



Office of the Governor of Guam

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Office of the People's Speaker
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DEC 06 2004

TIME: 3:30 () AM () PM
RECEIVED BY: [Signature]

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

03 DEC 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 293 (COR), "AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 AND AMENDING §62207 OF CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED," which I signed into law on December 2, 2004 as Public Law No. 27-118.

Sinseru yan Magåhet,

[Signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

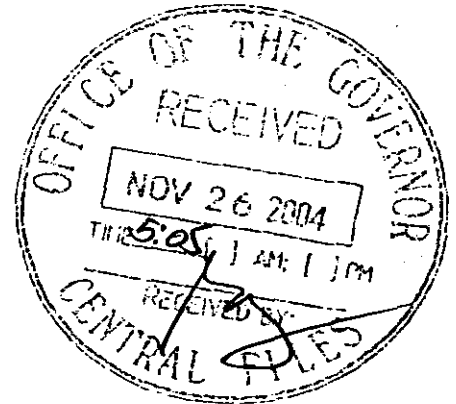
cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary



MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN
TWENTY-SEVENTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

November 26, 2004

The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 126(COR), 251(COR), 257(LS), 259(LS), 283(COR), 293(COR), 307(COR), 335(COR), 344(LS), 345(LS), 347(LS), 351(COR), 380(COR), 385(COR) & 387(COR), and Substitute Bill Nos. 282(COR), 290(COR), 324(COR) & 353(COR) which were passed by *I Mina' Bente Siete Na Liheslaturan Guåhan* on November 24, 2004.

Sincerely,

TINA ROSE MUNA BARNES
Senator and Legislative Secretary

Enclosures (19)

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

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

This is to certify that Bill No. 293 (COR), "AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 AND AMENDING §62207 OF CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED," was on the 24th day of November, 2004, duly and regularly passed.

Attested:

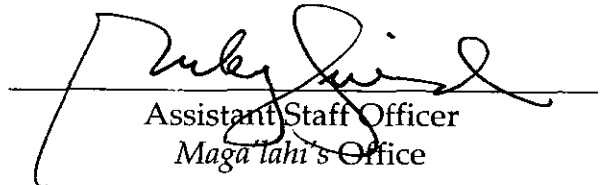


Tina Rose Muña Barnes
Senator and Legislative Secretary



vicente (ben) c. pangelinan
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 26th day of November, 2004,
at 5:05 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: December 2, 2004

Public Law No. 27-118

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

Bill No. 293 (COR)

As amended by the Committee on
Utilities and Land, and further amended
on the Floor.

Introduced by:

v. c. pangelinan

Carmen Fernandez

Toni Sanford

F. B. Aguon, Jr.

J. M.S. Brown

F. R. Cunliffe

Mark Forbes

L. F. Kasperbauer

R. Klitzkie

L. A. Leon Guerrero

J. A. Lujan

T. R. Muña Barnes

J. M. Quinata

R. J. Respicio

Ray Tenorio

**AN ACT TO CLARIFY THE EASEMENT RIGHTS AND
OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS
AND THE PUBLIC BY *ADDING* A NEW §62112 AND
AMENDING §62207 OF CHAPTER 62 OF TITLE 21, GUAM
CODE ANNOTATED.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that the intent of the subdivision law of Guam is to provide for the

4 orderly growth and harmonious development of the island; to ensure

5 adequate traffic circulation through coordinated streets, roadways, and

1 highway systems; to secure adequate provisions for power, water supply,
2 drainage, sanitary sewerage, and other health requirements, and to provide
3 conveyance of land by accurate legal description. *I Liheslaturan Guåhan* also
4 finds that a lack of clarity in the subdivision laws of Guam has led to litigation
5 and disputes among property owners over areas designated as public access
6 and utility easements. In order to clarify the rights and obligations relative to
7 public access and utility easements and thereby resolve a possible source of
8 conflict among neighbors, a new section must be added to the subdivision law
9 of Guam.

