



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Refer to
Legislative Secretary

MAY 26 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received by	<u>Reano</u>
Time	<u>4:28 pm</u>
Date	<u>5-26-99</u>

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 204 (COR), "AN ACT TO REPEAL P.L. NOS. 24-171 AND 25-11, AND TO REENACT CHAPTER 61 OF DIVISION 2 AND ARTICLE 4 OF CHAPTER 60, BOTH OF TITLE 21 OF THE GUAM CODE ANNOTATED WHICH EXISTED BEFORE P.L. NO. 24-171, RELATIVE TO POSTPONING THE IMPLEMENTATION DATE OF "I TANO'TA LAND USE PLAN", which I have signed into law today as **Public Law No. 25-20**.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
Legislative Secretary


Office of the Speaker
ANTONIO R. UNPINGCO
 Date: 5/26/99
 Time: 10:45
 Rec'd by: [Signature]
 Print Name: Lawrie

04237

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 204 (COR), "AN ACT TO *REPEAL* P.L. NOS. 24-171 AND 25-11, AND TO *REENACT* CHAPTER 61 OF DIVISION 2 AND ARTICLE 4 OF CHAPTER 60, BOTH OF TITLE 21 OF THE GUAM CODE ANNOTATED WHICH EXISTED *BEFORE* P.L. NO. 24-171, RELATIVE TO POSTPONING THE IMPLEMENTATION DATE OF "I TANO'TA LAND USE PLAN," was on the 24th day of May, 1999, duly and regularly passed.



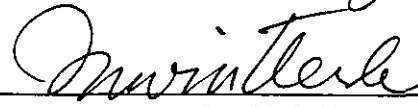
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 25th day of May, 1999,
at 12:50 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 5-26-99

Public Law No. 25-20

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 204 (COR)

As substituted and further substituted
by the Committee on Land, Agriculture,
Military Affairs and the Arts, and amended
on the Floor.

Introduced by:

K. S. Moylan
E. B. Calvo
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
M. G. Camacho
Mark Forbes
L. F. Kasperbauer
A.C. Lamorena, V
C. A. Leon Guerrero
V. C. Pangelinan
J. C. Salas
S. A. Sanchez, II
A. R. Unpingco

**AN ACT TO REPEAL P.L. NOS. 24-171 AND 25-11,
AND TO REENACT CHAPTER 61 OF DIVISION 2
AND ARTICLE 4 OF CHAPTER 60, BOTH OF TITLE
21 OF THE GUAM CODE ANNOTATED WHICH
EXISTED BEFORE P.L. NO. 24-171, RELATIVE TO
POSTPONING THE IMPLEMENTATION DATE OF
"I TANO'-TA LAND USE PLAN."**

1

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
2 finds that *I Tano'-ta Land Use Plan* ("Plan") was enacted as Public Law
3 Number 24-171 in April of 1998, allowing for over a one (1) year to lapse
4 before its full implementation on May 1, 1999. Just prior to the
5 implementation date, members of the public raised concern over some of the
6 provisions of the Plan. In response to these concerns, Bill Numbers 204 and
7 206 were introduced on April 22, 1999, recommending a postponement of the
8 implementation. The bills, *however*, were *not* referred to the Committee on
9 Land, Agriculture, Military Affairs, and the Arts ("Land Committee") in time
10 to conduct a proper public hearing and report the bills out before the April 30,
11 1999 session.

12 A public hearing to address the bills was conducted by the Land
13 Committee on May 6, 1999, the earliest date possible after their introduction.
14 At the public hearing, testimony was received both orally and in writing,
15 supporting the postponement of the Plan. Additional concerns were raised
16 subsequent to the hearing that the Guam Planning Council had *not* submitted
17 to *I Liheslaturan Guåhan*, as required under Public Law Number 24-171, their
18 recommendations for incentives for non-conforming structures to comply
19 with the Plan, as well as an assessment of the risks and costs of the
20 Performance Standards and Regulations of the Plan.

21 The Land Committee attempted to substitute a bill to make the required
22 amendments to the Plan in preparation for the May 17, 1999 session, but the
23 attempt met opposition. Those opposed to the substitution argued that the
24 public would *not* have an opportunity to comment on the proposed
25 amendments.

1 The Land Committee, therefore, intends to satisfy the concerns of the
2 public and to provide ample opportunity to comment and make
3 recommendations on the Plan by repealing the Plan for one hundred twenty
4 (120) days and setting up a mechanism to work out solutions to the concerns.

5 **Section 2.** Public Law Numbers 24-171 and 25-11 are hereby *repealed* in
6 their entirety.

7 **Section 3.** Chapter 61 of Division 2 of Title 21 of the Guam Code
8 Annotated, and Article 4 of Chapter 60 of Title 21 of the Guam Code
9 Annotated, which existed *prior to* the passage of Public Law Number 24-171,
10 are hereby *reenacted* in their entirety.

11 **Section 4. Conditional Approval.** All applications approved by
12 the Zoning Official of the Department of Land Management after May 1, 1999,
13 up to the enactment date of this Act, shall have the option of abiding by the
14 provisions prescribed in Public Law Numbers 24-171 and 25-11 or the prior
15 zoning law. All applications submitted to the Zoning Official after the
16 enactment of this Act shall be governed by the reenactment of the prior
17 zoning laws provided for in §3 of this Act.

18 **Section 5. Formation of *I Tano'-ta* Working Group.** Upon
19 enactment of this Act, *I Maga'lahaen Guåhan* shall immediately establish *I Tano'-*
20 *ta* working group, with the Guam Planning Council staff as facilitators, to
21 review all testimony received as part of the public hearing process on Bill
22 Numbers 204 and 206, and any subsequent testimony submitted thereafter.
23 The composition of the working group shall consist of members from the
24 government agencies who are involved in the development review process,

1 and those who submitted testimony on Bill Numbers 204 and 206, including,
2 but not limited to, members from the Guam Bankers Association; the Guam
3 Contractors Association; the Guam Chamber of Commerce; the Guam Board
4 of Realtors; the Pacific Association of Professional Real Estate Appraisers; the
5 Professional Engineers, Architects and Land Surveyors; the Guam Housing
6 Corporation; the Guam Housing and Urban Renewal Authority; the
7 Chamorro Land Trust Commission; HUD and any other interested member of
8 the community.

9 The working group shall develop recommendations on amendments to *I*
10 *Tano'-ta* Plan, incentives for non-conforming structures to comply with the
11 Plan, as well as an assessment of the risks and costs of the Performance
12 Standards and Regulations of the Plan. The working group shall forward to *I*
13 *Maga'lahaen Guåhan* and *I Maga'lahaen Guåhan* shall forward to the Speaker of *I*
14 *Lihselaturan Guåhan* its findings no later than one hundred twenty (120)
15 calendar days from the enactment of this Act.

16 **Section 6. Severability.** *If* any of the provisions of this Act or of the
17 application thereof to any person or circumstance are held invalid, such
18 invalidity shall *not* affect any other provision or application of this Act, which
19 can be given effect without the invalid provision or application, and to this
20 end the provisions of this Act are severable.

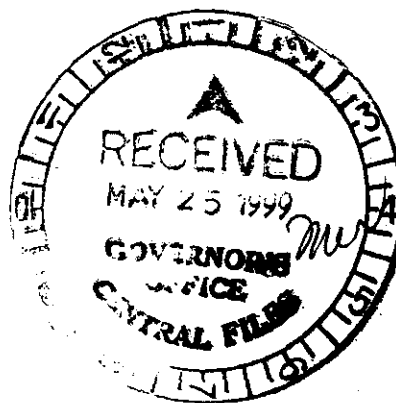


MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

COPY

May 25, 1999

The Honorable Carl T.C. Gutierrez
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Gutierrez:

Transmitted herewith is Substitute Bill No. 204 (COR) which was passed by *I Mina' Bente Singko Na Liheslaturan Guåhan* on May 24, 1999.

Sincerely,



JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure (1)

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 204 (COR), "AN ACT TO *REPEAL* P.L. NOS. 24-171 AND 25-11, AND TO *REENACT* CHAPTER 61 OF DIVISION 2 AND ARTICLE 4 OF CHAPTER 60, BOTH OF TITLE 21 OF THE GUAM CODE ANNOTATED WHICH EXISTED *BEFORE* P.L. NO. 24-171, RELATIVE TO POSTPONING THE IMPLEMENTATION DATE OF "I TANO'-TA LAND USE PLAN," was on the 24th day of May, 1999, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

Attested:

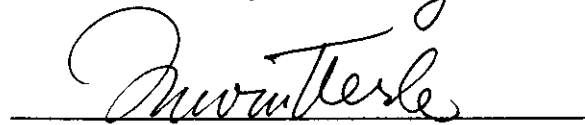


JOANNE M.S. BROWN
Senator and Legislative Secretary

COPY

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This Act was received by *I Maga'lahaen Guahan* this 25th day of May, 1999,
at 12:50 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 204 (COR)

As substituted and further substituted
by the Committee on Land, Agriculture,
Military Affairs and the Arts, and amended
on the Floor.

Introduced by:

K. S. Moylan
E. B. Calvo
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
M. G. Camacho
Mark Forbes
L. F. Kasperbauer
A.C. Lamorena, V
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9 Annotated, which existed *prior to* the passage of Public Law Number 24-171,
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24 government agencies who are involved in the development review process,

1 and those who submitted testimony on Bill Numbers 204 and 206, including,
2 but not limited to, members from the Guam Bankers Association; the Guam
3 Contractors Association; the Guam Chamber of Commerce; the Guam Board
4 of Realtors; the Pacific Association of Professional Real Estate Appraisers; the
5 Professional Engineers, Architects and Land Surveyors; the Guam Housing
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8 the community.

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13 *Maga'lahaen Guåhan* and *I Maga'lahaen Guåhan* shall forward to the Speaker of *I*
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16 **Section 6. Severability.** *If any of the provisions of this Act or of the*
17 *application thereof to any person or circumstance are held invalid, such*
18 *invalidity shall not affect any other provision or application of this Act, which*
19 *can be given effect without the invalid provision or application, and to this*
20 *end the provisions of this Act are severable.*

6

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN 1999 (FIRST) Regular Session

Date: 5/24/99

VOTING SHEET

Bill No. 204 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT ROLL CALL
AGUON, Frank B., Jr.					✓
BERMUDES, Eulogio C.					✓
BLAZ, Anthony C. 1	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

13 0 0 0 2

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

FILE
COPY

May 18, 1999

(DATE)

Memorandum

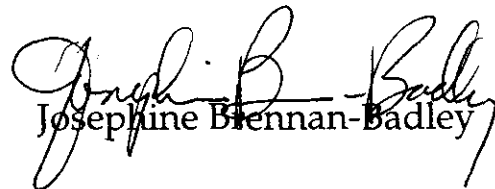
To: Senator KALEO S. MOYLAN

From: Clerk of the Legislature

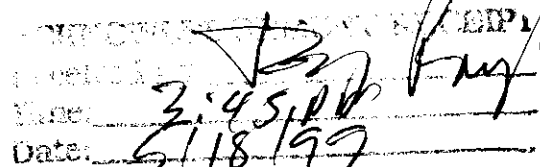
Subject: Report on Bill No. 204 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 204 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment


Date: 5/18/99



The Office of

Senator Marcel G. Camacho

MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Twenty-Fifth Guam Legislature

Chairman, Committee on Land, Agriculture, Military Affairs and the Arts

173 Aspinall Avenue, Hagåtña, Guam 96910
Suite 108A • Ada Plaza Center
Phones (671) **479 8261 / 62 / 63 / 64**
Facsimile (671) **472 8223**

May 18, 1999

The Honorable Antonio Unpingco, Speaker
I Mina' Bente Singko na Liheslaturan Guahan
155 Hesler St.
Hagåtña, Guam 96910

Via: Committee on Rules

Dear Mr. Speaker:

The Committee on Land, Agriculture, Military Affairs and the Arts, to which was referred the following: **Bill No. 204: As Further Substituted By The Committee, "An Act To Postpone The Implementation Date Of The "I Tano'-Ta Land Use Plan" Contained On Chapter 61, Division 2 Of Title 21 Of The Guam Code Annotated."**

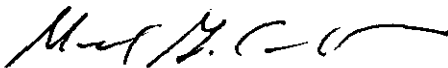
wishes to report back to the Legislature its recommendation **TO DO PASS.**

Committee Voting Record:

To do pass: 5
Not to pass:
Abstain:

A copy of the Committee Report is attached for your consideration.

Sincerely yours,


MARCEL G. CAMACHO
Chairman



The Office of

Senator Marcel G. Camacho

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
Twenty-Fifth Guam Legislature

Chairman, Committee on Land, Agriculture, Military Affairs and the Arts

173 Aspinall Avenue, Hagåtña, Guam 96910
Suite 108A • Ada Plaza Center
Phones (671) **479 8261 / 62 / 63 / 64**
Facsimile (671) **472 8223**

May 18, 1999

MEMORANDUM

**TO: Members,
Committee on Land, Agriculture, Military Affairs and the Arts**

FR: Chairman

RE: BILL NO. 204: *As further substituted by the Committee, "AN ACT TO POSTPONE THE IMPELMENTATION DATE OF THE "I TANO'-TA LAND USE PLAN" CONTAINED ON CHAPTER 61, DIVISION 2 OF TITLE 21 OF THE GUAM CODE ANNOTATED."*

Transmitted herewith for your consideration is the Committee on Land, Agriculture, Military Affairs, and the Arts' Report of **Bill No. 204 *As further substituted by the Committee.*** (see attached)

Should you have any questions please contact me or my Chief-of-Staff, Alfred Duenas.

Sincerely,


MARCEL G. CAMACHO
Chairman

Attachments

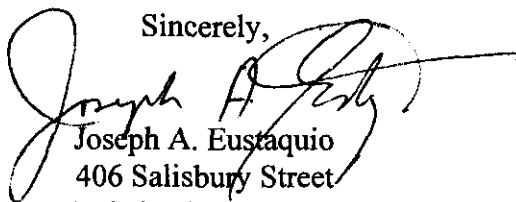
Senator Camacho

Page 2

However, in listening to task force members (financial institutions, developers/relators, appraisers, title/escrow firms, HUD, etc.) expressing concerns on implementation of the new law; it appears the goal of home ownership may be hampered by the new law in additional costs for either construction or refinancing via higher architectural/engineering fees, appraisal report fees, consultant fees, etc. The bottom line effect of these higher costs will be passed on to the consumer (the potential home owner). Obviously, the Work Force created by Bill 206 will not have all the answers to the resolve concerns addressed; however, a working outline will be available for the legislature's review.

Thus I strongly urge your committee to recommend passage of Bill Nos. 204 and 206 to postpone the implementation of the I Tano'ta Land Use Plan.

Sincerely,



Joseph A. Eustaquio
406 Salisbury Street
Dededo, Guam 96912

cc: Senator Kaleo S. Moylan, 25th Guam Legislature [Via Facsimile Number 472-3440]
Mr. Carlos Camacho, HOMES Task Force
Ms. Diane Shjegstad, Guam Savings, Compliance Officer

6 May, 1999

Honorable Marcel G. Camacho
Committee on Land, Agriculture, Military Affairs and the Arts
Senator, 25th Guam Legislature
173 Aspinall Ave.
Suite 108A
Agana, Guam 96910

Dear Senator Camacho:

I would like to take this opportunity to submit written testimony for the public hearing record on the issue of implementation of I Tano-ta .

It has been nine long years since the inception of the development of the Land Use Plan. As you know, I was a member of the consulting team that assisted the Territorial Planning Council and community of Guam with the development of I Tano ta. While the plan is likely in its final stages, opponents have mounted a final desperate challenge to its implementation. I would like to offer a few of my personal observations for the record. These observations may serve as a useful contrast against testimony from those who would prefer I Tano-ta be repealed.

The island community participated in a comprehensive consensus building effort. Over the course of several years, residents attended meetings across the island, sharing their thoughts and making substantial contributions to the plan. Numerous advisory committees, task forces, community groups and organizations, comprising individuals from all walks of life, made the effort to take personal time and interest in the development of the plan.

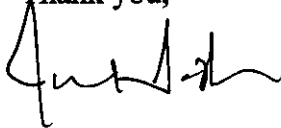
During the earliest meetings, many participants articulated a general distrust and suspicion of the "public planning process." Many expressed serious reservations about whether their concerns would be genuinely considered. One could sense that many of the island's residents had "participated" in similar yet unsuccessful efforts in the past and had experienced deep disappointment and a loss in the faith in the leadership that was responsible for the planning effort.

Over time and after many long presentations and post meeting one-on-one sharing opportunities, members of the consulting team and the planning council were able to gain the trust and confidence of those who made the good faith effort to contribute. It took a lot of work and personal conviction to turn this tide of opinion. As a fresh college graduate at the time, I was personally unprepared for the cynicism and sense of distrust that greeted the team as we visited each village.

As special interest groups with narrow agendas and equally narrow vision, attempt to "shoot" the plan down. Please keep in mind those countless residents, civic members, government employees, village leaders and business professionals across the island who had the courage to put away past disappointment to give the public planning process another chance.

I sincerely hope not to see the entire product of a what was a massive planning effort be abandoned because a small group of narrow-minded but vocal individuals with strict personal agendas don't feel comfortable with it. Minor but correctable flaws may exist, however the plan is flexible enough to allow for fine-tuning over time. These few flaws, real or otherwise, are being misrepresented by some opponents of the plan as fatal. Please don't fall for this desperate ploy, it would be difficult to explain away another failed plan to the island community.

Thank you,

A handwritten signature in black ink, appearing to read 'Joel Sablan', written in a cursive style.

Joel Sablan

May 6, 1999

Honorable Marcel Camacho
Committee on Land, Agriculture, Military Affairs and the Arts
Twenty-Fifth Guam Legislature
Hatgana, Guam 96919

Hafa Adai! Senator Marcel Camacho:

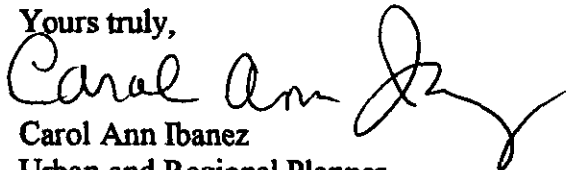
Last year, the people of Guam passed a rare and courageous law, I-Tanota. The plan provides the people of Guam the tool to better manage development. Countless debates in public and private rooms throughout Guam regarding the I-Tanota Land Use Plan have continued through the years. We are here tonight to provide testimony for or against I Tanota. I am submitting written testimony in support of I-Tanota. We need to implement the law now.

As you and your colleagues deliberate as whether this law should be rescinded, please remember that the plan was developed by Guam community, private, public and the general public. Citizen participation is the foundation of the I-Tanota. If you decide to not implement this law, you are telling the community that you elected officials will ignore the recommendations of the citizen advisory committees who have spent thousands of hours on developing the plan to accommodate special interests.

Many people are appealing to you tonight to say that I-Tanota will not work. I will disagree with that, because I know that many communities that have undergone changes in their land use plan have successfully addressed the matter of legal non-conforming with banking and financing institutions. There will be some non-compliance to the law, however there is a appeal process to resolve these matters. Lastly, the plan provides greater predictability regarding the uses and the performances standards up front. People know exactly what is required of them at the beginning of the process not at the building permit stage.

I thank you in advance for allowing me to provide my testimony.

Yours truly,


Carol Ann Ibanez
Urban and Regional Planner

C.R. COCHRAN, CREA, CCRA

Guam Certified Appraiser Lic. 94-001
297 West O'Brien Drive, Δ E
Agana, Guam 96910
Tel: (671)472-2934/FAX: (671)477-2210

May 6, 1999
Honorable Senator Marcel Camacho
Chairman of the I Tano'-Ta land Use Committee
Guam Legislature

Public Law No. 24-171 (Bill No. 526 (LS) "I TANO'-TA LAND USE PLAN"

Dear Senator Camacho;

I have attended four (4) seminars on the aforementioned plan over the past one and a half years and thought I understood the plan and could work with it while carrying out my duties as a Real Estate Appraiser.

Myself and all other appraisers on island have to work under the Uniform Standards of Professional Appraisal Practice which is the Federal Law governing all appraisal work that is done under the FDIC. The primary parts of this law that affects us under the I Tano'-Ta are the Due Diligence and the Competency Provisions.

We have found several errors in the plan that can probably be corrected over time to make the plan more workable. Considering this, I will not belabor you with all of the discrepancies I have found but direct your attention to those aspects of the land use plan that affect my ability to do my job and adversely effects property owners on island.

The majority of the properties on island that were legally developed on April 30, 1999 became legal non-conforming properties on May 1, 1999. This means that my data base on prior sales that were legal before May 1, 1999 will not fulfill the requirement of comparability when appraising those properties that became non-conforming as a result of the implementation of the plan.

