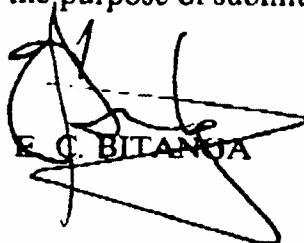
GEORGE F. TAITANO
DEPUTY DIRECTOR

OCT 27 1995

MEMORANDUM

To: Management Team
Attn: Clifford Guzman
From: Director of Corrections
Subject: Department of Corrections Personnel Submitting Application
Re: Chamorro Land Trust

Pursuant to your request, I submit that this Department has 69 employees that have requested for time off on 01 November 1995, for the purpose of submitting their application.


E. C. BITANGA

SPEAKER DON PARKINSON
 23RD GUAM LEGISLATURE
 424 W. O'BRIEN DRIVE - JULALE CENTER, SUITE 222
 AGANA, GUAM 96910

SPEAKER and CHAIRPERSON, COMMITTEE ON ELECTRICAL POWER AND CONSUMER PROTECTION

October 26, 1995

Honorable Carl T.C. Gutierrez
 Governor of Guam
 Adelup, Guam

HAND CARRY

Dear Governor Gutierrez,

I was somewhat disturbed by your comments on the radio this morning in regards to the Chamorro Land Trust Commission and your proposed bill for today's special session, especially when you said that if anyone got hurt, etc., it would all be my fault for not declaring an emergency.

I see no absolutely justification or emergency situation existing which would justify changing the method of distribution of lots by the Chamorro Land Trust Commission from a first come first serve basis to a lottery without a prior public hearing. There may be some emergency justification for delaying the November 1 implementation date to lack of planning and preparation for the huge crowds which we can anticipate.

I see a possible emergency situation arising from the lack of planning by the Chamorro Land Trust Commission and someone's insistence that all of the applicants line up at the airport next to the runway in order to apply for the land under the Chamorro Land Trust Act. Nowhere does P.L 23-38 (nor any other public law that I can find) mandate that the Chamorro Land Trust Commission choose the Airport, Tiyan location next to the runway for the lining up of people to apply for land.

Public Law 23-38 was signed into law by you on September 14, 1995. Six weeks have passed, and now, 3 working days before the implementation date, we are called into emergency session to completely change the methodology of selecting who gets lots, all without a public hearing.

Based on my research there has been absolutely no Public Hearing on the question of a lottery for the Chamorro Land Trust Commission in the form you submitted. Bill 317 as written by the Land Trust Commission and submitted by you to the Legislature set absolutely no criteria

for determining priority in this issuance of lots. The Bill as reported out by Sen. Angel Santos' Committee on Housing and Cultural Affairs provided that the lots be distributed on the first come first serve basis as did the PL 23-38 which resulted from Bill 317. I've been able to find nothing that would indicate there's ever been a public hearing on the question of lottery.

A floor amendment to set the priorities by lottery received virtually no support, and was ultimately withdrawn by the author (me) due to lack of support. This matter was thoroughly debated, but there was no public hearing held on it. I think lack of public hearing was one of the objections raised.

Once again, I would point to you the requirements of 2 GCA 2103, which provides as follows:

"Subsection 2103. Public Hearing Mandatory. No bill may be passed by the Legislature unless it has received a public hearing, except that when the presiding officer of the Legislature certifies that emergency conditions exist, involving danger to the public health or safety, the requirement for a public hearing may be waived and in the event the bill is identical to a bill introduced earlier, which latter bill received a public hearing, then a public hearing for the identical bill may be waived."

You cited and supported this law in a letter to me on June 21, 1995 regarding Substitute Bill No. 8 in which you say:

"I believe that the strict provisions for public hearing placed in our local statutes serve a vital purpose. Public hearing requirements serve to notify not only the public, but officials and employees of the government of Guam, of action being considered by policy makers."

I fully agree with your interpretation that Section 2103 be strictly construed.

If you wish to submit a proposed bill for a short delay of the November 1 date for accepting applications, I would consider declaring an emergency based upon the concerns raised by your correspondence of October 24, and the attachments thereto, as to alleged asbestos contamination of the hanger area, as to public health issues, and as to the safety issues raised by the proposed location. This extension would allow time for an orderly consideration of your proposal for a lottery and a public hearing thereon, and would allow the Commission and other involved agencies more time to prepare for the massive numbers of applicants for lots. Clearly, a gathering of thousands of people for an extended period of time creates immediate problems of health and public safety due to sanitation, possible heat stroke, etc. if proper and orderly preparations are not made.