10 **Section 2. Enactment.** A new §62112 is hereby *added* to Chapter 62,
11 Title 21, Guam Code Annotated, as follows:

12 **“§62112. Public Rights of Way.**

13 (a) The public shall have the right to pass unhindered over
14 a Public Right of Way. For the purposes of this Chapter, a Public
15 Right of Way includes (1) easements for roadways created by law
16 or operation of law; (2) those subdivision easements, access, or
17 rights of way created by delineation on approved maps, way of
18 formal grants or dedication of easement, access, or right of way,
19 regardless of formal acceptance by the government; and (3) those
20 rights of way mandated by the Subdivision Law within a
21 subdivision or lot parceling which appear on an approved final
22 subdivision or lot parceling map as dedicated easements,
23 dedicated access, rights of way, or roadways.

1 (b) The signature of the owner and approval of the
2 Department of Land Management on a final subdivision or lot
3 parceling map delineating an easement, access, roadway, or right
4 of way, thereby grants to the public the right to pass unhindered
5 over that public right of way.

6 (c) The Department of Public Works shall have oversight
7 responsibility for the development of public rights of way through
8 the Highway Encroachment permitting process. However, such
9 oversight responsibility notwithstanding, the Government of
10 Guam shall in no way be encumbered to develop this roadway.
11 The obligation to develop the roadway shall remain with the
12 subdivider as provided in §62501 of this Chapter.

13 (d) A public right of way serves the public and all the
14 landowners whose properties abut the easement, and the
15 subdivider shall in no way retain special property rights that
16 would allow him to encroach upon, obstruct, place obstructions
17 upon, hinder passage over, place signs upon, or hinder
18 maintenance of the public right of way.

19 (e) The subdivider shall in no way retain special property
20 rights that would allow him to charge fees for passage or
21 otherwise, that would allow him to prohibit, and therefore,
22 discriminate against, any member of the public from using the
23 public right of way.

1 (f) The subdivider shall in no way retain special property
2 rights that would allow him to grade, change water courses upon,
3 or modify the topography and roadway elevation of the public
4 right of way without the prior written authorization from the
5 Department of Public Works.

6 (g) The subdivider shall in no way retain special property
7 rights that would allow him to use any portion of the public right
8 of way to meet set-back or other zoning requirements.

9 (h) In subdivisions approved since 1975 where the
10 subdivider has not opened, improved, or established a public
11 access road, any landowner whose property is served by the
12 public right of way may, with the express written authorization of
13 the Department of Public Works, take necessary and reasonable
14 measures to make the public right of way passable for ingress and
15 egress to his property. The subdivider shall in no way retain
16 special property rights that would allow him to obstruct the lawful
17 development of this public right of way.

18 (i) In subdivisions where the subdivider or the government
19 has not maintained the public right of way, any landowner whose
20 property is served by that right of way may take the necessary and
21 reasonable measures to maintain that portion of the easement that
22 immediately abuts his property. Reasonable maintenance is herein
23 defined as cutting brush, mowing vegetation, filling potholes, and
24 removing rocks and other obstructions to passage; it does not

1 include grading or otherwise changing the topography or
2 elevation of the roadway.”

3 **Section 3. §62207 of Chapter 62, Title 21, Guam Code Annotated is**
4 **hereby *amended* as follows:**

5 **“§62207. Reversion to Acreage, Maps and Plats.**

6 When a reversion to acreage is made, no tentative plans shall be
7 required. The subdivider shall prepare a final map showing the existing
8 subdivision and the original parcel or parcels which shall result from the
9 reversion. No engineering plans shall be required. Upon approval of
10 the final map, the map may be completed and submitted as a record
11 plat. No as-built surveys shall be required. The plat shall be clearly
12 marked reversion to acreage and any variance from the requirements of
13 a subdivision record plat shall be as determined by the Commission.
14 The fee or other interest in any subdivision improvements, easements or
15 road rights of way within the perimeter of the subdivision which has
16 been dedicated to the government may be quitclaimed to the subdivider
17 at the discretion of the government, upon recorded written consent of all
18 landowners adjacent to the easement or road right of way and the
19 Director of Land Management.”