Due Diligence dictates that we study all aspects of the market to determine the impact of all adverse conditions that have an impact on market values. With a lack of comparable data concerning non-conforming properties, it will be virtually impossible to make this determination until a sufficient number of properties have sold after May 1, 1999 for effects on value to be extracted from the market. This window could be a month or it could take as long as a year to compile enough data to be able to base an informed opinion of value.

The Competency Provision comes in to play when one has to make a determination of value based on all the uses a property can be put to. As I stated earlier, I personally attended four seminars on the enacted plan. In addition, I have purchased every copy of the proposed plan that has been printed over the past years and have participated in group discussions with both the Guam Board of Realtor and the Professional Association of Professional Real Estate Appraisers. With all of this preparation, I should consider myself competent to conduct appraisals under the plan but I don't. The plan is not laid out well and one has to work among the many sections that make up the plan to try to make a determination on uses. The sheer bulk of the plan makes it almost impossible to gain an understanding of it in its entirety.

In essence, there will be a long period of time before appraisals can be conducted under the guide lines of the USPAP and meet all of its provisions. This is going to impact every land owner who was made non-conforming under this act who needs to borrow money for medical emergencies, for college tuition or any reason that requires a loan in a timely fashion.

I think the majority of the problems associated with the implementation of the I Tano'-Ta would be solved by including the following wording: "All properties that were legally developed on

C.R. COCHRAN, CREA, CCRA

Guam Certified Appraiser Lic 94-001
297 West O'Brien Drive, E
Agana, Guam 96910
Tel: (671)472-2934/FAX: (671)477-2210

April 30, 1999 are exempt from the I Tano'-Ta Land Use Plan". By making the properties exempt, those individuals that acquired rights under the new plan would have the option of staying with the old or developing their properties under the new guidelines.

We all agree that Guam needs to clean up the development guidelines that have allowed random development through out the island based on the lack of an over all plan. This law falls far short of what is needed for Guam and will be basically impossible to enforce without harming a great number of people. This same law has been enacted in other jurisdictions but never implemented due to its inadequacies.

This is only a few of the concerns we have in this office and the timeliness of this letter precludes any additional comments at this time. If there are any questions on the contents of this correspondence, please contact me at this office.

Respectfully submitted,



C.R. Cochran, CREA, CCRA
Certified Guam Appraiser No. CA-98-001
Expires 01/13/00



The Office of

Senator Marcel G. Camacho

MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Twenty-Fifth Guam Legislature

Chairman, Committee on Land, Agriculture, Military Affairs and the Arts

173 Aspinall Avenue, Hagåtña, Guam 96910
Suite 108A • Ada Plaza Center
Phones (671) **479 8261 / 62 / 63 / 64**
Facsimile (671) **472 8223**

Thursday, May 6, 1999
6:30 pm
Legislature's Public Hearing Room

AGENDA

- I. **Opening Remarks**
- II. **Bill No. 204**
- III. **Bill No. 206**
- IV. **Adjournment**



WITNESS SHEET
COMMITTEE ON LAND, AGRICULTURE, MILITARY AFFAIRS and the ARTS

TESTIMONY RELATIVE TO THE PUBLIC HEARING: **Thursday, May 6, 1999**
Public Hearing Room, Legislature Bldg.
BILL NO. 204

NAME	AGENCY / BUSINESS / SELF / ORGANIZATION	TOPIC	WRITTEN TESTIMONY	ORAL TESTIMONY	REMARKS
✓ ¹ O. MURPHY	GBA		✓	✓	
✓ ² R. De Guzman	GE Capital		✓	✓	
✓ ³ Bob Peryon	Robert & Robert Assoc. Apns		✓	✓	
✓ ⁴ Susan Whang-Smith	Whang, Smith & Assoc Inc.		✓	✓	
✓ ⁵ Albert SANTOS	GHUTRA			✓	
✓ ⁶ Dave Herring	David Properties			✓	
✓ ⁷ TONY ARTERO	ARTERO REALTY		✓		
✓ ⁸ RAG COCHRAN-GINLOTH	SELF		✓		
✓ ⁹ JOHN DUMAS					
✓ ¹⁰ Jesus Cuervo CO					



WITNESS SHEET
COMMITTEE ON LAND, AGRICULTURE, MILITARY AFFAIRS and the ARTS

TESTIMONY RELATIVE TO THE PUBLIC HEARING: **Thursday, May 6, 1999**
Public Hearing Room, Legislature Bldg.
BILL NO. 204

NAME	AGENCY/BUSINESS/ORGANIZATION	TOPIC	DATE	TIME	REMARKS
1 Susan Whang-Smith	MAPPER		✓		✓
2 John Duenas	Duenas & Assoc	Bills 206 & 209	✓		✓
3 JUAN LUMIACA	PACIFIC UNLTD. INC	206 & 209			✓
4 Jay McDonald					
5					
6					
7					
8					
9					
10					

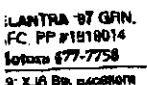


WITNESS SHEET
COMMITTEE ON LAND, AGRICULTURE, MILITARY AFFAIRS and the ARTS

TESTIMONY RELATIVE TO THE PUBLIC HEARING: **Thursday, May 6, 1999**
Public Hearing Room, Legislature Bldg.
BILL NO. 206

NAME	AGENCY / BUSINESS / SLLI / ORGANIZATION	TOPIC	WRITTEN TESTIMONY	ORAL TESTIMONY	REMARKS
1	DAVID CILCOX	Self		✓	
2	Ramon S. Obregon	SAF	✓	✓	
3	SWADZKY	"		✓	
4	PETER SGR0, JR	Self		✓	Support postponement
5	Marilyn Mard	Self	✓		
6	Mary Tr	GLUC		✓	
7	Avon G.				
8					
9					
10					

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 46-9721 pgr 721-7723

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Senator Marcel G. Camacho
 Chairman, Committee on Labor, Agriculture, Military Affairs and the Arts
 15 Hester St. Hagiaia, GU 96911 - Phone: 671-2994 - Fax: 477-6223

PUBLIC HEARING
 Thursday, May 6, 1999 at 6:30 P.M.
 Legislative Public Hearing Room
AGENDA

BILL NO. 204 - AN ACT TO POSTPONE THE IMPLEMENTATION DATE OF THE 'TANO-TA LAND USE PLAN' CONTAINED ON CHAPTER 61, DIVISION 2 OF TITLE 21 OF THE GUAM CODE ANNOTATED
BILL NO. 206 - AN ACT TO POSTPONE THE IMPLEMENTATION DATE OF THE 'TANO-TA LAND MASTER PLAN' ADOPTED BY PUBLIC LAW NUMBER 24-171.

The public is encouraged to attend.

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APR 1999

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. ²⁰⁶(LS) (CBL)
Introduced by:

v.c. pangelinan 

**AN ACT TO POSTPONE THE IMPLEMENTATION
DATE OF THE "I TANO'TA LAND MASTER PLAN"
ADOPTED BY PUBLIC LAW NUMBER 24-171.**

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

2 **Section 1. Legislative Statement.** *I Liheslaturan Guåhan* finds that the
3 purpose of the *I Tano'-ta* Land Use Plan for Guam provides the framework to
4 manage the growth and development of Guam. One of the main purposes of
5 the new Land Use Plan is to guide development in a coordinated and
6 harmonious manner permitting provisions of adequate community services,
7 protection of our ecological balance while at the same time promote the health
8 safety, and general welfare of Guam's citizenry.

9 *I Liheslaturan Guåhan* further finds that during various community
10 meetings held in various villages throughout Guam, members of our
11 community have voiced their concerns that the *I Tano'-ta* Land Use Plan
12 which becomes effective May 1, 1999, if implemented in its current form,
13 would render certain real properties non-conforming, imposing excess
14 restrictions on the property owners in the exercising of their rights to improve
15 their properties. Adverse effects of the implementation of the new Land Use
16 Plan include:

1 (1) Greater restrictions in obtaining loans from lending
2 institutions for the purpose of mortgaging their properties;

3 (2) Increase in appraisal costs;

4 (3) Restrictions in refinancing existing loans; and

5 (4) Encumbering the resale of loans by local lending institutions
6 in secondary lending markets, such as FreddieMac.

7 In essence, the Plan will create nightmares for potential investors,
8 developers and most importantly, residents of Guam who desire to improve
9 their properties and their welfare. The net effect will be the further reduction
10 of commercial activities in our already depressed economy.

11 It is the intent of *I Liheslaturan Guåhan* to suspend the implementation of
12 *I Tano'-ta* Land Use Plan until its potential and expected adverse effects on the
13 community have been fully studied and precluded.

14 **Section 2. Effective Date of *I Tano'-ta* Land Use Plan Postponed.**

15 The effective date and implementation of "The Final Land Use Plan" attached
16 as "Exhibit 1" of Public Law Number 24-171, and the new Chapter 61 of
17 Division 2 of Title 21 of the Guam Code Annotated, pertaining to the zoning
18 of laws of Guam which is attached as "Exhibit 2" to Public Law Number 24-
19 171 reenacted as a new Chapter 61 to Division 2 of Title 21, Guam Code
20 Annotated, entitled the Zoning Code of Guam, is hereby postponed until such
21 time that *I Liheslaturan Guåhan*, by legislation, determines the concerns of
22 affected real property owners whose real properties will become non-
23 conforming and therefore experience restrictions in obtaining loans from
24 lending institutions, are addressed and resolved.

1 *I Maga'lahren Guåhan* is shall immediately establish, appoint and convene
2 an *I Tano'-ta* Implementation Work Group (the "Work Group") to review and
3 rectify the potential adverse impact of the implementation of *I Tano'-ta* Land
4 Use Plan upon the aforementioned real property owners. The Work Group
5 shall include representatives from appropriate government agencies, Guam
6 Bankers Association, Guam Contractors Association, Guam Chamber of
7 Commerce, Guam Board of Realtors, and the Pacific Association of
8 Professional Real Estate Appraisers. A report of findings and
9 recommendations shall be submitted to *I Liheslaturan Guåhan* no later than
10 ninety (90) after enactment of this Act.

11 **Section 3. Severability.** If any provision of this Law or its
12 application to any person or circumstance is found to be invalid or contrary to
13 law, such invalidity shall not affect other provisions or applications of this
14 Law which can be given effect without the invalid provisions or application,
15 and to this end the provisions of this Law are severable.

GUAM BANKERS ASSOCIATION
Position Statement Regarding Bill 204

May 6, 1999

The Guam Bankers Association supports Bill No. 204 in its efforts to postpone implementation of the I'Tano'-ta Land Use Plan, thereby providing time to resolve some of the uncertainty in regard to implementation thereof. The Guam Bankers Association would also support, in the alternative, repeal of Public Law No. 24-171 in order to provide an opportunity to revise the I'Tano'-ta Land Use Plan prior to reenactment. The Guam Bankers Association does not by its support of postponement or repeal imply that the Guam Bankers Association opposes the Zoning Code and implementation of the I'Tano'-ta Land Use Plan in its entirety. However, there are some concerns which the Guam Bankers Association would request be addressed prior to implementation.

1. Residential Mortgages. Under the Zoning Code, "Non-conforming Use" is defined as "any legal and/or permitted use of land or building that does not conform at the time of the adoption of this Zoning Code to the use, standards, and requirements for the district in which it is situated. Likewise, a "Non-Conforming Building" is defined as "a building or structure that does not conform to the regulations of this Zoning Code and which lawfully existed at the time the regulations, with which it does not conform, became effective." The Guam Banking Association is concerned

about the potential that such Non-Conforming Buildings or property which is otherwise considered a “Non-Conforming Use” will be considered nonconforming property for the purposes of the underwriting guidelines of various government-sponsored agencies such as FNMA, FHLMC, FHA and VA. This is important because conforming conventional loans may be sold into FNMA and FHLMC securities. If loans on Non-Conforming Buildings cannot be sold on the secondary market it will have a severe impact on the ability to continue to make residential loans to Guam borrowers. Additional time is needed to clarify this issue with the government agencies, and if under their underwriting standards, such loans secured on properties which are “Non-Conforming” will not be acceptable, to have this problem addressed through amendments to the Zoning Code. Without the ability to sell loans on the secondary market, financial institutions will not be able to continue to fund housing loans.

2. Non-Conforming Uses. The Non-Conforming Use provisions raises issues in regard to existing mortgage loans. Under the general provisions of the Zoning Code, nonconforming situations may be continued provided that no such activity shall be expanded, changed, enlarged or altered in any way that increases its value at the time of its becoming a non-conforming structure, unless the structure is permanently changed to a conforming use. No structural alteration or addition to any nonconforming structure over the life of the structure shall exceed fifty percent (50%)

of all its value at the time of its becoming a nonconforming structure, unless the structure is permanently changed to a conforming use. If a nonconforming use or activity is discontinued for twenty-four (24) consecutive months, any resumption of the activity shall conform to the Zoning Code. If any nonconforming use or activity is destroyed by any development or through an act of nature, it shall not be resumed except in conformity with the provisions of the Zoning Code. Thus it is possible for an otherwise “permissible” nonconforming use to fall out of compliance. The possibility of what was a “permissible” non-conforming use to fall out of compliance concerns lenders who must assure that the value of the mortgaged property does not fall precipitously. If a property is no longer in compliance, the lender upon foreclosure will not be able to sell the property without bringing the property into compliance. In addition, in order to extend new loans, financial institutions need a degree of certainty that the value of the property will not fall to any great extent. If financial institutions are unable to determine whether a property will remain in compliance with the Zoning Code, the process of deciding upon whether to lend, and how much it can safely lend, will be compromised.

In addition, under the Supplemental Regulations for extension or enlargement of nonconforming situations, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. This includes as to physical alteration of structures an increase in the total amount of space

devoted to a nonconforming use or greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, density requirements, or other requirements such as parking requirements. However, as to a structure used for single-family detached residential purposes and maintained as a nonconforming use, it may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new non-conformities or increase the extent of existing non-conformities with respect to such matters as setback and parking requirements. Thus as to financing of improvements, there will be more limitations on what is permissible and thus what improvements banks will be able to finance.

In the Supplemental Regulations as to repair of damages in a nonconforming situation, if the structure is damaged to an extent that the costs of repair or replacement would exceed fifty (50) percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a permit issued pursuant to the Zoning Code. This appears not to apply to structures used for single-family detached residential purposes, which structures may be reconstructed pursuant to a permit just as they may be enlarged or replaced, although this should be clarified. The Zoning Official with the written concurrence of the Building Official shall issue the permit if certain requirements are met. This raises a concern in financing of commercial buildings, or structures other than single family residences, because of the possibility of having to meet the new

Zoning Code requirements rather than the requirements at the time of original construction when repairing substantial damage. Given the possibility of earthquakes and severe typhoons, the possibility of substantial damage occurring to a building is not that remote.

3. Discontinuance of Use. Another concern is the abandonment and discontinuance of nonconforming situations. If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a consecutive period of 180 calendar days or discontinued for any period of time without a present intention of resuming that activity, the that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the Zoning Official issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. The permit may be issued if the Zoning Official finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The possibility of loss of “permissible” non-conformity is a concern to lenders holding mortgages on property.

4. General. In addition, the Guam Bankers Association has general concerns regarding the whether the resources are presently available to implement the plan at this time. Postponement of implementation would provide additional time for

the agencies to put in place their procedures and for the community at large to familiarize themselves with the required procedures. During this process, inconsistencies in provisions of the plan and items which need clarification or amendment should be brought to light and corrected.

In summary, the effect of implementation of the I'Tano'-ta Land Use Plan in its present form and with the present status of readiness to implement the plan, will be to curtail financing, not only in the area of commercial development, but also in the area of residential lending. The legislature found that one of the main purposes of the Plan was to guide development in a coordinated and harmonious manner permitting provisions of adequate community services, protection of our ecological balance while at the same time promote the health, safety, and general welfare of Guam's citizenry. Postponing the implementation of the Plan, or a temporary repeal, in order to work out the difficulties in implementing the Plan will only further the purpose for which the Plan was developed, by assuring that development and residential financing can continue to the extent required by Guam's citizenry.

Senators of the 25th Guam Legislature
Ufisinan I Liheslatura
155 Hesler Street
Hagatna, Guam 96932

RE: Bill Nos. 204 & 206 "An act to postpone implementation of Bill No. 24-171"

Dear Senators,

Thank you for this opportunity to appear before today and present my testimony on behalf of bills 204 and 206.

In the past few weeks I have taken a good hard look at the I-Tanota Plan and it's ramifications as it relates to my business. I have attended 2 training seminars held by Land Management and have discussed the plan at length with many industry professionals and land use planners. It seems however, the more I research into the plan, the more I understand how little I really know about it and the potential impacts it has on my business. And more importantly, how it impacts my ability to provide real estate financing services to my clients.

The plan is comprehensive and at times complex. Which is why I believe we need more time to analyze this plan and answer some of the more pressing and basic questions presently being contemplated. Over the last few weeks, I have heard comments such as, where have the banks been all this time? I submit to you that we have been here, all these years providing essential services to our communities and needed capital to help our economy grow. I believe we can all assign blame for our lack of preparation at each other's feet. But the real issue here is what is best for our people and island.

I believe few would disagree with the assessment that a land use plan is needed. I commend Senators Salas and Camacho for their hard work and dedication to seeing this plan come to fruition. However, practical implementation of this act has raised concerns in a number of disciplines of the real estate industry including; appraisals, secondary market investors and financing underwriting concerns.

Additionally, it is my understanding that funding necessary to train and equip the various Government agencies impacted by the I-Tanota Land Use Plan has not been made available, hampering their ability to support the industry's technical questions as well as questions from the general public.

Senators, please give this plan a moment's pause and give us in the various real estate professions an additional amount of time to address key questions and concerns. Thank you very much.

Sincerely,



Ron De Guzman

President – G E Capital Guam
Commissioner – Guam Land Use Commission
Vice-Chairman – HOMES Task Force – Committee on Housing, General Governmental Services and Foreign Affairs

Robert & Robert - Associate Appraisers, Inc.

May 6, 1999

To: Senators of the 25th Guam Legislature

From: Robert & Robert Associate Appraisers, Inc.
Robert Prieto and Robert L. Peryon

Re: Testimony Regarding Bill No. 204 (COR) and Bill No. 206 (COR)

Dear Senators,

As appraisers, we have several concerns regarding the recent implementation of the 'I Tano'-ta Land Use Plan. We do feel that Guam needs a Land Use Plan, however, we also feel that this plan was implemented prematurely. Whatever plan we implement, it should be a plan that the common citizen can know and easily understand. Today, we're here in support of Bills 204 and 206 for action against the implementation of the 'I Tano'-ta Land Use Plan.

Based on our knowledge and experience thus far, we have concluded that this plan is so complex that its full effect and problems may not surface until several years into the future. As appraisers, we have been studying the plan for the past year, and have attended all available seminars. However, as we apply this plan to actual appraisal situations, new problems continue to arise. This plan is so complex, that even the instructors of the seminars, after having read this plan several times, stated that they were not able to answer all of our questions and did not feel fully competent in analyzing the plan to its entirety. Keeping this in mind, how would the average citizen be able to use this plan to their benefit?

Currently known problems involve specific designation of roadways, properties becoming "legal/non-conforming", the ability to re-build non-conforming structures, and the reporting of future marketability of a property.

Regarding roadway designation, page 201 of Exhibit 2 states that, "In no case shall any commercial development be permitted on local streets in Zoning Districts 2, 2M, 3 or 3S." Additionally, page 55 of Exhibit 2 shows an "Illustration of Roadway Hierarchy Network" which shows Arterial, Collector, and Local streets. Following this illustration, and assuming Route 1 (Marine Drive) is an arterial roadway, Wusstig Road would be classified as a Collector Street, thus allowing commercial use. After contacting the Department of Public Works, to confirm this assumption, it was verbally stated that the table on page 48 of Exhibit 1, defines all Arterial and Collector roads to be those having route numbers. With this information, what happens to our assumption of Wusstig Road? It does not have a Route Number, but it does connect to Route 1. Is it a Collector Street, or is it a Local Street? Can you have commercial use on Wusstig Road, or can't you? Has the little Mom & Pop store, along Wusstig Road, now become Legal/Non-Conforming? These are questions we need answered before we can accurately determine the highest and best use of a property.