I would point out that in addition to waiving the requirement for a public hearing, under the standing rules, any proposal to be considered today would take twelve votes to go onto the second reading file.

I await your comments on this. If you wish to submit proposed legislation to delay the November 1 date, please do so by 2:30 PM today. I do not intend to introduce such legislation. I

know of no other Senator who is introducing such legislation. However, if you feel that a delay is necessary, I will do my best to accommodate you.

Sincerely,



Don Parkinson
Speaker

Encl: Bill No. 317 As introduced
Bill No. 317 as reported out of Committee

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OFFICE OF THE GOVERNOR
TERRITORY OF GUAM

OCT 25 1995

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Via Office of Speaker Don Parkinson

Dear Speaker Nelson:

I have been fully briefed by the Chamorro Land Trust Commission, the Guam Police Department and various government agencies relative to their concerns over the methodology by which the Chamorro Land Trust applications will be accepted and administered. A task force was formed to address the procedures and I have been approached by some of its members with legitimate concerns. Although I concur that the rules and regulations as passed by the Legislature and which I signed into law are in compliance with the intent of the original Act, I am quite concerned with the potential problems in administering and accepting the applications themselves.

As you are well aware, the applications for Chamorro Land Trust properties will be accepted beginning November 1st, and these applications will be processed on a "first come first served" basis. I am deeply concerned that this type of process will be problematical and perhaps unfair on several fronts:

1. The process must allow for fair and equal treatment for all our people who qualify under the act. This includes our government employees, our elderly, our disabled, our youth as well as those who work in the private sector. Moreover, considerations must be made for those who are off-island for medical reasons, educational purposes, job-related and military reasons. I am quite concerned that many of these people who deserve an equal chance to participate will be left out of the process.

2. Our government and private sector employees deserve fair and equal opportunities to participate in the process. However, the "first come first served" process will force these employees to take leave in order to participate, which could be debilitating to general governmental operations and private businesses. As leaders we cannot allow our citizens to be left out of the process, however, we must keep our operations intact and the negative impact of this process on our local economy to a minimum.

OFFICE OF THE LEGISLATIVE SECRETARY

KNOWLEDGMENT RECEIPT

Received By Janet Deelfin

Time 4:20

Date 10/25/95

CLERK OF
VICE-SPEAKER TED S. NELSON

Received by Cathy... [Signature]

Print Name Initial

Date: 10/25/95

Time: 9:40 AM

3. As it is currently written, the process may serve to completely change the very composition and social structure of our 19 villages. On a first come first served basis, a long time landless resident of a village may lose the opportunity of owning land in his own village to someone else from another village by virtue of the process which has no first priority considerations.


4. Finally, I am quite concerned with the logistics of the location, public safety and health during the acceptance of the applications. As you are well aware, there are literally thousands of our people who are deserving of participation in the process. Imagine if you will, the thousands of people who will be lined up on a "first come first served basis" to assure that their applications are accepted and processed before all the available properties are given out. Moreover, I have just been informed by the Guam Airport Authority that we will not be able to utilize the location at the airport as originally planned due to delays in the removal of asbestos from the facility and safety to our people.

It is for these basic reasons that I urge the Legislature to reconsider the "first come first served" approach to accepting applications. I am submitting for your consideration, legislation that would amend the process to a lottery approach which would provide for a more equitable solution. Logically, the date of November 1st would also have to be amended to provide the time for developing the procedures to accommodate among others: the handicapped, homebound, elderly, students, workers unable to obtain leave, as well as people off-island for medical, military, educational or job-related activities.

I have enclosed for your information a report which has been submitted to me by the Chamorro Land Trust Commission. The report outlines many of the concerns that have been expressed by our citizens at public hearings and through phone calls and inquiries.

There is no doubt that the time has come for we as leaders of this territory to act judiciously on this issue. However, we must be prudent and fair in how we act procedurally. I look forward to your expeditious and positive action on this matter.