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

IX TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN
(Included in File w/ All Bills Transmitted)
BILL NO. 293 (COR)

- EXHIBITS ATTACHED *None*
- CONFIRM NUMBER OF PAGES *5*
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN"" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any *No*

Confirmed By: *DP/Sy*

Dated: 11-26-04

FINAL REVIEW:

Dated: _____

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY) TO THE GOVERNOR. (DANNY, _____ OR OTHERS _____)
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK PLACED ON CLERK'S DESK. (Same copy given to _____)
- FILED by: _____



FILE

Senator Lou Leon Guerrero RN, MPH

MAY 19 2004

MEMORANDUM

Democrat Majority Leader
Committee on Rules & Health
Chairwoman
Committee on Utilities & Land
Member
Committee on Appropriation
& Budgeting, General
Government Operations
Reorganization & Reform
Member
Committee on Community,
Culture, Recreation &
Public Broadcasting
Member
Committee on Economic
Development, Retirement,
Investments, Public Works,
& Regulatory Functions
Member
Committee on Education
& Housing
Member
Committee on Judiciary
& Transportation
Member
Committee on Youth &
Senior Citizens,
Federal & Foreign Affairs
Member

To: Speaker Vicente C. Pangelinan
Chairman, Committee on Utilities & Land
From: Senator Lou Leon Guerrero *jl*
Chairwoman, Committee on Rules & Health
Subject: Referral – Bill No. 293 (COR)

In accordance with Section 6.04.04.01 of the Standing Rules of *I Mina' Bente Siete na Liheslaturan Guahan*,

jl Bill No. 293 (COR) AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 TO CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED.

is referred to your Committee on Utilities & Land as the principal committee.

A copy of this bill may be obtained from the office of the Clerk of the Legislature.

Also in accordance with Section 7.01 of the Standing Rules, it shall be the duty of the Chairperson of each standing committee, or the designated hearing officer, to notify the Speaker, the Chairwoman of the Committee on Rules and the Executive Director, the date, time, subject matter, number and title of the bill or resolution for which a public hearing will be held.

Thank you.

cc: Clerk of the Legislature

27th Guam Legislature

155 Hesler Street Hagåtña, Guam 96910

Office 671.472-3582 - 5 / 472-3576 Facsimile 671.472-3591 Email



Mina' Bente Siete Na Liheslaturan Guahan

vicente (ben) c. pangelinan
Speaker

Committee on Utilities and land
Chairman

NOV 19 2004

The 27th Guam Legislature
I MINA 'BENTE SIETE NA LIHESLATURAN GUAHAN
155 Hesler Street
Hagatna, GU 96910

The Committee on Utilities and Land, to which was referred **Bill 293**, "AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 TO CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED," has had the same under consideration, and now wishes to report back the same with the **recommendation to**
do pass.

The Committee votes are as follows:

<u>6</u>	To Do Pass
<u>0</u>	Not to Pass
<u>0</u>	Abstain
<u>0</u>	Inactive File

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

Sincerely,


vicente (ben) c. pangelinan
Speaker & Chairman of the Committee on Utilities and Land

Enclosures

Committee on Utilities and Land
I Mina'Bente Siete Na Liheslaturan Guahan

VOTING SHEET ON

Bill 293 (COR): "AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 TO CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED."

COMMITTEE MEMBER	INITIAL	TO PASS	NOT TO PASS	ABSTAIN	INADEQUATE
vicente (ben) c. pangelinan Chairman		✓			
Carmen Fernandez Vice-Chairperson	CF	CF			
Frank Aguon, Jr. Member					
Randy Cunliffe Member	RC	✓			
Lou Leon Guerrero Member					
Rory Respicio Member					
Toni Sanford Member	TS	✓			
Joanne Brown Member	JB	✓			
Mark Forbes Member	MF	✓			
Ray Tenorio Member					

Committee on Utilities and Land
I Mina 'Bente Siete Na Liheslaturan Guahan

Bill 293 (COR)

AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 TO CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED.

Public Hearing was held by the Committee on Utilities and Land on Tuesday, September 7, 2004, at the Guam Legislature Public hearing Room, at 9 a.m.