Regarding properties becoming "Legal/Non-Conforming", a large percentage of existing structures have now become "legal/non-conforming" under the 'I Tano'-ta Land Use Plan. As appraisers, we merely state the facts concerning individual properties. However, when lenders

encounter "legal/non-conforming" properties, they ask additional questions, such as, "Can the improvements be re-built to their existing state, should they be destroyed over 50% of their value?" and "What affect does this Non-conformance have on marketability of the property?" Page 68 of Exhibit 2, Subsection S.2.b. indicates that a Non-Conforming structure, which is destroyed over 50% of its value, cannot be re-built, unless it is permanently changed to a conforming use. This would be a problem for lenders when re-building a house to current laws, would result in having a smaller house of lesser value, thus possibly decreasing the value of their collateral. While trying to answer this question, we were directed to Page 251, Subsection d.(2) which indicates that single-family detached residential structures may be reconstructed just as they may be enlarged or replaced. Does this mean that they may be reconstructed to their original size and setback distances? Or does this mean that they may be reconstructed, as they may be enlarged or replaced, in accordance to the requirements as stated previously on Page 68 of Exhibit 2? This is an on-going question for us, and it is our understanding that this question is currently at the AG's office for interpretation. So for the lenders, how can we answer this question, until Land Management personnel can give us the answer?

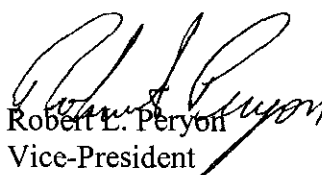
On the question of "What affect does this Non-Conformance have on marketability of the property?", this can be a difficult question to answer. First of all, we ask ourselves can the non-conforming property be lent on, are lending options effected (i.e. limitations on loan programs, higher interest rates, lower loan to value ratios), and what will the perception of a well-informed buyer be? Will he or she take into consideration these items when making an offer on a property? As appraisers we base our conclusions on historical data. So, basically this question cannot be answered at this time.

When I'Tano'ta was presented to the general public, it was conveyed that the property owner now has the option of many different uses that included duplex, multi-family, small retail, and service-oriented businesses. Under the old law, these uses were not possible. Come to find out that based on requirements such as minimum lot size, lot width and depth, set-back areas, and road classification, a large percentage of properties would not benefit from this plan. Additionally, their current improvements, which were once legal, are now legal/non-conforming which may pose other problems as previously mentioned.

In light of the above, we feel that the 'I Tano'-ta Land Use Plan was pre-maturely implemented and are requesting that you support Bills 204 and 206.



Robert Prieto
President



Robert L. Peryon
Vice-President

Whang, Smith & Associates, Inc.

Hengi Plaza, Suite 206
P.O. Box 12427
Tamuning, Guam 96931

Phone (671) 649-2755
Fax (671) 649-0917

May 6, 1999

Twenty-Fifth Guam Legislature

Re: I Tano'-Ta Land Use Plan

Dear Senators,

Our company has been on Guam since 1990 appraising residential properties for all the major lenders on island. When this new zoning became law a year ago, we tried to find out as much as we could about it. Senator Marcel Camacho offered a class in May 1998. In February 1999 PAPREA together with Senator Camacho held a class and recently Chris Felix held two sessions. These classes were offered privately for a fee and none was offered by the Government sector. We have made our best effort to learn this complex, lengthy and often times confusing law. There are many areas in this plan that are vague and contradictory. This will lead to requests for interpretation by the Zoning Official. I can only imagine the job he has before him!

There is a concern with the non-conformance of most of the properties this will create. One of the statements we've been hearing this past week from the lenders is that they will rely on the appraisers to make a statement on marketability in our reports. The fact is that we are not able to comment on what is not known. This law changes the whole landscape of zoning and in many instances creates less usable land due to the greater setback requirements and floor ratio/lot coverage caps and therefore limits development. Although there may be a wider variety of uses, there are strict performance standards to comply with before it can be approved. This mixed use can change the composition of the neighborhood. Once we have historical data which will indicate the trend of property values, only then we can determine the impact on value this new zoning law will have. This may not be until a year or 2 years have past.

In light of these issues, we are in support of repeal of this law. We humbly offer our professional input and assistance in this important subject.

Sincerely,



Susan Whang-Smith
Real Estate Appraiser

May 6, 1999

Senators,

I am a licensed Real Estate Appraiser, but beyond that, I am a wife and mother. I am part of a family who has not bought our first home yet. Yes, I am a consumer, a prospective buyer. It concerns me that my search for a first home may be limited even more by the type of financing that is going to be available to me. My search will probably be limited to homes that conform to the I TANO'-TA Land Use Plan because all I can afford is a small starter home or a fixer upper. It concerns me that a large portion of the homes on the market are going to be considered non-conforming. I state that I am a Real Estate Appraiser only to indicate to you that I am familiar with the Land Use Plan. I am not here to represent Real Estate Appraisers, but to represent myself as an informed consumer. I have created two scenarios to try to illustrate a couple of my concerns.

I TANO'-TA Land Use Plan

Exhibit II

Page 68, 2. Nonconforming situations, subsection b. (line 24)

"No structural alteration or addition to any non-conforming structure over the life of the structure shall exceed fifty percent (50%) of all its value at the time of its becoming a nonconforming structure, unless the structure is permanently changed to a conforming use."

Scenario 1: I buy a brand new starter home for my family of three for \$130,000.00 on April 20, 1999. The home was completed on February 1, 1999 and meets the 8' side setbacks and 15' foot front setback for my carport under the zoning prior the the I TANO'-TA Land Use Plan. May 1, 1999 my property is now non-conforming.

In five years, I've had one more child and would like to extend the home to accomodate my growing family. Any additions to my home are limited to 50% of the value of the structure at the time it became non-conforming over the life of the structure. Luckily, I had an appraisal done in April 1999 in order to buy the house and can easily determine what the probable value of the structure was on May 1, 1999. The property (land and home together) appraised at \$131,000.000 with an estimated economic life of 60 years remaining. The land value was estimated at \$45,000.00 so the value of the structure would be \$86,000.00. Half of \$86,000.00 is \$43,000.00 so that's my limit, sounds reasonable. My extension costs me \$38,000.00 and I really love my new master bedroom. My concern is that I have 55 years estimated economic life remaining on my house and only \$5,000.00 left for structural alterations or future additions to my house.

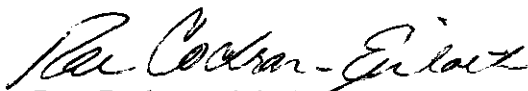
Exhibit II

Page 251, d. Repair, Maintenance, and Construction, subsection (1), (line 22)

“Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than fifty (50) percent of the appraised valuation of the structure to be renovated, may be done only in accordance with a permit issued pursuant to the Zoning Code”

Scenario 2: Recently I bought a fixer-upper for my growing family for \$160,000.00 in Jonestown, Tamuning and want to do a full renovation on it but it's a non-conforming property under the I TANO'-TA Land Use Plan because of the setbacks. The value of the structure is unknown so I have to hire an appraiser. The property is appraised at \$180,000.00 with \$140,000.00 of that value allocated to the land. That leaves \$40,000.00 to the value of the structure, which means that I am limited to \$20,000.00 for my renovation and I can probably just forget about putting any extensions on in the future.

Again, these are just a couple of concerns that I have as a consumer. I wonder how many homeowners are fully aware of what their limitations will be. I speak as a prospective buyer but these laws affect the average homeowners who want to renovate or extend their homes. I believe there are good points to the new Land Use Plan, for some people there will be great benefits, but until these nonconforming issues are resolved I would like to see it repealed.


Rae Cochran-Einloth
Citizen

Tony Artero's Testimony Against the I Ta-No'Ta Land Use Plan
May 6, 1999

Hello and Hafa Adai Honorable Senators:

For many, many years, WE have been hearing cries throughout our island community, cries categorized as Wake Up Calls. But those wake up calls no sooner sounded off and excuses were made and the cries ignored. WE have also heard many, many remarks island wide, "What goes around, comes around." But no sooner a corruption was uncovered, fires were deliberately ignited by the officials to draw peoples' attention from the corruption as it's swept, once again, under the rug. Today, more and more people are loosing faith in this self-serving government.

Until now, Guam had seemed like an oasis of old-fashioned tranquility with abundance of wholesome fresh food and water. I had hope I need not tell you, that once upon a time, before WWII, the Stars and Stripes proudly wave over our tiny island that was self-reliant. Guam was self-reliant because, back then, the freedom to use the land was the practice. And, the land, the streams, the beaches, and the drinking water were clean, without the over abundance supply of government. Corn, citrus, tropical fruits and vegetables, sugarcane, and even tobacco and cocoa were grown. Chickens, pigs, other domesticated livestock and wild games were in surplus. Viable commercial ventures included copra, cattle grazing, a slaughter house, and even a sawmill, to mention a few. Guam was living up to its name then, "Guahan," we have.

Speaking on land and its use, the reason why GovGuam has never implemented a comprehensive land use plan since WWII is because career politicians and bureaucrats, local and national, within all their three branches, for decades, are concern with the selected few people, the special groups comprise mostly with outside interest, and of course the self-serving "leaders'" own pocketbooks.

These career politicians consistently showed no sincere concern about democracy, much less the people whom they are supposed to be serving. Self-serving GovGuam officials have changed public policies to accommodate their wishes as they capitalize on the disorder created by the federal land scam. Self-representation, on Guam, is an understatement, since WWII. WE, on the other hand, have been placed on a roller coaster ride of hope and despair on every election year with *empty promises* with the land issue.

On Guam, nepotism is rampant. "OOG, Only on Guam" is a well known phrase that characterized the ignoramus and demonic actions of GovGuam's "leaders."

On the I Ta-No'Ta Plan, I was involved with this so-called, "plan" since its very beginning as a member of its initial "think tank." I had opposed it then and I opposed it in every public hearing in the villages, but I was ignored every time. I still opposed it today even after its recent modification by the senators. But being ignored by this government is a familiar territory to great many people on Guam.

This "I Ta-No'Ta plan" is simply only a change of the name of the zoning code. R1 is changed to D1, yet, the officials refer to it as a "comprehensive land use plan." Hello? If you change your name to Bill or Sue, does that made you wholesome?

Hello? This policy is one of many absurd, ludicrous, and preposterous GovGuam action. Again, millions of dollars spent to make matters worse. This action has become another slam-dunk on all of us against our will.

WE have been putting up with a helter skelter practice of land use since WWII. This "I Ta-No'Ta Plan," is more like "I Ta-No' Nia Plan" (by those who really don't give a damn about Guam and its people). This "I Ta-No'Ta Plan" will bring about more chaos. IT IS NOT, I repeat, NOT A PLAN of a sort for land use that will promote better quality of life and a healthy local economy.

I cannot over emphasize the importance of restoring the sanctity of property rights. Take note, without justice, there can be no peace. With the injustices on the land issue left intact, this I Ta-No' Ta is likened to a baker placing new frosting on old stale cake. Would you eat it? Well, this so-called "plan" is not serviceable. WE should cut our losses and discard this so-called "plan" and come up with a really *comprehensive land use plan*, one that would address *Safety First, Harmony with the Environment, Conservation*, but above all, resolve the *injustices* with the land. It can be done, but we must want it first. I will be more than happy to meet and share with you my ideas on how to arrive at that. This hearing does not permit it.

Senators, people in a democratic society believe in the fundamental right of all private property owners to determine the highest and best use of their land, working through appropriate governmental entities. Every person should have the right to acquire real property with confidence and certainty that the value of such property will not be unduly diminished or jeopardized by governmental action at any level without just compensation or the owner's express consent. Governments shall not arbitrarily infringe on the basic rights of the individual to acquire, possess, and freely transfer real property, and shall protect private property rights. Properly conducted programs of land preservation and historic preservation which attempt to protect aquifers, agricultural lands, wetlands, scenic vistas, natural areas, historic properties and open space, may have a positive effect on the environment in villages and municipalities. However, in establishing land use laws and regulations for the purpose of protecting these resources, the cost of the benefits to the general public shall be borne by the general public. The local and federal governments should minimize their involvement in land use decisions and not withhold programs to enforce their policies. WE maintain that planning for the classification and use of land must adequately consider the needs of housing, agricultural, commercial and industrial growth, as well as the quality of life and a healthy local economy. On Guam, these are done at the expense of the individual land owners who are paying the taxes and are denied access and without compensation.

We can express democracy as a simple equation without using algebra, trigonometry, or calculus. $Dt = Dief + Djfa + Dhe$ where Dt being the total democracy, $Dief$ the individual economic freedoms, $Djfa$ the justice for all, and Dhe the harmonious environment. Can anyone find a fault with this? I think the fault, if any, is that the sum is greater than the parts. In Guam's case, however, all three parts are suppressed by the very government conceived to uphold, foster, and protect the very elements of liberty. One or all three parts in the equation is/are negative in value since WWII. Therefore, the sum has been critically less than any of its parts. Yet, we continue to grow the government.

Senators, rhetoric and propaganda runneth over, on Guam, on every special occasion and particularly on Memorial Day while, at the same time, insults continue with the assaults on property rights that provide us pain, humiliation, and damages. We feel the sense of being invaded and violated and soiled, then humiliated by more than 50 years of waiting for deliverance. Yet, we volunteered, we served, and paid the taxes.

We, as a people, surely need to muster up the guts to face up to the problem and restore the sanctity of private property so that we can implement a truly comprehensive land use plan. That is the only way we can genuinely *move forward*. But our career self-serving "leaders" had closed their eyes and hope for the best even in plain view that Guam is in a downward spiral to hell.

Many of our people were pushed over the edge by the poisonous elements (self-serving "leaders") of our new-found handouts culture and have left Guam. We now nurture pot-heads and violence. Then, we wonder why family and community values are vanishing.

Obviously government handouts are not the answers as there is no future in handouts. I don't know who's culture and heritage we are promoting with handouts. But, in spite of their no-brainer and demonic actions, which were motivated purely for votes at any cost to remain in power and by greed, great many of us are still proud to earn our keep in spite of the government's handouts policy that now includes land for a dollar a year for 99 years. However, too many of us are in an unending uphill battle trying to make ends meet because the government is the competitor not the partner as touted. And, we can't compete against the government much less a bad one.

Senators, overall, the working class, on Guam, has been governed consistently under one man's thumb and forced to work the government. And those in power have consistently occupied and misused the land for selfish reason. The evidence is everywhere, the Harmon Cliff Line area and Tiyan are good examples. The objective has always been to grow the government, which is the scheme used by those ruthless "leaders" to control the people. This conspiracy has benefited those officials personally. Now, the injustices have become historic, the heated bickering among them have become perpetual, and the downward spiraling conditions that speak for themselves (Ordot dump, Department of Education, GWA, DPS, GMH, DPW, or all the other departments and agencies, too many to mention) are the evidence.

Unfortunately, many of our people have been conditioned by the self-serving "leaders" to be contented with government handouts and jobs that require little spirit, industry or effort and seem to produce mostly people who complain a lot about what a bad hand fate has dealt them. And the United States, the island's Colonial Master, hasn't got the common sense to permit those who wish to exercise their fundamental rights to be economically self-reliant and put an end to this colonial relationship and the wrong handouts culture. What Guam need is commonsense not a commonwealth. We want to work our land as God intended for us to do not the government.

In closing, I like to add that I served in diesel and nuclear submarines for 21 years protecting democracy, all for naught. The fact that my family have been paying taxes on our Urunao Beach property for four generations now, yet, still denied its economic use all these years, is only one of many classic examples of selective governing. This

property could have already increased Guam's gross product by an additional \$1B each year, had the permit was granted in the 80's, according to Mr. Al Pickens who was a member of our team when we executed a respectable contract for its development. Instead, WE have nothing but opportunities lost.

The injustice here boggles the mind of the most casual observer of *democracy*. This is *the* absolute OOG example. As the Greek orator, Demosthenes said, "Nothing is so easy as to deceive one's self; for what we wish, that we readily believe." GovGuam's career "leaders" have been representing their selfish interest. Indeed, that has been their wishes.

The desecration of the sanctity of private property and the abusive use of the land have to stop for the good of Guam and our children's future regardless of what flag is flying over Guam. Again, what Guam need is common sense not a commonwealth. The people of Guam can and want to coexist with the military in peace, harmony, and prosperity. I do believe that is possible, with greed removed.

Very respectfully yours and Best Wishes to you and your loved ones. Thank you for listening.

Tony Artero, REALTOR®
Submariner-U.S. Navy, Retired



May 6, 1999

Senator Marcel Camacho
Chairman, Committee on Land, Agriculture,
Military Affairs and the Arts

25th Guam Legislature
155 Hesler St.
Hagatna, Guam 96910

Subject: I'Tano'Ta Land Use Plan

Re: Bills No. 204 and 206

Hafa Adai Senator Camacho:

I wish to testify in support of the intent of both Bills 204 and 206 which both seek to postpone the implementation of the I'Tano'Ta land use plan. As the plan has already become effective, suspension rather than postponement of the implementation of the plan may be more appropriate. I am of the opinion that a minimum 90-day respite from the implementation of this law is necessary. This delay will give you and your colleagues sufficient time to evaluate and respond to the specific concerns with and objections to many of the provisions of I'Tano'Ta by our island's financing, real estate and development professionals as well as the general public.

As a professional engineer with over 20 years of experience in successfully bringing private and public projects through government reviews and approvals and having experience as a government bureaucrat (Public Works Chief of Engineering from 1973 to 1976 and former Vice Chairman of the Subdivision Development Review Committee/SDRC), I have pointed out in several letters the extremely overbearing and ridiculous performance standards that the law establishes in the areas (among others) of stormwater management, vegetation protection and landscaping. I have taken time to study the law and the appended development review procedures prepared by Land Management and, by copy of this letter, will share my findings with you and your colleagues. I will state what I know to be problems with the new zoning and land use law, followed by suggested solutions for your review and consideration.

Problem: Nonconforming Uses Due to Setbacks

The dilemma being faced by the financing institutions regarding structures falling under the category of "legal, non-conforming" is primarily due to the changes in minimum setback requirements. It is absurd to put the financial welfare of the citizens of Guam in jeopardy by tinkering with setbacks permitted under the old zoning law. These changes do not justify the adverse impact and financial burden they will have and probably already have had on many owners of existing residential and commercial buildings and property.

Solution: Revert to Previous Setbacks

The setbacks should be revised to conform to the setback requirements of the old zoning law. For example:

1. In Zone 2, single-family dwellings, including carports/garages, shall have 15', 8' and 10' front, side and rear yard setbacks per the old zoning law.
2. In *all Zones*, carports for single-family dwellings shall have a front yard setback of 15' per the old zoning law.
3. Commercial buildings in all zones shall have zero (0) front and side yard setbacks. If the use changes to single family detached dwelling in any zone, the building shall become non-conforming. Commercial buildings may not be converted to multi-family residential unless all setback requirements for such use are met.

It should be noted that commercial use setbacks in Zones 3 and 4 when applied in conjunction with parking and driveway requirements make the viable commercial use of the a property of a reasonable size (8,000 to 12,000 square feet) virtually impossible. Reversion to zero front and side yard setbacks will permit a commercial venture to meet the parking and driveway standards.

Problem: Nonconforming Uses Due to Density

Many multi-family complexes that suddenly do not meet the density requirements under I'Tano'Ta because they happen to be located in a "down-zoned" district (e.g., apartments in Agana Heights) will become non-conforming. Such commercial complexes are likely in the early and mid-term stages of a financing arrangement with a lender. This down-zoning will adversely affect the values of the structures as well as jeopardize the basis for their take-out loans since the number of units in a complex establishes the revenue base from which the loans are to be retired. *It is likely that their complexes were legally allowed under the old zoning law's R2 status. The "R2" or high-density multi-family use created by these complexes have already been integrated into the community. Consequently, in my opinion, there is no justification to reverse the density in these communities by reducing the number of units which were legal under the old law and already made an integral part of such communities.*

Solution:

Alternative 1: Lots, properties or land areas previously zoned R2 should be respected and re-established as Zone 4 under I'Tano'Ta; and/or

Alternative 2: Contiguous areas or village sectors containing large number of existing apartments and/or multifamily uses should be designated as Zone 4.

Problem: Threshold Limits for Permitting

The threshold limits for development permitting trigger different levels of increasingly stringent project reviews, performance standards and bureaucratic obstacles. *The current threshold limit for a "Major" development of over 20 lots/dwelling units is unreasonably low considering the expense and performance standards to which such a development will be subjected resulting in a discouraging and burdensome development environment.* There are sufficient (in fact, ample) quality control checks and balances mandated under "minor" permits and under the provisions of the subdivision law to assure that such developments are served by adequate infrastructure and result in acceptable quality and code conformance.

The threshold limits for considering a commercial project a Major Development (if I'm reading the Threshold Tables correctly) is 10,000 s.f. in Zone 2 and 25,000 s.f. in Zone 3. In my opinion, these limits are too low and will stifle commercial development. The threshold limits should be doubled.

The threshold limits for the various categories of development must be changed.

Solution:

1. Revise the threshold limit for a Major Development Permit to 50 or more lots or dwelling units or 10 acres.
2. Agricultural subdivisions in Zone 2 should be exempt from the permitting requirements, but must comply with the improvement requirements provided under the Agricultural Subdivision Laws.
3. The threshold limits for commercial development (non-residential floor areas) in Zones 2 & 3 should be doubled to 20,000 s.f. and 50,000 s.f., respectively. There are sufficient checks and balances in the Minor Permit requirements to deal with developments within these revised thresholds.