Yours Truly,


Carl T.C. Gutierrez,
Governor of Guam

encl.

230683

Chamorro Land Trust Commission

P.O. Box 2950 Agana, Guam 96910

Phone: 475-4251 Fax: 477-8082

Carol A. Ibanez, Chairperson
Rita C. Okada, Commissioner
John Q. Finona, Commissioner
Joseph T. Gumataotao, Commissioner
Tomas T. Aguon, Commissioner

Joseph M. Borja
Administrative Director

Lydia T. Cruz
Deputy Administrative Director

October 25, 1995

**TO: Governor Carl T.C. Gutierrez
Chairperson Carol Ann Ibanez**

**FR: Joseph M. Borja
Administrative Director**

**RE: Report on Village Education Fora relative to the Rules and
Regulations of the Chamorro Land Trust Commission**

I and certain other members of the Task Force wish to bring to your attention several serious issues raised during the course of the village education fora sponsored by Senator Angel Santos and the various Task Force meetings.

Please be advised of the following:

1. An overwhelming majority of people attending these education fora are totally against the 1st come-1st served procedure for accepting the applications and the awards of lots and leases. They cite fairness and safety.

2. The 1st come-1st served procedure would be unfair to the following people:

- a. handicapped
- b. homebound
- c. elderly
- d. students
- e. workers unable to obtain leave
- f. people off-island for medical reasons
- g. people off-island for military service
- h. people off-island for educational purposes
- i. people off-island for job-related activities

3. An overwhelming majority of people attending these education fora prefer a lottery system.

4. An overwhelming majority of people attending these meetings would like to see the priorities adjusted to provide where the need is greatest.

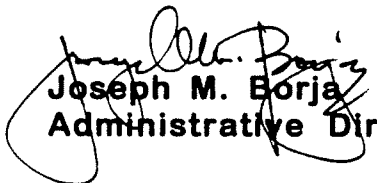
5. An overwhelming majority of people attending these meetings would like to see village residents receive priority for the available lots in that village. Their concern can be best explained in this example. The Chamorro Land Trust Commission has enough land in Umatac for a 600 lot subdivision. Presently there are 651 voters in Umatac. The 1st come-1st served procedure could possibly infuse 1200 new voters into the Umatac area thereby greatly changing the political and socio-economic makeup of that village.

6. At a recent special meeting with all the Mayors, all the Mayors agreed with items 1, 2, 3, 4 and 5 above.

7. Groups from Agat, Umatac, Merizo, Inarajan and Talofofo are ready to lobby with the Legislature to request changes relative to items 1, 2, 3, 4 and 5 above.

8. The only acceptable site to handle the number of applicants that we expect is the former VQ-1 hanger on Tiyan. I understand the asbestos removal in that building will not be completed until November 15.

Because of the above mentioned concerns, a serious (re)consideration must be made relative to the 1st come-1st served procedure and the November 1 date for receiving these applications.


Joseph M. Borja
Administrative Director



Guam Police Department



Government of Guam

Post Office Box 23909 ★ GMF, Guam 96921 U.S.A.

Tel: (671) 475-8508-11 ★ Fax (671) 472-4036

**CARL T.C.
GUTIERREZ**
Governor of Guam

**MADELINE Z.
BORDALLO**
Lieutenant Governor

**JACK S.
SHIMIZU**
Chief of Police

**COL. R.A.
LEON GUERRERO**
Deputy Chief of Police

MEMORANDUM

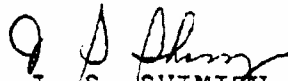
To: The Governor
From: Chief of Police
Subject: Chamorro Land Trust Application
Re: Public Safety Concern

It is my understanding that because of the present provision under Public Law 23-38, The Chamorro Land Trust Commission has no alternative but to accept the land lease applications on a first come first serve basis. This provision is a public safety concern for the following reasons:

1. Disturbances that may escalate into a large scale riot.
2. The control of four thousand plus applicants expected at the site.
3. Availability of medical assistance.
4. Traffic congestion.

Therefore, I ask that your office encourage members of the 23rd legislative body to revisit the law considering other alternatives i.e., lottery system.

I appreciate your consideration of my position on an issue of the public's safety.


J. S. SHIMIZU

Drug Free Guam Para Todos