Problem: Recreational and Open Space Performance Standards

There are several problems with these standards, among them being:

1. The standards make sense when applied to PUDs and urban/suburban residential subdivision developments where a large tract of land will be developed for housing. *Agricultural subdivisions should be exempt from these standards. Residential subdivisions under 50 lots/dwelling units should also be exempt from these standards.* There are many reasons for these exemptions, the most notable are:
 - a. Agricultural subdivisions are typically characterized by large lots and rural

living standards which argue against the *necessity* for recreation facilities in low density Zone 2;

- b. Many agricultural subdivisions are rural land subdivisions with housing commonly erected over time as lots are sold and occupied. Requiring that land be dedicated to recreation absurdly assumes that a homeowner's association or assumption of maintenance by DPR are viable alternatives for properly dealing with recreation areas and facilities created under these standards. Far from it, DPR is incapable of tending to the recreation facilities currently under its charge. To add more facilities to its maintenance responsibilities is senseless. Furthermore, the idea that a homeowner's association can be created in an agricultural subdivision where occupancy and erection of buildings occur over time is impractical and doomed to fail. The idea that a common area charge can be implemented in these areas for the operation and maintenance of recreation facilities is also impractical, repugnant and impossible to administer.
- c. Devoting valuable land area to recreation in organized residential subdivision developments becomes unacceptable when dealing with a small number of subdivided lots. A recreation facility for every subdivision of 10 housing/lots is not necessary. In fact, these standards penalize a developer by forcing expenditures of valuable financial and land resources on unneeded recreation facilities which otherwise would be devoted to creating more competitive and cost-effective housing and providing required access and utility infrastructure.

Solution:

1. Revise "Major" permits to be triggered at 50 (not over 20) or more lots/dwelling units.
2. The recreation and open-space standards should apply only to "Major" developments in Zone 3 and over 50 or more housing lots or units.
3. Agricultural subdivisions should be exempt from these standards.

Problem: Vegetation Protection and Landscape Performance Standards

These standards are overbearing, stifling, discourage development and impinge an individual's freedom to develop and use his property as he wishes. The standards are, to be sure, *not necessary*. The landscape performance standards set up enforcement procedures which require that all landscaping improvements be inspected by the Department of Agriculture for compliance. This places a layer of responsibility on an already bloated government, requires a

permit applicant to obtain a performance bond at a significant expense and holds a project hostage to the process. The winners here are landscaping companies (architects, plant nurseries and *turf growing* companies??) and insurance companies who will be more than eager to sell performance bonds at a percentage of the estimated landscaping costs.

Solution:

Delete these obnoxious vegetation protection and landscape performance standards from the law in their entirety!!

Problem: Zone 7 Dimensional and Density Requirements (TDDRs)

The Zone 7 dimensional and density requirements as set forth in the TDDRs are ridiculously excessive and do not recognize that many existing lots in Tumon have become instantly non-conforming. The minimum lot sizes and setbacks are excessive and unrealistic for all types of development. The threshold limits for declaring a project a major development are far too low. In summary, the minimum development requirements in Zone 7 will discourage development within our tourism sectors.

Solution:

The dimensional and density requirement for Zone 7 should be similar to that in Zone 4. Furthermore, to assure that developments address impacts on infrastructure, the environment and neighboring properties through a public review process, the GLUC Tentative Development Plan approval policies and procedures should be reinstated in their entirety.

Problem: Stormwater Management Permitting Standards

These standards and permitting requirements were removed from the law, but they still appear in the Department of Land Management's development review manual which has already been distributed.

Solution:

Either clarify by amendment that the stormwater management permitting procedures and checklist have in fact been deleted from the zoning law, or direct DLM to remove them from their development review manual.

Problem: Hillside Development Standards

These standards, perhaps applicable in an area like Laguna Hills in California, are also overbearing, stifling, discourage development and impinge on an individual's freedom to develop and use his property as he wishes, within acceptable earthwork practices. Many areas in southern and central Guam will fall victim to these standards which place terrain and vegetation

protection above an individual and the community's creative and unique preferences for development of private property. Development in hillsides must comply with various construction codes and engineering design processes, as well as pass the scrutiny of government review through the permitting process. This is enough!

Solution:

Delete these standards from the law in their entirety!! If the Government wishes to establish a "hillside" development primer, then promulgate the standards so that engineers, developers and contractors can participate in the creation and review of the standards.

Big Problem: Inconsistency with Chamorro Land Trust and Land for the Landless Programs

The I'Tano'Ta zoning designations do not support and are inconsistent with the Land for the Landless and Chamorro Land Trust Programs. Both ethnically-based programs will create land subdivisions without compliance with I'Tano'Ta. These programs were in effect when I'Tano'Ta was in the draft stages, yet no apparent attention was paid to bring these programs into the framework of the new zoning law.

Solution:

Re-evaluate the zoning designations for the Chamorro Land Trust and Land for the Landless programs and decide whether to treat them as agricultural subdivisions, or state categorically that subdivisions created under these programs must comply with the I'Tano'Ta performance standards.

Big Problem: Inconsistency with GLUP and BRAC Properties

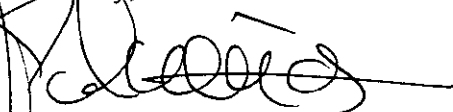
I'Tano'Ta zoning designations may be wholly inconsistent with *planned* uses of GLUP and BRAC properties. Since these properties represent large land areas, zoning designations under I'Tano'Ta may adversely impact original land owner preferences and plans.

Solution:

Re-evaluate the zoning designations for GLUP and BRAC properties to be consistent with plans for these properties.

This, combined with previous letters to you, constitute my comments on I'Tano'Ta.

Sincerely,



JOHN P. DUENAS, P.E.
President

121 Ilang-Ilang Street
Barrigada, Guam
May 6, 1999

Testimony for
Public Hearing Bill Nos. 204 and 206

Hafa Adai Chairman Camacho and Committee Members:

As a private citizen, the following are some of the concerns that I have encountered in my review of the I Tano'ta Land Use Plan.

1. If correcting the "legal non-conforming" status for existing single-family residential, duplex, condominium and townhouses to "legal" status must be undertaken, then the process should include revisiting and amending the Table of Dimensional and Density Requirements as well as the performance standards and regulations, and altering the zoning district boundaries where necessary to bring the majority of "legal non-conforming" structures into conformity.
2. Chapter XVI F. Supplemental Regulations 2c(5) and 2d of the I Tano'ta Zoning Code provides special exemptions that apply to "legal non-conforming" single-family detached residential structures. These exemptions allow for the total reconstruction, expansion, replacement, remodeling and repair of these structures in excess of 50% of the structure's appraised valuation as long as no new non-conformities are created and existing non-conformities are not increased. If nothing is done to address the "legal non-conforming" status of existing residential structures, then this exemption should be expanded to protect homeowners of duplex and multiple-family dwellings such as townhouses, and condominiums classified as "legal non-conforming".
3. Another non-conforming situation are those residences which are not utilizing the public sewer system to dispose of wastewater. Under the I Tano'ta Land Use Plan, connection to the public sewer system is mandatory for areas outside of Zoning District 2, therefore, existing residential structures not served by the public sewer system would be classified as "legal non-conforming".

A larger concern is this mandate's impact on new residential development. As of May 1, 1999 landowners of properties outside of Zoning District 2 are not permitted to construct residential structures unless they are connected to the public sewer system. Each property owner, however, may seek a variance from the Guam Land Use Commission to use septic tanks and leaching fields as the means of wastewater disposal.

If residential development is to be allowed to be continued under circumstances whereby connection to the public sewer system is not available, then the Guam Environmental Protection Agency must revisit Public Law 24-51 and develop a new set of guidelines to be integrated into the I Tano'ta Land Use Plan. The guidelines must address the minimum lot sizes for (1) residential development within a particular Zoning District, if situated inside the Groundwater Protection Zone (GPZ) and unsewered; and (2) residential uses within a particular Zoning District, if outside the GPZ and unsewered. Clarification is also needed to determine if new land subdivisions intended for single-family or duplex dwellings would be allowed to be developed without connection to the public sewer system provided that this service is unavailable, the minimum lot sizes are sufficient to accommodate septic tanks and leaching fields, and the GPZ is respected.


Ramon S. Oberiano

Testimony on Bill No. 204

"An Act to Postpone the Implementation Date of the 'I Tano'-Ta Land Use Plan' Contained on Chapter 61, Division 2 of Title 21 of the Guam Code Annotated"

Introduced by:

The Honorable Senators

K.S. Moylan,

E.B. Calvo

and V.C. Pangelinan

BEFORE

The Committee on Land, Agriculture,
Military Affairs and the Arts
Gi Mina'Bente Singko Na Liheslaturan Guahan

Thursay ~ May 6, 1999
6:30 P.M.

Guam Legislature Building

Mr. Chairman, Senator Marcel Camacho, and members of this Committee (name Senators present):

My name is Marilyn Manibusan and I am here representing myself as a landowner, a homeowner and a private citizen.

I am here to testify in support of Bill No. 204 which is the bill being heard today to delay the implementation of the I Tanota'-Land Use Plan. I applaud the courageous leadership efforts of the sponsors of this measure in their responsible and responsive attempt to address the concerns raised by professionals in the industry, subdivision developers and, first and foremost, the citizens of this island.

Although I would like to get into a detailed debate of each and every provision of the I Tano'ta Plan, I will leave that to the expert planners. I would, however, like answers to some questions which are pertinent to my right as a homeowner.

I bring to you a new plan. A plan that would restore tradition and certain lifestyles inherent in the Chamorro way of living. The Plan is called "I Tano'-hu Plan" as opposed to "I Tano'-ta Plan". I embraced this Plan because of the wisdom of our "Manamko", whose concerns I communicate to you tonight and because it makes sense.

An uncle inquired why the Plan was called "I Tano'-ta Plan"? I answered: "I really don't know who gave it that name, Uncle." He continued to ask: Desdi naihan na i tano-hu tano-mu --yan desdi naihan nai i tano-mu tano-hu yan i tano-gobietno? ("Since when is my land your land, for that fact, the government's land, too?") Now, I paused and said: "You know, Uncle, you're absolutely right."

A parishioner of Our Lady of Peace and Safe Journey approached me and asked "Marilyn, I was told by a government planner that I have to change the plans to my house to place the garage on the back. What is going on, here in our island? Can you tell me is this politics -- who is doing this -- the Governor or the Legislature? And which senator(s) think they have the right to tell me now where and how to place my garage?"

I couldn't agree more with my fellow parishioner. What is the logic? Who is harmed and agrieved by the existing condition and why the change? Why bring more confusion and burden to our families who are trying to get fulfill their long-awaited dream to move into their homes. Why should the government care where the garage, the barbecue pits, the swimming pools are placed?



May 6, 1999

Honorable Marcel G. Camacho
Chairman
Committee on Land, Agriculture, Military Affairs and the Arts
25th Guam Legislature
Agana, Guam

**Reference: Testimony on Bill 204 & 206 AN ACT TO POSTPONE THE
IMPLEMENTATION DATE OF THE " I TANOTA'-TA
LAND USE PLAN"**

Dear Mr. Chairman and members of the Committee:

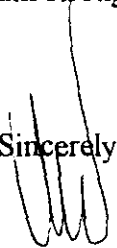
Thank you for the opportunity to offer my support of Bill 204 and 206. As a mortgage broker involve in assisting families in obtaining financing through various types of mortgage products, it has become clear to me on the financial impact these changes have caused my existing customers.

Presently, our firm is processing over 30 loan applications for construction financing. These families have already paid for blue prints and appraisal fees according to the old zoning codes. I was told not to worry because any plans completed and submitted to Department of land Management before the implementation of I'Tanota land use plan will be grandfathered.

Unfortunately, these families blue prints were not submitted before the implementation date thereby causing them to be returned to the engineer for review to verify if any changes needed to be done to conform to the new criteria. According to the engineer this will cost a minimum of \$300.00 or more for the families for any corrections needed for the plan to comply to the new I' Tanota guidelines. Also, we have received instructions from our lender that the existing appraisal that was done must be reviewed by the appraiser and resubmitted based on the new I'Tanota guidelines costing my client additional \$175.00.

Most my families are low to moderate income families who's budget is already tight and these additional cost will become a burden for these individuals to provide. Therefore I am strongly in full support of bill's 204 and 206.

Sincerely,



Roy P. Duenas
Mortgage Broker

Mr. Chairman and good senators, the argument used to make the Plan law and now to continue its implementation despite grave concerns that too much time and effort have been expended and, of course, millions of dollars were spent developing the Plan is not sequitur.

The fact that millions of our people's monies are spent and that professional's time and efforts were dedicated is the REAL AND ONLY TRUE REASON WHY YOU OWE IT TO THE SAME PEOPLE WHO YOU UPHOLD TO REPRESENT THEIR BEST INTERESTS TO PROTECT AND DELAY THE PLAN.

The fact that the Plan has already received its first amendment to protect "special interests" is indeed your action and should be your signal to suspend the implementation of the Plan.

If the Plan is a good plan, then the Plan will survive all its review, and further review. If the Plan was meant to bring good to the general public -- then the general public only sees and feels the negative impact.

Like a pill, it is meant to provide "a cure"; however, if certain people are developing some reactions to the pill, the pill is recalled.

If the general interests of the people of Guam are who you represent and uphold to protect, I appeal to you, Mr. Chairman, members of this Committee, to support delaying further implementation of the Plan.

I thank you, Mr. Chairman, for expediting a public hearing on this important measure, and for the opportunity to express my personal opinions.

I TANO'-HU PLAN



I Puti'on

YAN I

I GUMA'-HU PLAN

*"The Plan for Preserving the
Chamorro Tradition and Culture"*

*Presented by:
Marilyn Manibusan*



May 6, 1999

Honorable, Marcel G. Camacho
Chairman,
Committee on Land, Agriculture, Military Affairs and the Arts
25th Guam Legislature
155 Hesler Street
Hagatna, Guam 96910

Subject: Testimony on Bill 204 & 206, An Act to Postpone The Implementation
Date Of the "I Tanota Land Use Plan

Dear Mr. Chairman:

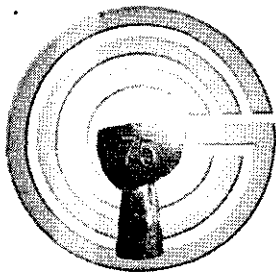
As a Mortgage Broker, I hereby request for your support of a moratorium for the referenced public law. As a concerned individual, the implementation of such act without amendment will gravely affect the feasibility of financing single family dwellings for the people of Guam. The effect will cause mortgage financing in a manner that the secondary mortgage market, which is a primary source of funding to be less desirable to purchase mortgages from Guam.

The plan should undergo review for discrepancies and should require input from lenders, appraisers, developers and the secondary mortgage market. The overlapping of this new plan over our existing zoning laws will create a "Legal Non-conforming" category of property as considered by financial institutions. Lenders will be inclined to create restrictions on lending to such categories of property. In addition, the secondary mortgage market will find such loans to be undesirable for purchase. The end result will be less funding and limited mortgage loan programs for the residents of our island.

Again, I urge you to provide full support for this moratorium and initiate a thorough review of the implementation of this plan, for I believe that it will create many difficulties to our residents seeking home financing. Thank you.

Sincerely,

Eddie M. Camacho
Mortgage Broker



GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS

1 9 2 4 - 1 9 9 9

May 6, 1999

Senator Marcel Camacho
Chairman
Committee on Land, Agriculture, Military Affairs
and the Arts
I Mina'Bente Singko Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guåhan 96910

RE: BILL NOS. 204 & 206 -- I TANO'TA LAND USE PLAN

Dear Mr. Chairman and Members of the Committee:

The Guam Chamber of Commerce appreciates the opportunity to submit its position in support of Bill Nos. 204 and 206.

We share the concerns of the Guam Bankers Association regarding the I Tano'ta Land Use Plan and recommend the adoption of a bill that will postpone the implementation of I Tano'ta.

We strongly recommend that this measure retain the requirement that the Guam Planning Council provide you with a risk and cost assessment for all the agency regulations and performance standards in the I Tano'ta Land Use Plan. The assessment will disclose to the public the costs and benefits that the rules of government will have on the island as a whole.

We thank the sponsors of the bills for being responsive to the community's request for changes in Guam's land use policies. We look forward to needed reforms in our regulatory system that will support employment creation in the private sector.

Thank you again for allowing us the opportunity to provide our comments and recommendations on Bill Nos. 204 and 206.

Sincerely,

DANIEL L. WEBB
Chairman of the Board

May 6, 1999

Senator Marcel G. Camacho
Chairman, Committee on Land, Agriculture, Military Affairs and the Arts
Twenty-Fifth Guam Legislature
173 Aspinall Avenue
Hagåtña, Guam 96910

VIA FACSIMILE NUMBER (671) 472-8223

Subject: Bill No 204 (COR) and Bill No. 206 (COR) - May 6, 1999 Public Hearing

Dear Senator Camacho:

Thank you for your letter of May 4th requesting my participation in the above subject. Please accept my apologies for not attending in person due to earlier commitments. However, I trust you will review my testimony as a **private citizen**.

Unfortunately, I may represent the majority of our island community in not fully understanding the mechanics of the I Tano'-ta Land Use Plan which became law on May 1st. This is doubly unfortunate given my role as the Loan Manager at a well known financial institution in the business of financing both residential and commercial mortgage loans which will be affected by this law.

In accepting my nomination as a member of the HOMES Task Force chaired by Senator Moylan, I became more cognizant and attentive to various legislation that affects our island community. This allowed me to be **involved** and **focused** on such matters as the I Tano'-ta Land Use Plan.

I admire the framers of the new zoning law for their eight year diligence in creating a guide intended to develop Guam in a coordinated and environmentally and sensitive manner.

Albeit the intent of the new law to allow landowners greater flexibility in the use of their respective properties, I recognized the need to digest the concerns of those impacted by the new law. It is acknowledged the Government of Guam has ongoing discussions for numerous years on "affordable housing" which is also a goal of the federal government in making home ownership a reality.

“EXHIBIT A”

ZONING DISTRICT 2 - LOW INTENSITY
Table of Dimensional and Density Requirements

Uses Permitted	Maximum Units/Acre	Minimum Lot Size (ft)			Minimum Yard Setback (ft)			Max. Bldg. Height (ft)	Max. Lot Coverage (%)
		Area	Width	Depth	Front	Each Side	Rear		
Food Crop Production	-	0.5 Acre	100	150	-	-	-	-	-
Horticultural Activities	-	0.5 Acres	100	150	-	-	-	35	35
Livestock Production	-	0.5 Acres	100	150	20	10	20	35	35
Botanical Gardens	-	0.5 Acres	100	150	-	-	-	35	35
Aquaculture/Hatcheries	-	0.5 Acre	100	150	20	10	20	40	35●
Single-Family Detached Dwellings ***	5.0	8,000 sq.ft.*****	[70]50	80	[20]15	[10]8	[20]10	35	35
Mobile Homes	10	7,500 sq. ft.	[70]50	80	[20]15	[10]8	[20]10	35	35
Duplexes/Two-Family Dwellings ***	6.0	13,000 sq.ft.*****	80	150	[20]15	[10]8	[25]10	35	35
Planned Unit Development	6.0	10 Acres	500	500	35	20	50	35	30
Planned Affordable Residential Dev.	7.0	5 Acres	300	300	25	15	30	35	35
Bed & Breakfast Inns/Guest Houses*****	10 Rooms	0.5 Acres★★	80	150	25	10	25	35	35
Sewage Lift Sta./Water Pump Stations	-	5,000 sq.ft.	50	75	25	15	25	20	40
Electric Substations	-	0.5 Acre	100	150	25	30	25	35	20
Public Safety (Police/Fire) Substations	-	1 Acre	150	200	50	30	60	35	25
Houses of Worship	-	1 Acre	150	225	50	30	60	45	20
Libraries	-	1 Acre	100	200	50	30	50	35	25
Recreational Facilities	-	****	200	250	50	50	50	35	25
Cemeteries	-	5 Acres	300	300	50	50	50	35	20
Marinas	-	1 Acre	150	225	50	20	0★	35	20
Zoological Parks	-	10 Acres	500	500	100	100	100	35	15
Retail Trade Establishments**	-	8,000 sq.ft.*	[70]50	80	[25]0	[15]0	[30]20	35	25
Plant Nurseries	-	0.5 Acres	100	150	20	10	20	35	35
Agric. Produce Concession Stands	-	4,200 sq.ft.	70	60	10	10	10	20	35
Shopping Centers	-	1 Acre*	150	225	50	50	60	35	25
Personal Service Establishments	-	8,000 sq.ft.*	[70]50	80	[25]0	[15]0	[30]20	35	25

* Maximum lot size shall be no more than one (1) acre for Individual Retail Trade and Personal Service Establishments in this District, or two (2) in the case of a shopping center.

- ** No automobile-related retail trade facility (new nor used car dealership, service station, gasoline station, car wash, etc.) shall be permitted in this District, nor shall any adult entertainment facility be permitted in this District.
- *** Maximum building height for properties fronting cliffline and all lots extending within 1,000 feet of the cliffline shall not be more than 24 feet higher than cliffline grade of the center of the front of the building.
- **** Minimum lot size requirements for Recreational Facilities shall be determined by the Dept. of Parks & Recreation, based upon the Recreation Performance Standards.
- ***** Notwithstanding the minimum lot size requirement of 8,000 s.f. for single family detached dwellings in this Zoning District, if any such units are developed within the Groundwater Protection Zone (GPZ) as delineated by Guam's Wellhead Protection Program, the minimum lot size shall be 10,000 s.f. and the density shall be no more than four (4) units per acre. The minimum lot size for Two-Family Dwellings/Duplexes and Bed & Breakfast Inns/Guest Houses shall be 20,000 s.f., and the density shall be 4 units per acre. "Parental Subdivisions" may be created within this Zoning District with lots as small as 5,000 s.f.; however, no building permit may be issued for such lots until they are directly served by a public sewer system. Where "Parental Subdivisions" are created, dimensional requirements shall be as stated for single family detached dwellings in Zoning District 3.
- When calculating Maximum Lot Coverage for Aquaculture/Hatcheries uses, areas of outdoor ponds, tanks and raceways shall be excluded.
- ★ A minimum setback of five (5) feet from the edge of any pier, wharf, or bulkhead shall be required for any structure.
- ★★ Bed & Breakfast Inns/Guest Houses may not exceed a total of 10 rooms within an individual development in this District.

"EXHIBIT B"

ZONING DISTRICT 2M - LOW INTENSITY
Table of Dimensional and Density Requirements

Uses Permitted	Maximum Units/Acre	Minimum Lot Size (ft)			Minimum Yard Setback (ft)			Max. Blc Height (ft)
		Area	Width	Depth	Front	Each Side	Rear	
Aquaculture/Hatcheries	-	0.5 Acre	100	150	20	10	20	40
Horticultural Activities	-	0.5 Acres	100	150	—	—	—	35
Botanical Gardens	-	0.5 Acres	100	150	—	—	—	35
Single-Family Detached Dwellings	5.0	8,000 sq.ft. ****	[70]50	80	[20]15	[10]8	[20]10	35
Duplexes/Two-Family Dwellings	6.0	13,000 sq.ft.	80	150	[20]15	[10]8	[25]10	35
Planned Unit Development	6.0	10 Acres	500	500	35	20	50	35
Planned Affordable Residential Dev.	7.0	5 Acres	300	300	25	15	30	35
Sewage Lift Sta./Water Pump Stations	-	5,000 sq.ft.	50	75	25	15	25	20
Electrical Substations	-	0.5 Acre	100	150	25	30	25	35
Houses of Worship	-	1 Acre	150	225	50	30	60	45
Libraries	-	1 Acre	100	200	50	30	50	35
Technical Training Centers	-	5 Acres	500	500	50	50	50	60
Recreational Facilities	-	***	200	250	50	50	50	35
Zoological Parks	-	10 Acres	500	500	100	100	100	35
Retail Trade Establishments **	-	8,000 sq.ft. *	[70]50	80	[25]0	[15]0	[30]20	35
Agric. Produce Concession Stands	-	4,200 sq.ft.	70	60	10	10	10	20
Biotechnology Centers - Marine Natural Products	-	2 Acres	200	200	50	50	50	60
Marine Research Centers	-	5 Acres	500	500	50	50	50	60

- * Maximum lot size shall be no more than one (1) acre for individual retail trade establishments in this district.
- ** No automobile-related retail trade facility (new nor used car dealership, service station, gasoline station, car wash, etc.) shall be permitted in this District, nor shall any adult entertainment facility be permitted in this District.
- *** Minimum lot size requirements for Recreational Facilities shall be determined by the Dept. of Parks & Recreation, based upon Performance Standards.
- **** "Parental Subdivisions" may be created within this Zoning District with lots as small as 5,000 s.f.; however, no building permitted for such lots until they are directly served by a public sewer system. Where "Parental Subdivisions" are created, the dimensional requirements shall be as stated for single family detached dwellings in Zoning District 3.
- When calculating Maximum Lot Coverage for Aquaculture/Hatcheries uses, areas of outdoor ponds, tanks and raceways shall be excluded.

“EXHIBIT C”

**ZONING DISTRICT 3
MODERATE INTENSITY
Table of Dimensional and Density Requirements**

Uses Permitted	Maximum Units/Acre	Minimum Lot Size			Minimum Yard Setback (ft.)		
		Area	Width (ft)	Depth (ft)	Front	Each Side	Rear
Food Crop Production	-	0.5 Acre	100	150	-	-	-
Horticultural Activities	-	0.5 Acre	100	150	-	-	-
Botanical Gardens	-	0.5 Acre	100	150	20	10	20
Aquaculture/Hatcheries	-	0.5 Acre	100	150	20	10	20
Single-Family Detached Dwellings	8.0	5,000 sq.ft.	50	75	10★★	8	10
Single-Family Detached Dwellings (Affordable)	10.0	4,000 sq.ft.	40	75	10★★	8	10
Duplexes/Two-Family Dwellings	8.0	8,000 sq.ft.	70	80	[20]15	[10]8	[25]10
Attached Dwellings (Townhouses) *	12.0	20,000 sq.ft.	100	100	15	[15]8	[35]10
Zero Lot Line Homes	12.0	20,000 sq.ft.	100	100	15	15	25
Multiple-Family Dwellings	20.0	20,000 sq.ft. **	100	100	[25]15	[25]8	[25]10
Residential Treatment Facility	10 Rooms	1 Acre	125	200	25	25	40
Planned Unit Development	8.0	10 Acres	500	500	25	15	35
Planned Affordable Residential Dev.	10.0	5 Acres	300	300	25	15	30
Bed & Breakfast Inns, Guesthouses, Boarding/Rooming Houses*****	16 Rooms	0.5 Acre	100	150	25	15	25
Hotels/Motels	32 Rooms	1 Acre****	125	200	25	25	25
Pre-School Facilities	-	8,000 sq.ft.	70	80	20	20	25
Primary Schools	-	2 Acres	200	200	25	25	25
Middle Schools	-	5 Acres	300	300	25	25	25
Secondary Schools	-	10 Acres	500	500	50	50	50
Colleges/Universities	-	25 Acres	500	500	50	50	50
Other School Facilities	-	2 Acres	200	200	25	25	25
Retail Trade Establishments*****	-	8,000 sq.ft.***	70	80	[25]0	[15]0	[25]20
Home Building Supply	-	1 Acre	150	225	50	25	50
Neighborhood & Community Shopping Center	-	1 Acre****	150	225	[50]0	[30]0	[60]20
Plant Nurseries	-	1 Acre	150	200	20	20	20
Agricultural Produce Concession Stands	-	4,200 sq.ft.	70	60	10	10	10

Personal Service Establishments	-	8,000 sq.ft. ***	70	80	[25]0	[15]0	[25]20
Veterinarians/Animal Kennels	-	0.5 Acre	100	100	25	25	25
Business or Professional Service Establishments	-	8,000 sq.ft. ***	70	80	[25]0	[15]0	[25]20
Office Buildings	-	1 Acre****	150	225	[50]0	[30]0	[60]20
Health Care Facilities	-	0.5 Acre	100	150	[25]0	[15]0	[25]20
Post Offices or Postal Substations	-	8,000 sq.ft.	70	80	25	15	25
Public Safety (Police/Fire) Substations	-	1 Acre	150	200	50	30	60
Community Centers	-	0.5 Acre	100	150	25	15	25
Sewage Lift Stations/Water Pump Stations	-	0.5 Acre	100	150	25	30	25
Electrical Substations	-	0.5 Acre	100	150	25	30	25
Houses of Worship	-	0.5 Acre	100	150	25	15	25
Hospitals/Sanitariums	-	2 Acres	300	300	50	50	50
Libraries	-	1 Acre	100	200	25	25	25
Correctional Facilities	-	10 Acres	500	500	100	100	200
Recreational Facilities	-	*****	100	100	25	25	25
Marinas	-	1 Acre	150	225	50	20	0★

* The lot area, width, and depth requirements, as well as the front, side, and rear yard setbacks for attached housing are not intended to be applied. Rather, they are meant to be used to establish the minimum dimensional and density requirements for an attached housing development. If a development is proposed to be built on a ten thousand (10,000) square foot lot, four (4) units can be built. Each unit would not be required to have another proposed townhouse unit. The side yard dimensional requirement of ten (10) feet indicated in the above table shall be applied to the perimeter proposed for townhouse.

** Maximum lot size shall be no more than five (5) acres for Multiple-Family Dwelling Development in this District.

*** Maximum lot size shall be no more than one (1) acre for Individual Retail Trade, Personal Service, and Business Service Establishments in this District.

**** Maximum lot size shall be no more than two (2) acres for Shopping Centers, Office Buildings and Hotels/Motels in this District.

***** No automobile-related retail trade facility (new or used car dealership, service station, gasoline station, car wash, etc.) shall be permitted in this District. An entertainment facility be allowed in this District.

***** Bed and Breakfast Inns/Guesthouses and Boarding/Rooming houses may not exceed a total of sixteen (16) rooms within an individual development.

***** Minimum lot size requirements for Recreational Facilities shall be determined by the Department of Parks and Recreation, based upon the District Standards.

● When calculating Maximum Lot Coverage for Aquaculture uses, areas of outdoor ponds, tanks and raceways shall be excluded.

★ A minimum setback of five (5) feet from the edge of any pier, wharf, or bulkhead shall be required for any structure.

★★ The front yard setback of ten (10) feet for Single Family Detached Dwellings and Single Family Detached Dwellings (affordable) shall apply to any garage or carport built in conjunction with these residential types, either attached to the principal structure or detached, shall have a minimum front yard setback of (20) fifteen (15) feet.

“EXHIBIT D”

**ZONING DISTRICT 3S
MODERATE INTENSITY SPECIAL
Table of Dimensional and Density Requirements**

Uses Permitted	Maximum Units/Acre	Minimum Lot Size (ft.)			Minimum Yard Setback (ft.)			Max. Bldg. Height (ft.)	M. Co
		Area	Width	Depth	Front	Each Side	Rear		
Food Crop Production	—	0.5 Acre	100	150	—	—	—	—	
Horticultural Activities	—	0.5 Acre	100	50	—	—	—	—	
Botanical Gardens	—	0.5 Acre	100	150	20	10	20	35	
Aquaculture/Hatcheries	—	0.5 Acre	100	150	20	10	20	40	
Single-Family Detached Dwellings	8.0	5,000 sq.ft.	50	75	10★★	8	10	35	
Single-Family Detached Dwellings (Affordable)	10.0	4,000 sq.ft.	40	75	10★★	8	10	35	
Two-Family Dwellings/Duplexes	8.0	8,000 sq.ft.	70	80	[20]15	[10]8	[25]10	35	
Attached Dwellings (Townhouses)*	12.0	20,000 sq.ft.	100	100	15	[15]8	[35]10	35	
Zero Lot Line Homes	12.0	20,000 sq.ft.	100	100	25	25	25	35	
Multiple-Family Dwellings	20.0	20,000 sq.ft.**	100	100	[25]15	[25]8	[25]10	35	
Residential Treatment Facility	10 Rooms	1 Acre	125	200	25	25	40	35	
Bed & Breakfast Inns/Guesthouses*****	16 Rooms	0.5 Acre	100	150	25	15	25	35	
Boarding/Rooming Houses*****	16 Rooms	0.5 Acre	100	150	25	15	25	35	
Hotels/Motels	32 Rooms	1 Acre****	125	200	25	25	25	35	
Pre-School Facilities	—	8,000 sq.ft.	70	80	20	20	25	25	
Primary Schools	—	2 Acres	200	200	25	25	25	35	
Middle Schools	—	5 Acres	300	300	25	25	25	40	
Secondary Schools	—	10 Acres	500	500	50	50	50	60	
Colleges/Universities	—	25 Acres	500	500	100	100	100	60	
Retail Trade Establishments*****	—	8,000 sq.ft.***	70	80	[25]0	[15]0	[25]20	35	
Neighborhood & Community Shopping Centers	—	1 Acre****	150	225	[50]0	[30]0	[60]20	35	
Agricultural [or] Produce Concession Stands	—	4,200 sq.ft.	70	60	10	10	10	35	
Automobile Service Stations/Carwash	—	0.5 Acre	100	150	25	20	25	35	
Personal Service Establishments	—	8,000 sq.f.***	70	80	[25]0	[15]0	[25]20	35	

Veterinarians/Animal Kennels	—	0.5 Acre	100	100	25	25	25	35
Business or Professional Service Establishments	—	8,000 sq.ft.***	70	80	[25]0	[15]0	[25]20	35
Health Care Facilities	-	0.5 Acre	100	150	[25]0	[15]0	[25]20	35
Office Buildings	-	1 Acre****	150	225	[50]0	[30]0	[60]20	35
Post Offices/Postal Substations	-	8,000 sq.ft.	70	80	25	15	25	35
Public Safety (Police/Fire) Substations	-	1 Acre	150	200	50	30	60	35
Sewage Lift Stations/Water Pump Stations	-	0.5 Acre	100	150	25	30	25	20
Electrical Substations	-	0.5 Acre	100	150	25	30	25	35
Houses of Worship	-	0.5 Acre	100	150	25	15	25	45
Correctional Facilities	-	10 Acres	500	500	100	100	200	50
Hospitals/Sanitariums	-	2 Acres	300	300	50	50	50	50
Recreational Facilities	-	*****	100	100	25	25	25	35
Marinas/Yacht Clubs	-	1 Acre	150	225	50	20	0★	35

- * The lot area, width, and depth requirements, as well as the front, side, and rear yard setbacks for attached housing are not intended to apply to individual dwelling units. Rather, they are meant to be used to establish the minimum dimensional and density requirements for an attached housing development. For example, if a townhouse development is proposed to be built on a ten thousand (10,000) square foot lot, four (4) units can be built. Each unit would not be required to have any side yard adjacent to another proposed townhouse unit. The side yard dimensional requirements indicated in the above table shall apply to the perimeter of the entire property proposed for townhouse.
- ** Maximum lot size shall be no more than five (5) acres for Multiple-Family Dwelling Development in this District.
- *** Maximum lot size shall be no more than one (1) acre for Individual Retail Trade, Personal Service, and Business Service Establishments in this District.
- **** Maximum lot size shall be no more than two (2) acres for Shopping Centers, Office Buildings and Hotels/Motels in this District.
- ***** Automobile service stations will be limited to gasoline service stations. There will be no adult facility be allowed in this District.
- ***** Bed and Breakfast Inns/Guesthouses and Boarding/Rooming houses may not exceed a total of sixteen (16) rooms within an individual development in this District.
- ***** Minimum lot size requirements for Recreational Facilities shall be determined by the Department of Parks and Recreation, based upon Performance Standards.
- When calculating Maximum Lot Coverage for Aquaculture uses, area of outdoor ponds, tanks and raceways shall be excluded.
 - ★ A minimum setback of five (5) feet from the edge of any pier, wharf, or bulkhead shall be required for any structure.
 - ★★ The front yard setback of ten (10) feet for single Detached Dwellings and Single Family Detached Dwellings (affordable) shall apply to the principal structure. Any garage or carport built in conjunction with these residential types, either attached to the principal structure or detached, shall have a minimum setback of [twenty (20)] fifteen(15) feet.

"EXHIBIT E"

ZONING DISTRICT 4 - HIGH INTENSITY

Table of Dimensional and Density Requirements

Uses Permitted	Maximum Units/Acre	Minimum Lot Size (feet)			Minimum Yard Setback (feet)		
		Area	Width	Depth	Front	Each Side	Rear
Single-Family Detached Dwellings	9.5	4,500 sq.ft.	45	75	10****	8	10
Single-Family Detached Dwellings (Affordable)	12.0	3,500 sq.ft.	40	60	10****	8	10
Duplexes/Two-Family Dwellings	14.0	6,000 sq.ft.	50	75	15	[10]8	[25]10
Attached Dwellings (Townhouses) *	16.0	0.5 Acre	100	100	15	[15]8	[35]10
Zero Lot Line Homes	10.0	0.5 Acre	100	100	15	15	15
Multiple-Family Dwellings	32.0	0.5 Acre	100	100	[25]15	[25]8	[25]10
Boarding/Rooming Houses	16 (rooms)	1 Acre	125	225	25	15	30
Residential Treatment Facility	10 (rooms)	1 Acre	125	225	25	25	40
Barracks	300 (persons)	1 Acre	100	150	25	25	25
Hotels/Motels/Apartment Hotels **	60 (rooms)	1 Acre	125	225	25	20	50
Bed & Breakfast Inns/Guesthouses	16 (rooms)	0.5 Acre	100	150	[25]15	[15]8	[25]10
Primary Schools	-	2 Acres	200	200	25	25	25
Middle Schools	-	5 Acres	300	300	25	25	25
Secondary Schools	-	10 Acres	500	500	50	50	50
Pre-School Facilities	-	8,000 sq.ft.	70	80	20	20	25
Colleges/Universities & Other School Facilities	-	2 Acres	200	200	25	25	25
Retail Trade Establishments	-	8,000 sq.ft.	70	80	[25]0	[10]0	[25]20
Home Building Supply	-	1 Acre	150	225	[50]0	[25]0	[50]20
Automobile Repair, Maintenance & Service Stations	-	0.5 Acre	100	150	[25]0	[20]0	[25]20
Shopping Centers	-	2 Acres	200	200	[50]0	[30]0	[60]20
Automobile Sales & Service Est., New or Used	-	1 Acre	125	225	[25]0	[25]0	[25]20
Automobile Rental Agencies	-	0.5 Acre	100	150	[25]0	[25]0	[25]20
Adult Entertainment Facilities	-	8,000 sq.ft.	70	80	[25]0	[10]0	[25]20
Flea Markets	-	1 Acre	100	225	25	25	25
Theaters/Museums/Art Galleries	-	0.5 Acres	100	100	[25]0	[10]0	[25]20
Bus & Mass Transit Storage and Maint. Facilities	-	2 Acres	200	200	50	25	25
Agricultural or Produce Concession Stands	-	8,000 sq.ft.	70	80	20	10	10
Wholesale/Warehousing/Storage/Distribution Facilities	-	1 Acre	150	225	[50]0	[25]0	[50]20

Parking Structures	-	0.50 Acre	100	150	[10]0	[10]0	10
Personal Service Establishments	-	8,000 sq.ft.	70	80	[25]0	[15]0	[25]20
Veterinarians/Animal Kennels	-	0.5 Acre	100	150	25	30	25
Business or Professional Service Establishments	-	8,000 sq.ft.	70	80	[25]0	[15]0	[25]20
Health Care Facilities	-	0.5 Acre	100	150	[25]0	[15]0	[25]20
Office Buildings	-	1 Acre	150	225	[25]0	[30]0	[60]20
Libraries	-	1 Acre	100	200	50	25	25
Post Offices	-	1 Acre	150	200	25	25	50
Consulates	-	8,000 sq.ft.	70	80	25	15	25
Hospitals/Sanitariums	-	2 Acres	200	200	25	25	50
Public Safety (Police/Fire) Substations	-	0.5 Acre	100	150	25	20	30
Sewage Lift Stations/Water Pump Stations	-	0.5 Acre	100	150	25	30	25
Electric Substations	-	8,000 sq.ft.	70	80	25	15	25
Houses of Worship	-	1 Acre	125	225	25	20	50
Community Centers	-	0.5 Acre	100	150	25	15	25
Convention Centers	-	2 Acres	200	300	[25]0	[25]0	[50]20
Recreational Facilities	-	***	100	100	25	25	25
Night Clubs	-	1 Acre	150	225	[25]0	[30]0	[60]20
Amusement Parks	-	1 Acre	125	225	[25]0	[25]0	[35]20

* The lot area, width, and depth requirements, as well as the front, side, and rear yard setbacks for attached housing are not intended for individual dwelling units. Rather, they are meant to be used to establish the minimum dimensional and density requirements for an attached housing development. For example, if a townhouse development is proposed to be built on a ten thousand (10,000) square foot lot, four (4) units can be built. Each unit is required to have any side yard adjacent to another proposed townhouse unit. The side yard dimensional requirement of ten (10) feet indicated in this table apply to the perimeter of the entire property proposed for townhouses.

** Hotels/Motels/Apartment Hotels may not exceed a total of two-hundred (200) units within an individual development in this District.

*** Minimum lot size requirements for Recreational Facilities shall be determined by the Department of Parks and Recreation, based upon Performance Standards.

**** The front yard setback of ten (10) feet for Single Family Detached Dwellings and Single Family Detached Dwellings (Affordable) shall apply to the structure. Any garage or carport built in conjunction with these residential types, either attached to the principal structure or detached, shall have a front yard setback of [twenty (20)] fifteen (15) feet.

- When calculating Maximum Lot Coverage, areas of outdoor ponds, tanks and raceways used for Backyard Aquaculture shall be excluded.

“EXHIBIT F”

ZONING DISTRICT 5 - VILLAGE/NEIGHBORHOOD CENTERS

Table of Dimensional and Density Requirements

Uses Permitted	Maximum Units/Acre	Minimum Lot Size (ft.)			Minimum Yard Setback (ft.)			Max. Bldg. Height (ft.)	Max. Lot Coverage (%)
		Area	Width	Depth	Front	Each Side	Rear		
Single-Family Detached Dwellings	10.0	4,000 sq.ft.	40	80	10****	8	[15]10	35	50
Duplexes/Two-Family Dwellings	16.0	5,000 sq.ft.	40	80	10	[10]8	[20]10	35	50
Attached Dwellings (Townhouses)*	16.0	8,000 sq.ft.	70	80	10	10	20	35	60
Zero Lot Line Homes	12.0	3,500 sq.ft.	40	60	10	3	10	35	60
Multiple-Family Dwellings	20.0	1 Acre	100	100	10	[15]8	[20]10	35	60
Residential Treatment Facility	10 (rooms)	0.5 Acre	100	100	25	25	25	35	50
Bed & Breakfast Inns/ Guesthouses****	12 (rooms)	8,000 sq.ft.	70	80	15	15	25	35	50
Boarding/Rooming Houses****	12 (rooms)	8,000 sq.ft.	70	80	15	15	25	35	50
Pre-School Facilities	-	8,000 sq.ft.	70	80	15	15	25	25	35
Primary Schools	-	2 Acres	200	200	25	25	25	35	50
Middle Schools	-	5 Acres	300	300	25	25	25	35	30
Retail Trade Establishments***	-	5,000 sq.ft.	40	75	0	0	15	35	75
Personal Service Establishments***	-	5,000 sq.ft.	40	75	0	0	15	35	75
Health Care Facilities	-	8,000 sq.ft.	70	80	15	15	25	35	40
Post Offices/Postal Substations	-	5,000 sq.ft.	50	75	15	0	25	35	75
Public Safety (Police/Fire) Substations	-	0.5 Acre	100	150	15	15	30	35	40
Houses of Worship	-	1 Acre	125	225	25	20	25	45	25
Community Centers	-	8,000 sq.ft.	70	80	15	15	25	35	60
Libraries	-	8,000 sq.ft.	70	80	15	15	25	35	35
Recreational Facilities	-	8,000 sq.ft.	70	80	15	15	15	35	30

* The lot area, width, and depth requirements, as well as the front, side, and rear yard setbacks for attached housing are not intended for detached dwelling units. Rather, they are meant to be used to establish the minimum dimensional and density requirements for an attached housing development. If townhouse development is proposed to be built on a ten thousand (10,000) square foot lot, four (4) units can be built. Each unit would not be required to be adjacent to another proposed townhouse unit. The side yard dimensional requirement of ten (10) feet indicated in the above table shall apply to all property proposed for townhouses.

** No Regional Park shall be permitted in this District.

*** Maximum lot size shall be no more than one-half (0.5) acre for individual Retail Trade and Personal Service Establishments in this District, including an automobile-related retail trade facility (new or used car dealership, service station, gasoline station, car wash, etc.), nor any drive-in establishment.

District, nor shall any adult entertainment facility be permitted.

**** Bed and Breakfast Inns/Guesthouses and Boarding/Rooming Houses may not exceed a total of twenty-four (24) units within an individual residential type, either attached to the principal structure or detached, shall have a minimum front yard setback of ~~twenty~~ fifteen (20) [15] feet.

ZONING DISTRICT 5H - HISTORIC VILLAGE CENTERS

Table of Dimensional and Density Requirements

Uses Permitted	Maximum Units/Acre	Minimum Lot Size			Minimum Yard Setback (ft.)			Max Bldg Height (ft.)
		Area	Width (ft)	Depth (ft)	Front	Each Side	Rear	
Single-Family Detached Dwellings	10.0	4,000 sq.ft.	40	80	10	5	[15]10	35
Two-Family Detached Dwellings/Duplexes	16.0	5,000 sq.ft.	40	80	10	5	[15]10	35
Attached Dwellings (Townhouses)*	16.0	8,000 sq.ft.	60	80	5	5	10	35
Multiple-Family Dwellings**	20.0	0.5 Acre	80	100	10	[15]8	[20]10	35
Boarding/Rooming Houses***	12 (rooms)	8,000 sq.ft.	70	80	15	15	25	35
Residential Treatment Facility	10 (rooms)	0.5 Acre	100	100	25	25	25	35
Bed & Breakfast Inns/Guesthouses****	12 (rooms)	8,000 sq.ft.	70	80	15	15	25	35
Pre-school Facilities	-	8,000 sq.ft.	70	80	20	20	20	25
Primary Schools	-	2 Acres	200	200	25	25	25	35
Retail Trade Establishments****	-	5,000 sq.ft.	40	75	0	0	15	35
Personal Service Establishments****	-	5,000 sq.ft.	40	75	0	0	15	35
Health Care Facilities	-	8,000 sq.ft.	70	80	15	15	25	35
Post Offices/Postal Substations	-	5,000 sq.ft.	40	75	0	0	25	35
Public Safety (Police/Fire) Substations	-	8,000 sq.ft.	70	80	25	15	15	35
Houses of Worship	-	0.5 Acre	80	100	15	15	20	45
Community Centers	-	8,000 sq.ft.	70	80	15	15	20	35
Libraries	-	5,000 sq.ft.	40	75	0	0	15	35
Museums & Other Historical Interpretive Fac.	-	4,000 sq.ft.	40	80	15	15	15	35
Recreational Facilities	-	8,000 sq.ft.	70	80	15	15	15	35

* The lot area, width, and depth requirements, as well as the front, side, and rear yard setbacks for attached housing are not intended to be applied to individual dwelling units used to establish the minimum dimensional and density requirements for an attached housing development. For example, if a townhouse development is proposed to be built on a square foot lot, four (4) units can be built. Each unit would not be required to have any side yard adjacent to another proposed townhouse unit. The side yard dimensions indicated in the above table shall apply to the perimeter of the entire property proposed for the attached housing project.

** The maximum lot size shall be no more than one (1) acre for any Multiple-Family Development proposed in this District.

*** Bed & Breakfast Inns/Guesthouses, Group Homes and Boarding/Rooming Houses may not exceed a total of twenty-four (24) units or rooms within an individual development in this District.

**** Maximum lot size shall not exceed one-half (0.5) acre for individual Retail Trade and Personal Service Establishments in this District. Additionally, no automobile-related uses such as car dealership, service station, gasoline station, car wash, etc.), nor any drive-in establishment or adult entertainment facility shall be permitted in this District.

“EXHIBIT H”

ZONING DISTRICT 6 - URBAN/DISTRICT CENTERS

Table of Dimensional and Density Requirements

Uses Permitted	Maximum Units/Acre	Minimum Lot Size			Minimum Yard Setback (ft.)			Max. Height (ft)
		Area	Width (ft)	Depth (ft)	Front	Each Side	Rear	
Attached Dwellings (Townhouses) *	16.0	8,000 sq.ft.	70	80	10	[10]8	[35]10	3
Multiple-Family Dwellings	100.0	1 Acre	100	200	0	[10]8	[25]10	1
Boarding/Rooming Houses	12 (rooms)	8,000 sq.ft.	70	80	25	10	25	3
Residential Treatment Facility	10 (rooms)	0.5 Acre	100	100	25	25	25	3
Apartment Hotels/Hotels	50 (rooms)	1 Acre	100	200	0	15	30	11
Lodged & Breakfast Inns/Guesthouses	12 (rooms)	8,000 sq.ft.	70	80	25	10	25	3
Retail Trade Establishments **	-	2,500 sq.ft.	20	75	0	0	15	3
Theaters	-	1 Acre	100	200	0	0	15	6
Museums/Art Galleries	-	0.5 Acre	100	100	0	0	15	6
Parking Structures	-	5,000 sq.ft.	40	80	5	0	0	6
Personal Service Establishments **	-	2,500 sq.ft.	20	75	0	0	15	3
Business or Professional Service Est. **	-	2,500 sq.ft.	20	75	0	0	15	3
Health Care Facilities	-	2,500 sq.ft.	20	75	0	0	15	3
Office Buildings	-	20,000 sq.ft.	75	125	0	[15]0	[25]20	15
Post Offices/Postal Substations	-	1 Acre	150	200	0	15	40	3
Court Houses/Government Offices	-	20,000 sq.ft.	75	125	0	15	25	15
Public Safety (Police/Fire) Substations	-	1 Acre	125	225	25	25	50	3
Consulates	-	5,000 sq.ft.	40	80	0	0	15	3
Libraries	-	20,000 sq.ft.	100	150	25	25	50	3
Electrical Substations	-	8,000 sq.ft.	70	80	25	15	25	3
Houses of Worship	-	20,000 sq.ft.	100	125	25	25	25	4
Convention Centers	-	2 Acres	200	300	0	0	15	6
Mass Transit Terminal	-	2 Acres	200	200	50	25	25	5
Recreational Facilities	-	5,000 sq.ft.	40	80	10	10	15	3
Night Clubs	-	5,000 sq.ft.	40	80	0	0	20	3
Health Clubs	-	5,000 sq.ft.	40	80	0	0	20	3

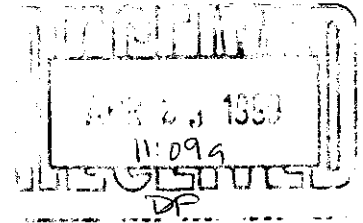
- * The lot area, width, and depth requirements, as well as the front, side, and rear yard setbacks for attached housing are not intended to be dwelling units. Rather, they are meant to be used to establish the minimum dimensional and density requirements for an attached housing example, if a townhouse development is proposed to be built on a ten thousand (10,000) square foot lot, four (4) units can be built. Each unit v to have any side yard adjacent to another proposed townhouse unit. The side yard dimensional requirement of ten (10) feet indicated in the abc perimeter of the entire property proposed for townhouse.
- ** Maximum lot size shall be no more than one-half (0.5) acre for individual Retail Trade, Business Service and Personal Service Establishme Additionally, no automobile-related retail trade facility (new or used car dealership, service station, gasoline station, car wash, etc.), nor any c shall be permitted in this District, nor shall any adult entertainment facility be permitted.
- *** A minimum setback of five (5) feet from the edge of any pier, wharf, or bulkhead shall be required for any structure. The setback area may be related to the marina, but shall not be used for off-street parking. The edge of any pier, wharf, or bulkhead shall include any attached apron(s).
- **** No building or portion thereof shall be higher than three (3) stories or thirty-six (36) feet within a 200 foot radius of the Agana Basilica's steeple.



MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurat*

APR 29 1999



MEMORANDUM

TO: Chairman
Committee on Land, Agriculture, Military Affairs and Arts

FROM: Chairman
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

SUBJECT: Principal Referral – Bill No. 204

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 204 (COR)

Introduced by:

K. S. Moyland

E. B. Calvo

V.C. Pangelinan

AN ACT TO POSTPONE THE IMPLEMENTATION
DATE OF THE "I TANO'-TA LAND USE PLAN"
CONTAINED ON CHAPTER 61, DIVISION 2 OF
TITLE 21 OF THE GUAM CODE ANNOTATED.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that the
3 purpose of the *I Tano'-ta* Land Use for Guam provides the framework to
4 manage the growth and development of the Territory. Furthermore, *I*
5 *Liheslaturan Guåhan* finds that one of the main purposes of the Plan is to guide
6 development in a coordinated and harmonious manner permitting provisions
7 of adequate community services, protection of our ecological balance while at
8 the same time promote the health, safety, and general welfare of Guam's
9 citizenry.

10 Section 2. Effective Date Postponed: Final Land Use Plan. The
11 implementation of "The Final Land Use Plan," enacted as Chapter 61 to
12 Division 2 of Title 21 of the Guam Code Annotated, entitled the Zoning Code
13 of Guam, is hereby postponed until such time that *I Liheslatura* addresses and
14 resolves the concerns of affected real property owners whose real properties

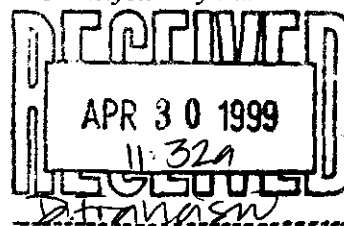
1 will become non-conforming and therefore experience restrictions in
2 obtaining loans from lending institutions.

3 **Section 3. Severability.** *If* any provision of this Law or its
4 application to any person or circumstance is found to be invalid or contrary to
5 law, such invalidity shall *not* affect other provisions or applications of this
6 Law which can be given effect without the invalid provisions or application,
7 and to this end the provisions of this Law are severable.



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayurat*



APR 30 1999

MEMORANDUM

TO: Chairman
Committee on Land, Agriculture, Military Affairs and the Arts

FROM: Chairman ~~X~~
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

SUBJECT: Principal Referral – Bill No. 206

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

Sen. Sanchez: In your professional opinion do you think I Tano'-ta has lowered the property values on Guam.

Mr. Peryon: I can't answer that at this time but keep in mind with the implementation of I Tano'-ta we have created a lot more commercial zoned property. So if you look at the law of supply and demand, your supply has just gone up so your demand has just gone down.

Sen. Camacho: One of the recommendations is to add another line in each of the tables for single family uses with the old set backs so in effect they become legal and conforming and maybe identify that any structure built prior to May 1, 1999, that meets these set backs shall be legal. I think this is easily resolved if we put our minds to it.

Peter Sgro, Jr.: Briefly my testimony is somewhat different from the concerns raised by bankers, appraisers and what you've heard in the media, however they go hand in hand. First of all, I would like to express my full support to delay the Plan and my main concern is that it exposes the Government of Guam to a tremendous amount of liability. I'd like to recognize that, yes, there has been a lot of time that has been spent with respect to the plan. However it doesn't make sense at all especially in light of the fact that we do have bankers and appraisers and many people involved in the development of what I see as individual's own property rights. In closing I'd just like to say when you look at the testimony of the appraisers and the bankers, when you look at the concerns with respect to providing the financial means for individuals to develop whatever they want to. Whether its a single family residence or a commercial building or otherwise its very important to note that regulatory taking goes hand in hand with financing. They are not mutually exclusive, they are not different. If the financial arm is preventing you from moving then you have definitely a regulatory taking and you don't want to expose the Government to that kind of liability.

Rae Cochran-Einloth read her written testimony. (See attached)

Dave Herring read his written testimony

Sen. Camacho: Do you have a timeline for this delay, because no one has really come out and said how much time they think will needed?

Dave Herring: I believe that a responsible taskforce studying this process including legal matters and banking matters, you are looking at 1 year at least. Proper training, proper education maybe even some trial cases to run through for building permits for proposed projects.

Tony Artero read his written testimony. (See attached)

John Dueñas read his written testimony. (See attached)

Sen. Moylan: The number of factors you have indicated has gone above and beyond the problems. Initially our concern was with financing and devaluation and I'm glad you brought all these issues forward. Some of my concerns have been in

regards to devaluation of property, what effect on the southern side of the island would the effect of having a hillside development impact them.

Mr. Dueñas: These developments standards set up a chain of bureaucratic view procedures that in my opinion are unnecessary. If you come in with a plan for developing a hillside, southern Guam is probably 50% of, you will be subjected to a building permit review process.

Sen. Moylan: So you would say that economic development would be severely impacted by having such a standard.

Mr. Dueñas: I think it just puts an extra burden on an applicant to have to comply to these standards.

Sen. Moylan: Aside from the highest and best use and who should determine that, let me ask you looking into the future 25 years from now, we have all the set back requirements in place currently as I Tano'-ta states and when the population doubles 25 years from now. What will Guam look like? Will we be living in high rises?

Mr. Dueñas: I don't know what the answer to that is, but I know that the planning process is a dynamic process. You're going to have to react to the birth rate going up or immigration into Guam is such that we get more people then we have to have a plan that reacts appropriately. The beauty of I Tano'-ta is that it tells you where development will grow or take place. This is good if you use that as a tool to plan infrastructure to channel growth in a particular area.

Sen. Moylan: My biggest from a policy perspective is future growth. Are we treating large land owners like kings and small land owners like peasants because the ability for a small land owner to receive the highest and best use of this property and value seems to diminish under I Tano'-ta while the larger land owner will be the major recipients.

Mr. Dueñas: I think, if there is a diminishment of land values, its across the board. I don't think this plan discriminates. It doesn't hurt the single family individual because he is exempt from a lot of these performance standards but it does hurt the individual who does want to set up a business, it does hurt the individual who wants to subdivide 2, 3, 4, or 5 lots even 20 lots and it penalizes the developer who goes in and tries to develop a big tract. It throws a lot of performance standards in his way. In some cases, in the past these standards have been applied by government agency reviews.

Sen. Moylan: Are the performance-based standards a benefit or detriment? Does it increase your cost? Does it help you at all or is it just another obstacle?

Mr. Dueñas: It increases my fees and it increases the cost for developers. In some cases, in major projects these are absolutely necessary. It triggers - it should trigger performance standards at a certain level of development.

Sen. Camacho: John, in all fairness, the development of the performance standards - the planners went around to all the agencies and asked what they were imposing on development at that time. And the intent was to put what was being imposed in writing so that it could be identifiable. The developer would know up front what would be required of him and that the expectations would be there. A developer could plan out his development, his costs and knowing that if he could meet the standards that were in front of him, that he could fly through the development review process much more quickly. I know the concern may be that these performance standards may be excessive, but if they were being imposed in the past, there really is no difference.

Mr. Dueñas: But they weren't Senator. The vegetation protection, landscaping standards and storm water permitting standards were not being imposed.

Sen. Camacho: You mentioned yourself that they were being imposed, maybe indiscriminately.

Mr. Dueñas: Right, only for major developments. Landscaping standards were not imposed. Vegetation protection is a whole new thing. Yes, storm water management was on a case by case basis depending on how you could demonstrate, how you could handle your storm water collected and dispose of it. This became an engineering dialogue and a design dialogue. Now, it becomes a checklist, you have to do this, this and this before you even come to me. Your asking professional engineers to take their calculations and to do it this way and that way and then give it to some technician who hasn't gotten two years of engineering education or any experience. I'm not trying to belittle some of the reviewers, but this is in fact what happens in the process. Anybody with a hidden agenda, with these performance standards, can stop a project cold. All he has to do is turn his back on the project, ask for more information. There's a whole section on asking for more information. I don't think we have enough information. I need this and that, that would stop a project cold. And I won't review your project until you come back with this information. I've been through the process and I know that some reviewers would ask for information that you cannot provide and that just kills your progress.

Dave Herring: Senator excuse me, on behalf of the single residential owners. I think that getting back to the setback issue when you moved the setbacks to 20 ft. I think that this is a major disadvantage mainly for the people down South. Because you have to understand that they are not on flat property. The majority of the northern properties are flat properties. When you have to, as an example, in my testimony, move a home back an extra five feet that could cost an additional backfill, retaining walls, earth work, and they're at a disadvantage and that's what this plan did to them.

Sen. Camacho: Dave, in all fairness, the plan does allow for variances in the case where the land situation is such that you can't utilize the entire property. And the intent was to set up the rules and regulations again for everybody to play by fairly and if you could live with it, you fly through the system very quickly. If you can't, there's still the opportunity to get a variance through the land use commission or through the zoning official. And that process would take a little longer, but I'm not trying to defend it, I'm just trying to explain the intent of it and you notice that the

approvals are much more - that the timelines are much more condensed so someone who could follow the rules gets their permit very quickly and those that can't, there's still another process. John Duenas mentioned the standards down in the hotel district. Under the existing law you have to go to the land use commission. Under this law you don't have to go to the land use commission if you could meet the standards that are laid out in front of you. John's proposal was to go back to going to the land use commission and following the rules under the tentative development plan. That's fine. Under the new plan, you could go to the land use commission and secure the variances and secure the uniqueness of your project and have them grant it. It's very similar, but again, if you could meet the standards that our laid out in front of you, you could bypass all that and you could save months and months of time.

Mr. Dueñas: But I'm telling you Senator that if you look at the minimum standards for Tumon. 25, 25 and 35 side yard, front yard, rear yard setbacks. You're talking \$2 million of property. You're asking to come up with 2 acres of land before he even considers a condominium.

Sen. Camacho: You're basing it on \$1,000 per sq. Meter which this day and age

Mr. Dueñas: Absolutely, it should be that high down there in Tumon.

Sen. Camacho: It's down to about \$300 now.

Mr. Dueñas: Down to about \$150, as we're talking here it's probably going down. The more this law is in effect, the more it devalues.

Dave Herring: But again, Senator, with all due respect, I still think it's unfair that the southern families will have to come in for variances when most of you don't. Why that extra process. I thought the purpose of this plan is to avoid those extra steps and make things work a lot smoother and more practical.

Mr. Dueñas: Why were the carports shoved back another 5 ft?

Sen. Camacho: Well, to get the cars off the streets and allow for more off-street parking. If you put another extra 5 ft. You could get two cars in the driveway and one car in the carport.

Mr. Dueñas: Yeah, but if you just take that - you could have a double driveway to handle that, but if you take just that simple logic and apply it to the hardship it's causing right now.

Sen. Camacho: Hopefully we don't want parking on the side of the road, on the coral, mud and everything else. But there are some communities in the states that don't allow street parking.

Sen. Pangelinan: Again, if I may pipe in, given some of the testimonies in here I'm tempted to change my bill to repeal and not to re-enact, but I'm just kidding! I go back to the need to - You see the need to resolve some of these and the questions that continually pop up and Dave I'm a little more optimistic than a year. I really

believe that if we put everything together with regards to the different minds in this room and the government agencies, that we can resolve some of these issues in less than a year and move forward on this thing. But again, I just go back to the idea that the further we delay the abeyance of this plan, the more we get into it and some of the issues are just not going to go away period, and we have to resolve them and to tinker with a 500 page document you do something on page 3 you better make sure that it's not reference on page 400 and I think that's the value of coming together and putting this thing in abeyance and trying to understand the changes that need to be made. I think that even you agree Mr. Senator and I know that you're open minded about this because you have made some of those changes is the need to do that.

Sen. Camacho: There will always be a need to change. Are there any other questions?

Sen. Kasperbauer: I would just like to say I really appreciated Mr. Duenas' identification of potential problems but also offering solutions.

Sen. Sanchez: John, how long do you think it would take us if we applied ourselves. What do you think would be a real time

Mr. Dueñas: Probably less than a year but more than 90 days, somewhere in there.

Senator Camacho: I'd like to call Juan Limtiaco, Albert Santos, Dave Ulloa, Ramon Oberiano

Mr. Limtiaco: Good evening Mr. Chairman, Vice Speaker, and fellow Senators, My name is Juan Limtiaco I'm the chief executive officer of Pacific Unlimited and we have some land investment here on Guam. The intention of this legislative body to repeal the law leads one of question in mind as to our leadership. We've spent 8 years and all this research. We've spent \$8 million invested in this plan and because somebody don't like the plan, we're going to throw this in the trash can and start all over. With land problem, I have a devil on my back about land problem. During the war we were ousted in Agana and the Japanese took our house. After the war, they ousted us in Barrigada and took our property, the military took our property. We got to Sinajana, urban renewal came in and ousted us out of Sinajana. Now I bought land for my children, now I Tano'-ta Plan comes in and says, you can't use that, it's only for agriculture. Sir, what can I plant in clay soil? When someone points out a property to be agriculture, we must use common sense. What do we plant in clay soil? The landfill won't even take my soil because it gets muddy on a rainy day, they say. So the land is useless. Now here's another typical government bureaucracy, if I want to develop that land up there for commercial use, I have to donate an acre and a quarter for water catchment, but if I decide to subdivide it for my family, for my children, I have no need for water catchment. Where's the reasoning for all this regulation. When you go up to EPA and get a permit to clear your lot, if it's an acre or less, you have a permit. All I want to do is clear my lot so I can use a lawn mower to keep it clean because people are dumping garbage. Well, you know what, if you use it for agriculture you don't need a permit. Where is the reasoning here? How does the rain drop decide whether it's farm land or just land that's not being used, as far as granting permits. There's a lot of unreasonable

obligations that the government is imposing to our people. The economy is very poor now. Do you want us to be LTA people too? Is that the guidance you've given us? You're trying to come up with all kinds of requirements that you will deny people from gainfully employed. If you now own land that is zoned hotel, if you don't build it, develop it within the next two years, you're going to lose this zoning. Is that what you guys wanted to give us, to deny us the right to develop and prosper on our island? This is what I Tano'-ta plan is giving us. I feel that the way we should approach this, we have all kinds of ladies and gentlemen that appeared tonight with solutions. They pointed out the problems, we have bankers, appraisers, Realtors, developers, we have lawyers, so why doesn't this legislative body appoint these people as a committee to review the I Tano'-ta Plan, and come up with a recommendation to amend it's existing law. I think that's the best approach. Let's not go back to another public hearing and spend more money that we don't have in the kitty. I've been monitoring the PDN, and if you look at the number of foreclosures happening on Guam, do you honestly believe that the bankers will suffer because we hold this I Tano'-ta Plan for 90 days while we review it and make it a working law for the people of Guam? I don't think so. I don't see so many people running to the bank to buy a home. Especially with the economy now. I have hired an appraiser to appraise my property, I paid him 50% I haven't seen this guy for a year. He's also suffering, so I strongly recommend that rather than repeal this law, let's sit down and let's not give this back to the administration again. Remember they appointed the consultants, You know you have to be careful with consultants, back in the 1970's this consultant appeared in the Guam Legislature about the old waste plant down here and he guaranteed that it was not going to stink. Have you driven past this area lately? Where the Chamorro Village is, they have the sewage pump there. So you have to be careful with consultants. I've been in aviation for 17 years and faced with all kinds of consultants, the minute they roll up the airplane off the hanger its guaranteed no problems, in 90 days we've got all kinds of leaks. So we have to be very careful because they also have a hidden agenda. Bankers also have hidden agendas, appraisers have hidden agendas, this is why we should have this committee set up where we have landowner representation also. We have to have developers represented, so we can control the opinion of people. Everybody will share their opinions and come up with a good recommendation to amend the law. I thank you.

Mr. Santos: Good evening Mr. Chairman and Senators, my name is Albert Santos I'm from GHURA. The situation we have at GHURA , were in the business of doing urban renewal development and our present concern is more so with the village of Asan where we've developed by phases over the last 20 years and we're in the state of completing and trying to get out there. Our lots there are standard, the minimum lots are, the minimum lots are 4,000 sq. Ft. About 85% of the lots to be developed down there are now occupied and structures do exist, old types, concrete, pre concrete. We also have 40 homes which we developed again for affordability. We see the slow down of the process of loans being closed. What frustrates me is that, we also designed it for them to expand and with this I Tano'-ta land use plan, it would deny them expanding based on the setbacks. For the individual that doesn't have a house built because of financial reasons maybe 2-3 years from now he might be able to save a small amount of money for a down payment. Now he won't be able to comply or probably won't be able to build a house, much less have a lot that's probably substandard in terms of I Tano'-ta land use. In the Sinajana area, we are

going to have a lot of impact on people we provided variance so the existing structure exists before GHURA came in. They are not going to develop, they are going to have to move the whole house back if they are going to do any major renovation. They won't be able to proceed with that. Yona likewise will be impacted. More specifically, I think GHURA is going to be impacted at a time that GHURA is ready to develop more affordable homes. We have plans on the drawing board to build an additional 154 affordable homes in Umatac and our consultant looked at it and compared to I Tano'-ta back then. I guess we're going to have to scrap that. We probably won't be able to build anymore and I'm not sure who else is going to be able to afford to build affordable homes given the restrictions we have again per the I Tano'-ta land use plan. I'm here in support of both bills and I agree with everybody, I echoed John's concern as well because it is going to impact us in more than one way. Thank you.

Mr. Ulloa: Mr. Chairman and Senators I'm David Ulloa and I'm here in support of the postponement or repealing of the I Tano'-ta Plan until such time as the various effects are addressed. Would the chief planner interpret this postponement as holding everything and using the old stature at this time. I support the previous testimony, perhaps we should establish a 3 man committee where you share this discretionary authority and proper expertise and the decisions are comprehensive. Another thing that surprises me in all the years we been going over this I Tano'-ta, the public was never informed of the adverse impact it would have on an individual. The biggest investment a family has is the purchase of a home and when all of a sudden you adopt which adversely impacts their investment.

Ramon Oberiano read his written testimony. (See attached)

Sen. Camacho: I think that the designation in the boundaries for District 3 and up a determination was made the lots were in a reasonable distance to the sewer. The determination was made that if it was within 1,000 feet or less.

Sen. Kasperbauer: Mr. Limtiaco, you said that if your land is currently zoned for a Hotel and if you don't build in 2 years it reverts back to something else.

Mr. Limtiaco: Yes, that is what I understand.

Sen. Camacho: I think in most cases Mr. Limtiaco the zones were changed to match at least the opportunity you had under the old system.

Sen. Kasperbauer: Mr. Santos, concerning the GHURA housing units in Asan aren't most of those single units to allow for expansion.

Mr. Santos: No, they are single family dwellings. But if you try to re-finance you still have a problem meeting the set back requirements of the new plan.

Ms. Manibusan: Good evening Mr. Chairman, Senators it has been a long time since I've come before this esteemed body. First of all I'd like to testify as Marilyn Manibusan as a private citizen, a land owner, and a home owner and I thank the good Chairman of the Committee for having and expedition public hearing on this bill. I'm here to support Bill nos. 204 & 206 and whatever measure is going to come

before the Legislature that would not delay the implementation but maybe repeal and re-enact at later date. I applaud the courageous leadership of the sponsors of the measure. I think the plan is too prescriptive, so I bring you a new plan, I Tano'-hu Plan (then she read her written testimony, see attached).

Now, as Chairman of the Guam Land Use Commission, I present to you Resolution 99-001R -requesting the abeyance of the I Tano'-ta Land Use Plan signed by all the members of the Guam Land Use Plan and the resolution was passed to you earlier and I think you have a copy and its self-explanatory.

Mr. Swavely: I'm really not in a very good mood to sit here again and talk about I Tano'-ta, I've been kicked around the last 8 years about as much the Plan has been kicked around this evening. I am not impressed that about a million and 1/2 dollars has been spent because the Guam Legislature made a mistake in appropriating that much. I do want to remind Senators here though and Marcel particularly because we worked together and I'm sure you've heard me share with you that greed and arrogance have killed more good ideas than anything else. I'm against the Plan, I'm against these bills, I don't want it suspended I want it repealed and I've been consistent with that opinion these last 8 years as well. But to make us sit through this and not make an emergency session to just give us 90 days to look at this thing that's greed and that's arrogance and I don't like it and I don't think any of us here like it. Marcel, you are the father of I Tano'-ta and I grant you that but we want somebody with the statesmanship to say anything can be improved, I'm willing to listen, let's make it work. Please don't continue to stand up there and drag it out, you have heard overwhelming testimony to say lets go back & look at some things. Thank you.

Sen. Camacho: We have heard very clearly what the issues are concerning the plan and how we approach solving those issues and what the final product is and when its implemented are all questions we, as a Committee still need to work out. The hearing was adjourned at 9:25 P.M.

Committee Findings and Recommendations

The Committee finds that the I Tano'-ta Land Use Plan ("The Plan" hereinafter) was enacted as Public Law 24-171 in April of 1998, allowing for over one year to lapse before its full implementation on May 1, 1999. Just prior to the implementation date, members of the public raised concern over some of the provisions of The Plan. In response to these concerns, bill numbers 204 and 206 were introduced on April 28, 1999, recommending a postponement of the implementation. The bills, however, were not referred to the Committee on Land, Agriculture, Military Affairs, and the Arts (the "Land Committee" hereinafter) in time to conduct a proper public hearing and report the bills out before the April 30, 1999 session. An attempt was made to declare an emergency on the two bills during that session, but the attempt failed.

A public hearing to address the bills was conducted by the Land Committee on May 6, 1999, the earliest date possible after their introduction. At the public hearing, testimony was received both orally and in writing, supporting the postponement of The Plan. Additional concerns were raised subsequent to the hearing that the Guam Planning Council had not submitted to the Legislature, as required under Public Law 24-171, their recommendations for incentives for non-

conforming structures to comply with The Plan, as well as an assessment of the risks and costs of the Performance Standards and Regulations of The Plan.

The Land Committee attempted to substitute a bill to make the required amendments to The Plan in preparation for the May 17, 1999 session, but the attempt met opposition. Those opposed to the substitution argued that the public would not have an opportunity to comment on the proposed amendments.

The Land Committee, therefore, intends to satisfy the concerns of the public and to provide ample opportunity to comment and make recommendations on The Plan by repealing The Plan for one hundred twenty (120) days and setting up a mechanism to work out solutions to the concerns.

THE COMMITTEE RECOMMENDS TO DO PASS BILL NO. 204 *as further substituted.*

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

Bill No. 204

*As substituted by
The Committee on Land, Agriculture
Military Affairs and the Arts*

Introduced by:

K. S. MOYLAN
E. B. CALVO

**AN ACT TO AMMEND SECTION 3, "EXHIBIT 2" (THE
ZONING CODE OF GUAM) OF P.L. NO. 24-171.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. During the April 30, 1999 session of *I Mina' Bente Singko Na Liheslaturan Guahan*, concerns about the implementation date of the I Tano-ta Land Use Plan were discussed. The question of "Should the Presiding Officer declare an emergency for the purpose of discussing Bill 204" was placed before the Body. After the votes were recorded, the Presiding Officer ruled that there is no emergency. The Presiding Officer, the supporters of Bill 204 and the Chairman of the Committee on Land, Agriculture, Military Affairs and the Arts agreed to conduct a Public Hearing on Bill No.'s 204 and 206 as early as possible to determine the appropriate action to be taken on the I Tano-ta Land Use Plan. Bill No.'s 204 and 206 were publicly heard on May 6, 1999. It is the intent of *I Liheslaturan Guahan* to be responsive to the needs of the community by adopting the changes to "Exhibit 2" (The Zoning Code of Guam) which were discussed at the Public Hearing of May 6, 1999 and incorporated herein.

Section 2. Repeal and Reenactment of General Provisions. Notwithstanding any other provisions of law, "Exhibit 2" of P.L. No. 24-171 (THE ZONING CODE OF GUAM), CHAPTER VI. GENERAL PROVISIONS, SECTION D, page 63, is repealed and reenacted to read as follows:

1 “Section D. Permits in Conflict with These Regulations, [~~Enactment~~
2 ~~of the Code will apply to pending permit applications. Permits for the~~
3 ~~construction of buildings, or for the use of land or buildings issued prior to~~
4 ~~or within three (3) years from the implementation of this Zoning Code, and~~
5 ~~that are in violation with the regulations of this Zoning Code shall be~~
6 ~~declared void, unless a property owner with undeveloped land, or with a~~
7 ~~partially constructed building, within three (3) years of implementation of~~
8 ~~this ordinance, in good faith, has proceeded with construction as will advise~~
9 ~~a reasonable person that the owner has substantially developed the building~~
10 ~~with the intention and purpose then formed to continue the work until the~~
11 ~~completion of the building, and committed to the use of the land to the~~
12 ~~permission granted, and has incurred substantial expenditures in good faith~~
13 ~~reliance upon a permit issued by the government. Investment in real~~
14 ~~property and costs for preliminary approvals shall not be construed as an~~
15 ~~expenditure toward construction except for lots two (2) acres or less in area.~~
16 ~~Unless actual construction work, including grading and excavation, is~~
17 ~~underway within three (3) years after the implementation of this Zoning~~
18 ~~Code, and construction, is completed within six (6) years from the~~
19 ~~implementation of this Code or in accordance with the approved~~
20 ~~development plan, such permit(s) shall become void.] Permits for the
21 construction of buildings, or for the use of land or buildings issued prior to
22 the implementation of this Zoning Code, shall remain valid. The zoning
23 official, and the building official, shall grant their approval of such
24 development based on the standards of the zoning code which this replaces.””~~

25 **Section 3. Amendments to General Provisions.** Notwithstanding
26 any other provisions of law, the following Sections of “Exhibit 2” of P.L.
27 No. 24-171 (THE ZONING CODE OF GUAM), CHAPTER VI.
28 GENERAL PROVISIONS are hereby amended to read as follows:

29 (a) Section E. Construction Begun Prior to the Adoption of the
30 Zoning Code, page 64, line 10, “owner, [~~within three (3) years]~~ has
31 substantially developed the building”

32 (b) Section R. Continuation of Prior Zoning Designations, page
33 67, line 36 to line 7, page 68 “If, however, a property owner believes and
34 the Zoning Official, upon inspection of maps and property information,
35 concurs in writing, that said property owner could not develop his or her
36 property to the level previously allowed, said property owner [~~for a period~~
37 ~~not to exceed three (3) years from the effective date of the implementation of~~
38 ~~this Zoning Code], shall be allowed to develop said property under the terms~~
39 ~~of the previous Zoning Code. [~~Within the aforementioned three (3) year~~~~
40 ~~period, the property owner shall, in good faith, proceed with construction as~~

1 ~~will advise a reasonable person that the owner has substantially developed~~
2 ~~the building with the intention and purpose then formed to continue to work~~
3 ~~until the completion of the building and committed the use of the land to the~~
4 ~~permission granted, and has incurred substantial expenditures. If substantial~~
5 ~~development and a substantial expenditure has not been achieved within this~~
6 ~~period. The zoning district designation indicated on the Zoning Map that are a~~
7 ~~part of this Zoning Code shall apply to the subject property.]”~~

8 (c) Section S. Nonconforming Situations, Subsection 2, (b), page
9 68, line 25 “structure [~~over the life of the structure~~] shall exceed”

10 **Section 4. Amendments to Permitted uses and tables of**
11 **dimensional and density requirements.** Notwithstanding any other
12 provisions of law, the following Sections of “Exhibit 2” of P.L. No. 24-171
13 (THE ZONING CODE OF GUAM), CHAPTER VII are hereby amended to
14 read as follows:

15 (a) ZONING DISTRICT 2-LOW INTENSITY, Table of
16 Dimensional and Density Requirements, page 80, is replaced by the
17 attached “Exhibit A”.

18 (b) ZONING DISTRICT 2M-LOW INTENSITY, Table of
19 Dimensional and Density Requirements, page 85, is replaced by the
20 attached “Exhibit B”.

21 (c) ZONING DISTRICT 3-MODERATE INTENSITY, Table of
22 Dimensional and Density Requirements, page 91, is replaced by the
23 attached “Exhibit C”.

24 (d) ZONING DISTRICT 3S-MODERATE INTENSITY
25 SPECIAL, Table of Dimensional and Density Requirements, page 96, is
26 replaced by the attached “Exhibit D”.

27 (e) ZONING DISTRICT 4-HIGH INTENSITY, Table of
28 Dimensional and Density Requirements, page 102, is replaced by the
29 attached “Exhibit E”.

30 (f) ZONING DISTRICT 5-VILLAGE/NEIGHBORHOOD
31 CENTERS, Table of Dimensional and Density Requirements, page 107, is
32 replaced by the attached Exhibit F”.

33 (g) ZONING DISTRICT 5H-HISTORIC VILLAGE CENTERS,
34 Table of Dimensional and Density Requirements, page 112, is replaced by
35 the attached Exhibit G”.

36 (h) ZONING DISTRICT 6-URBAN/DISTRICT CENTERS, Table
37 of Dimensional and Density Requirements, page 117, is replaced by the
38 attached “Exhibit H”.

39 **Section 5. Amendment to Administration.** Notwithstanding any
40 other provisions of law the following Sections of “Exhibit 2” of P.L. 24-171

1 (THE ZONING CODE OF GUAM), CHAPTER VII.
 2 ADMINISTRATION, are hereby amended to read as follows:

3
 4 (a) Table 1, Major Permit Threshold Table, page 134,

5
 6 "Table 1
 7 Major Permit Threshold Table

8

9 Zoning District	10 Acreage	11 Non-Residential Floor Area	12 Units	13 Dwelling Subdivision of Lots
14 1	15 *	16 *	17 *	18 *
19 2	20 10 Acres	21 [10,000] 20,000 S.F.	22 [20] 50	23 [20] 50
24 2M	25 10 Acres	26 [10,000] 20,000 S.F.	27 [20] 50	28 [20] 50
29 3	30 10 Acres	31 [25,000] 50,000 S.F.	32 50	33 50
34 3S	35 10 Acres	36 [25,000] 50,000 S.F.	37 50	38 50
39 4	40 N/A	41 60,000 S.F.**	42 70**	43 N/A
44 5	45 N/A	46 10,000 S.F.	47 30	48 N/A
49 5H	50 N/A	51 10,000 S.F.	52 30	53 N/A
54 6	55 N/A	56 20,000 S.F.	57 60	58 N/A
59 7	60 2 Acres	61 20,000 S.F.	62 32	63 N/A
64 8	65 ***	66 ***	67 N/A	68 ***

69 NOTE: N/A = NOT APPLICABLE.

70 * ANY PROPOSED DEVELOPMENT IN "ZONING DISTRICT 1: PARKS" WHICH THE DEPARTMENT OF PARKS AND RECREATION DEEMS TO BE A MAJOR DEVELOPMENT.

71 ** ANY APPLICATION FOR CONSTRUCTION WORKERS (BARRACKS) HOUSING SHALL BE AUTOMATICALLY DEEMED TO BE A MAJOR PROJECT, REGARDLESS OF THE NUMBER OF UNITS.

72 *** HEAVY MANUFACTURING USES IN ZONING DISTRICT 8 SHALL BE SUBJECT TO MAJOR PROJECT REVIEW, NO MATTER THEIR PROPOSED SIZE."

73 (b) 2. Permits, Terms and Conditions; (d), Page 136, Lines 29 and
 74 30 "[~~Where the applicant is not the owner of the property, the owner must~~
 75 ~~co-sign the application before it will be accepted for filing.]"~~

76 **Section 6. Amendment to Regulations.** Notwithstanding any
 77 provisions of law, the following Sections of "Exhibit 2" of P.L. 24-171
 78 (THE ZONING CODE OF GUAM), CHAPTER XVI. REGULATIONS,
 79 are hereby amended to read as follows:

80 (a) B. Nonresidential Performance Standards, 2. Performance
 81 Standards, b. Building Placement: c. Page 201, line 17 and 18 "arterial
 82 roadways, as defined by the Guam Department of Public Works, Highway
 83 Division. The Highway official shall provide the zoning official with the list
 84 of collector and arterial roadways within 30 days from enactment of this
 85 provision."

86 (b) F. Supplemental Regulations, 2. Nonconforming Situations,
 87 (1)(b), page 249, line 36 "requirements [~~or other requirements such as~~
 88 ~~parking requirements]."~~

1 (c) F. Supplemental Regulations. 2. Nonconforming Situations,
2 (5), Page 250, line 27 “single-family detached residential, duplex or multi-
3 family purposes” and line 32 “setback [~~and parking requirements~~].”

4 (d) d. Repair, Maintenance, and Construction, (2) Page 251 line 36
5 “detached residential, duplex, or multi-family purposes”

6 **Section 7. Repeal and Reenactment of Regulations.** Not
7 withstanding any other provisions of law, “Exhibit 2” of P.L. 24-171 (THE
8 ZONING CODE OF GUAM), SECTIONS E, G, I AND O OF CHAPTER
9 XVI. REGULATIONS, are hereby repealed and reenacted to read as
10 follows:

11 (a) E. Hillside Development Performance Standards Page 239, is
12 repealed and reenacted to read:

13 “E. Hillside Development Performance Standards

14 1. Purpose and intent: It is the purpose of these Performance Standards
15 to provide development criteria to the underlying Zoning Districts to assure
16 that growth occurs in such a manner as to protect the natural and topographic
17 character and identity of these areas, environmental resources, the aesthetic
18 qualities and restorative value of lands, and the public health, safety, and
19 general welfare by insuring that development does not create soil erosion,
20 silting of lower slopes or coastal waters, slide damage, flooding problems,
21 and severe cutting or scarring. It is the intent of these Standards to
22 encourage a sensitive form of development and to allow for a reasonable use
23 that complements the natural and visual character of the Territory.

24 2. For the purpose of this zoning code, the Hillside Development
25 Performance Standards will be those most recently promulgated by the
26 Department of Public Works under the Administrative Adjudication Law or
27 by statute.”

28 (b) G. Recreational and Open-Space Standards Page 256 is
29 repealed and reenacted to read:

30 “G. Recreational and Open-Space Standards

31 For the purpose of this zoning code, the recreational and Open-Space
32 Standards will be those most recently promulgated by the Department of
33 Parks and Recreation under the Administrative Adjudication Law or by
34 statute.”

35 (c) I. Vegetation Protection Standards. Page 282 is repealed and
36 reenacted to read:

37 “I. Vegetation Protection Standards.

38 1. Purpose: It is the purpose of this Section of the Zoning Code to
39 promote the health, safety, and welfare of existing and future residents and
40 visitors by establishing minimum standards for the protection of natural

1 plant communities, and the installation and continued maintenance of
2 landscaping.

3 2. For the purpose of this zoning code, the Vegetation Protection
4 Standards will be those most recently promulgated by the Department of
5 Public Works, and the Department of Agriculture, under the Administrative
6 Adjudication Law or by statute.”

7 (d) O. Landscape Performance Standards. Page 323 is repealed
8 and reenacted to read:

9 “O. Landscape Performance Standards

10 1. Objectives: The objectives: The objective of this Section are to
11 improve the appearance of certain set-back and yard areas, including off-
12 street vehicular parking and open-lot sales and service areas; and to protect
13 and preserve the appearance, character, and value of the surrounding
14 neighborhoods; and to thereby promote the general welfare by providing for
15 installations and maintenance of landscaping for screening and aesthetic
16 qualities, since the Government of Guam finds that the characteristics and
17 qualities of Guam justify such requirements to perpetuate its aesthetic
18 appeal.

19 2. For the purpose of this zoning code, the Landscape Performance
20 Standards will be those most recently promulgated by the Department of
21 Agriculture, under the Administrative Adjudication Law or by statute.”

22 **Section 8. Establishment of the I Tano’-ta Implementation Work**
23 **Group.** *I Maga’lahen Guahan* shall immediately establish, appoint and
24 convene an I Tano’-ta Work Group (the “Work Group”) to review and
25 recommend any additional amendments to the I Tano’-ta land Use Plan.
26 The “Work Group” shall be coordinated by the Territorial Planning Council
27 staff, and shall include representatives from appropriate government
28 agencies, Guam Bankers Association, Guam Contractors Association, Guam
29 Chamber of Commerce, Guam Board of Realtors, Professional Engineers,
30 Architect and Land Surveyors, the Pacific Association of Professional Real
31 Estate Appraisers and any other interested community member. The “Work
32 Group” shall submit a report of findings and recommendations to *I*
33 *Liheslaturan Guahan* no latter than ninety (90) days from the enactment of
34 this act.

35 **Section 9. Severability.** If any provision of this Law or its
36 application to any person or circumstance is found to be invalid or contrary
37 to law, such invalidity shall not affect other provisions or applications of this
38 Law which can be given effect without the invalid provision or application,
39 and to this end the provisions of this Law are severable.

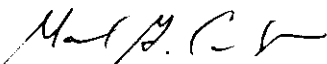

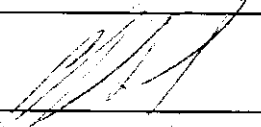
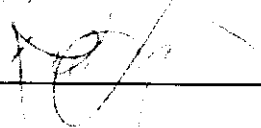

**COMMITTEE ON LAND, AGRICULTURE, MILITARY AFFAIRS
and the ARTS**

**I Mina'Benta Singko Na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature**

VOTING SHEET

May 17, 1999

RE: BILL NO. 204: *As further substituted by the Committee, "AN ACT TO POSTPONE THE IMPELMENTATION DATE OF THE "I TANO'-TA LAND USE PLAN" CONTAINED ON CHAPTER 61, DIVISION 2 OF TITLE 21 OF THE GUAM CODE ANNOTATED."*

COMMITTEE MEMBERS:	SIGNATURE	TO DO PASS	NOT TO PASS	ABSTAIN	TO PLACE IN INACTIVE FILE
Sen. Marcel G. Camacho Chairman		✓			
Senator Lawrence F. Kaperbauer, Vice-Chair					
Senator Joanne M.S. Brown		✓			
Senator Eduardo B. Calvo		✓			
Senator Kaleo S. Moylan		✓			
Senator Simon A. Sanchez, II		✓			
Senator Frank B. Aguon, Jr.					
Speaker Antonio "Tony" R. Unpingco, ex. officio					

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

Bill No. 204

*As substituted and further substituted
by The Committee on Land, Agriculture,
Military Affairs and the Arts*

Introduced by:

K.S. MOYLAN
E.B. CALVO

**AN ACT TO POSTPONE THE IMPLEMENTATION
DATE OF THE "I TANO'-TA LAND USE PLAN"
CONTAINED ON CHAPTER 61, DIVISION 2 OF
TITLE 21 OF THE GUAM CODE ANNOTATED.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan*
2 *Guahan* finds that the I Tano'-ta Land Use Plan ("The Plan" hereinafter)
3 was enacted as Public Law 24-171 in April of 1998, allowing for over one
4 year to lapse before its full implementation on May 1, 1999. Just prior to
5 the implementation date, members of the public raised concern over some
6 of the provisions of The Plan. In response to these concerns, bill numbers
7 204 and 206 were introduced on April 28, 1999, recommending a
8 postponement of the implementation. The bills, however, were not
9 referred to the Committee on Land, Agriculture, Military Affairs, and the
10 Arts (the "Land Committee" hereinafter) in time to conduct a proper
11 public hearing and report the bills out before the April 30, 1999 session.
12 An attempt was made to declare an emergency on the two bills during that
13 session, but the attempt failed.

14 A public hearing to address the bills was conducted by the Land
15 Committee on May 6, 1999, the earliest date possible after their
16 introduction. At the public hearing, testimony was received both orally
17 and in writing, supporting the postponement of The Plan. Additional
18 concerns were raised subsequent to the hearing that the Guam Planning
19 Council had not submitted to the Legislature, as required under Public Law
20 24-171, their recommendations for incentives for non-conforming
21 structures to comply with The Plan, as well as an assessment of the risks
22 and costs of the Performance Standards and Regulations of The Plan.
23

1 The Land Committee attempted to substitute a bill to make the
2 required amendments to The Plan in preparation for the May 17, 1999
3 session, but the attempt met opposition. Those opposed to the substitution
4 argued that the public would not have an opportunity to comment on the
5 proposed amendments.

6 The Land Committee, therefore, intends to satisfy the concerns of
7 the public and to provide ample opportunity to comment and make
8 recommendations on The Plan by repealing The Plan for one hundred
9 twenty (120) days and setting up a mechanism to work out solutions to the
10 concerns.

11
12 **Section 2. Repeal of the I Tano-ta Land Use Plan and**
13 **Subsequent Amendments.** Public Laws 24-171 and 25-11 are hereby
14 repealed in their entirety.

15
16 **Section 3. Reenactment of Prior Zoning Laws.** Chapter 61
17 of Division 2 of Title 21 of the Guam Code Annotated, and Article 4 of
18 Chapter 60 of Title 21 of the Guam Code Annotated, prior to the passage
19 of Public Law 24-171 are hereby reenacted in their entirety.

20
21 **Section 4. Conditional Approval.** All applications approved
22 by the Zoning Official of the Department of Land Management after May
23 1, 1999, up to the enactment date of this Act, shall have the option of
24 abiding by the provisions prescribed in Public Law Number 24-171 or the
25 prior zoning law. All applications submitted to the Zoning Official after
26 the enactment of this Act shall be governed by the reenactment of the prior
27 zoning laws provided for in Section 3 of this Act.

28
29 **Section 5. Formation of I Tano'-ta Working Group.** Upon
30 enactment of this Act, the Governor of Guam shall immediately establish
31 an I Tano'-ta working group, with the Guam Planning Council staff as
32 facilitators, to review all testimony received as part of the public hearing
33 process on bills 204 and 206, and any subsequent testimony submitted
34 thereafter. The composition of the working group shall consist of
35 members from the government agencies who are involved in the
36 development review process, and those who submitted testimony on bills
37 204 and 206 including, but not limited to, members from the Guam
38 Bankers Association, the Guam Contractors Association, the Guam
39 Chamber of Commerce, the Guam Board of Realtors, the Pacific
40 Association of Professional Real Estate Appraisers, the Professional
41 Engineers, Architects, and Land Surveyors, and any other interested
42 member of the community.

1 The working group shall develop recommendations on amendments
2 to the I Tano'-ta plan, incentives for non-conforming structures to comply
3 with The Plan, as well as an assessment of the risks and costs of the
4 Performance Standards and Regulations of The Plan. The working group
5 shall forward to the Speaker of the Legislature, with a copy to the
6 Chairman of the Committee on Land, Agriculture, Military Affairs and the
7 Arts, its findings no later than one hundred twenty (120) calendar days
8 from the enactment of this Act

9
10 **Section 6. Severability.** If any of the provisions of this Act or
11 of the application thereof to any person or circumstance are held invalid,
12 such invalidity shall *not* affect any other provision or application of this
13 Act, which can be given effect without the invalid provision or application,
14 and to this end the provisions of this Act are severable.

Committee on Land, Agriculture, Military Affairs and the Arts

PUBLIC HEARING

MAY 6, 1999

COMMITTEE REPORT

The hearing for the Committee on Land, Agriculture, Military Affairs and the Arts was called to order at 6:35 P.M., by the Chairman, Senator Marcel G. Camacho.

Bill No. 204 "AN ACT TO POSTPONE THE IMPLEMENTATION DATE OF THE "TANO'-TA LAND USE PLAN" CONTAINED ON CHAPTER 61, DIVISION 2 OF TITLE 21 OF THE GUAM CODE ANNOTATED."

Bill No. 206 "AN ACT TO POSTPONE THE IMPLEMENTATION DATE OF THE "TANO'TA LAND MASTER PLAN" ADOPTED BY PUBLIC LAW NUMBER 24-171."

Senators Present: Marcel G. Camacho, Simon A. Sanchez, Larry Kasperbauer, Ben Pangelinan, Kaleo Moylan

Testimony submitted by:

Chris Murphy, Guam Bankers Assn.	(Written/Oral)
Ron De Guzman, GE Capitol	(Written/Oral)
Rob Peryon, Robert & Robert Assoc.	(Written/Oral)
Susan Whang-Smith, Whang, Smith & Assoc.	(Written/Oral)
Albert Santos, GHURA	(Oral)
Dave Herring, David Properties	(Written/Oral)
Tony Artero, Artero Realty	(Written/Oral)
Rae Cochran-Einloth	(Written/Oral)
John Dueñas, Dueñas & Assoc.	(Written/Oral)
David Ulloa	(Oral)
Ramon S. Oberiano	(Written/Oral)
Juan Limtiaco	(Oral)
Peter Sgro, Jr.	(Oral)
Dan Swavely	(Oral)
Marilyn Manibusan, self & GLUC	(Written/Oral)
Roy P. Duenas, Guam Financial Co.	(Written)
Eddie M. Camacho, Guam Financial Co.	(Written)
Daniel L. Webb, Guam Chamber of Commerce	(Written)
Joseph A. Eustaquio	(Written)
Joel Sablan	(Written)
Carol Ann Ibanez	(Written)
C.R. Cochran	(Written)

Summary of Testimony:

Chris Murphy read his written testimony. (See attached)

Ron De Guzman read his written testimony. (See attached)

Robert Peryon read his written testimony. (See attached)

Susan Whang-Smith read her written testimony. (See attached)

Sen. Camacho: I would like to open the floor for questions before we bring up the next set of testifiers. I'd like to begin with a question, under the zoning law that I Tano'-ta replaces you have permitted uses and conditional uses, when these conditional uses were approved by the Land Use Commission, how did that impact the issues that are before us today? It seems to me that those conditional uses would be exceptions to what is normally permitted, what is legal. Were there any problems with those conditional uses being approved? Were they legal non-conforming uses? I know that in addition to conditional uses they were granting the set-back variances and height variances and how were those treated under the old law? Can any of you answer that?

Open discussion - unable to identify person speaking or what they said.

Sen. Camacho: Ok, so if they were granted a variance then they were basically a legal use.

Sen. Pangelinan: Right, and you can rebuild to that use if it is destroyed. I've had a property with a conditional use, you are given it for a certain period of time, in my case a 25 year conditional use for that lot, so I was able then to have a 25 year period of use that's not going to change unless something like I Tano'-ta comes into play. So in the appraisal and lending when I got a loan for the project, they knew that I had 25 years and if my property was destroyed or anything, I could rebuild under those same conditions granted under the conditional use.

Sen. Camacho: So it seems to me that the problem really arises with the term non-conforming and if we can get around using the term non-conforming, but still grandfather in all the existing structures that are out there, that's a way to resolve the big portion of the objection to this.

Unknown: I've got a comment to that, the secondary market actually has its own definition on non-conforming use. So even if we alter the definition of non-conforming use it's not going to be applicable to the secondary market.

Sen. Camacho: But here we're not talking about use, we're talking about standards, that would be non-conforming. I think we need to distinguish between a non-conforming use and a non-conforming structure because of the set-backs and the standards.

Sen. Pangelinan: Yes, but I think that's why we need that time out, I realize what we are trying to do here is to define what the problem is, the trick is while we continue to sit and define while it moves along, we are further and further into the need to close loans, develop appraisals and so forth and we can't do that because of the uncertainties here and I think that is why the preference is to repeal at this time for a certain period of time and then come back and sit down in a process where we

can answer these questions and play the what if games and then move forward with the needed changes after examinations of all the different aspects of it.

Sen. Sanchez: Mr. Murphy let me ask you some real basic questions - will you make real estate loans now that I Tano'-ta is the law?

Chris Murphy: Yes, we're still in business, and we're still making loans but what happens is we rely on appraisals, so the appraisers are going to have a difficult time providing us the information we need in order to facilitate our lending process. I know that in the media some banks are indicating that are going to be business as usual no rate change. That may be fine. We can continue to do adjustable rate loans which adjust with market conditions. On the other hand if we want to provide the customer with 30 year fixed financing which is sold in the secondary market, which could be 1 to 3 percent lower than adjustable rate mortgages, as an example one institution has been saying business as usual they are not going to change their rates, but they don't offer Freddie Mac loans. They offer portfolio loans which are considerably higher than Freddie Mac loans. Even the largest banks on Guam are going to run out of money. The purpose of the secondary market is to recycle funds, no bank is an endless pot of money.

Sen. Sanchez: What proportion of real estate loans comprise the long term 30 year Freddie Mac type?

Mr. Murphy: The majority of loans.

Sen. Sanchez: How would you propose solving the non-conforming issue? Because even if we delay we've got to get in a room like yesterday, to start working on it so from a lending point of view what are your recommendations? I know you would like us to repeal the whole thing, which I respect, but it just leaves with the old zoning code and I'm not sure that is what we want either.

Ms. Whang-Smith: Repeal it for now, because I think postponement term means it has already happened.

Sen. Camacho: It's moot.

Sen. Sanchez: I don't want to get into semantics now that it is May 6

Mr. Murphy: The lender is not really there to determine how the community addresses non-conforming, we have to deal with it so as long as the property conforms to existing building code and zoning code then we're happy.

Mr. De Guzman: I would suggest we look at what the norm is right now with regards to set backs and adjust the standards themselves. By virtue of the implementation 90-95 % of the properties have become legal non conforming so we should step back and take a look at what the reasonable set back should be and adjust the standards to bring everybody back into conformity.

Sen. Sanchez: What about new projects, land that is currently undeveloped, would you recommend we can apply I Tano'-ta?

Mr. De Guzman: I would recommend we keep it uniform, because of the possibility of a double standard being raised that existing properties fall under the old code and the new properties will not.

Sen. Sanchez: If someone came to you with a totally raw piece of land say in Chalan Pago, how does that affect your appraisal capabilities under I Tano'-ta today.

Ms. Whang-Smith: In many of the intensity districts such as the low intensity Districts 2 and 2M the set backs have increased considerably and the minimum lot size has increased. Therefore, there are properties out there that would be non conforming because they are undersized.

Sen. Camacho: You are saying the minimum lot sizes have increased, but they have decreased, the set backs may have increased but not the minimum lot size.

Sen. Sanchez: So you can still make appraisals, the values may change based on this plan and the bankers can still make loans based on those appraisals., but the nature of the loans may change. There's an argument about whether we have decreased the values or not, but at least going forward on completely vacant properties that is less of a problem with I Tano'-ta as we see it now. The bigger headache is existing properties under the old zoning laws with loans on them already based on certain values or appraisals.

Mr. Murphy: I think we all agree that we need the plan, there are some things that have to be change or modified about it, but lets go back to something we all know and understand and can measure, take that new law and work from it. We're not throwing it away and saying start from scratch, just make the changes necessary based on everyone's input and it shortens the period because we already have a basis there. Doing it piece meal is just going to cause confusion, aggravation, frustration on everyone's part, and I don't think that is why we are here.

Sen. Kasperbauer: Technically it is possible to make the necessary changes before the session in 10 days and I think from what I've heard tonight the bulk of the concerns deal with the legal non conforming situation. If we amend the law to grandfather in all existing properties, those that have been permitted already and those that will be permitted before July 1, then all properties will be conforming.

Sen. Moylan: On the fractional lots in Agana would that have an adverse effect on its value under I Tano'-ta, would it lower the value of those properties?

Mr. Peryon: It would appear for development purposes you may need to assemble those lots

Sen. Moylan: That's easier said than done. So what would happen, would they become valueless in a sense?

Mr. Peryon: That would depend.