Witness Summary

Name	Representing	Testimony (written or oral)	Testimony (against or for)
Ms. Cynthia Jackson	DPW	Oral	For
Ms. Patty Garrido	Self	Oral	-----
Mr. Vic Taisipic	Self	Oral	-----
Mr. Jose Garrido	Self	Oral	-----

Committee on Utilities and Land
I Mina 'Bente Siete Na Liheslaturan Guahan

Bill 293 (COR)

AN ACT TO CLARIFY THE EASEMENT RIGHTS AND
OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE
PUBLIC BY ADDING A NEW §62112 TO CHAPTER 62 OF TITLE
21, GUAM CODE ANNOTATED.

The Committee on Utilities and Land, to which was referred Bill 293 (COR), "AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 TO CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED," conducted a public hearing on Tuesday, September 7, 2004, at the Guam Legislature Public Hearing Room. Speaker vicente (ben) c. pangelinan conducted the legislative hearing as Chairman on Utilities and Land. Also in attendance were Senators Lou Leon Guerrero, Toni Sanford, Jesse Lujan, and Tina Rose Muna Barnes.

Speaker/Chairman: We will now continue our hearing on Bill No. 293, "AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 TO CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED." We have a representative of DPW, Cynthia.

Ms. C. Jackson: Good morning, Speaker and senators, and congratulations. First of all, I'd like to thank you. ... My name is Cynthia Jackson. I work for DPW. I represent the Office of Rights of Way and Survey Services and ... First of all, thank you for doing this. This certainly makes my job a lot easier, along with the personnel at Land Management. I've just had a quick review of it. Unfortunately, I wasn't given ... time ... Earlier ... I was just told to come here, so in, like, 15 minutes.

Speaker/Chairman: Let me clarify that. When did we send the letter to the Director of the Department of Public Works?

Ms. C. Jackson: You did, you did, you did ... But they just notified me, like, 15 minutes ago, so ... I'm taking a very brief ...

Speaker/Chairman: Can we send another letter to Mr. Duenas to make sure that when he receives it, he passes it on to the people that he will send to testify? So that we can get some real meaningful testimony.

Ms. C. Jackson: Oh, I'm going to give you real me—... Okay...

Speaker/Chairman: Okay ...

Ms. C. Jackson: ... I'm going to give you real me— ...

Speaker/Chairman: But I just don't want to put that much pressure on.

Ms. C. Jackson: Oh no... I mean this is my life here...

Speaker/Chairman: Okay.

Ms. C. Jackson: Okay, okay, this is what I do.

Speaker/Chairman: You may proceed.

Ms. C. Jackson: Okay ... With this cursory review, I just wanted to make sure, and you've taken very good points in making sure the responsibility lays with the sub-divider, in providing certain things that the government has no longer has to undertake or has to clarify and, and therefore the landowners have clear language in which they can know their rights in what they're entitled to. But on section um...I guess its "J," where it says, "this section notwithstanding, only with the government of Guam grants authorization," now this is where I would see a problem which you need to clarify. Who in the government of Guam, what body or what agency are we talking about that's going to have this responsibility to grant this authorization?

Speaker/Chairman: Okay.

Ms. C. Jackson: The other thing that I see a problem that needs to be stressed is on Section "A," when it comes to number 2, "those subdivision easements, access, or rights of way created by (way of) formal grants or dedication of easement." This section has to be made much stronger. It has to say... It has to be a dedication or a formal grant of right of way. There can't be any ambiguity here... It has to be that because Charles Troutman has severely...lectured my agency and language...and land management on this part because it was left up to interpretation... That will...as long as it was a solid line on the map and it said reserve for, or public access and utilities, we use to interpret that as...this is a ...government property and its public access. But that's not so unless it's formerly dedicated or a formal grant is provided. It does not constitute government...the government cannot come in there, maintain or handle any type of dispute on that area.

Speaker/Chairman: Okay, let me ask you this, if the map then that is approved, because one of the requirements on this is that the map would approve the

dedication of all easements as shown on the map itself, there's a provision and notation on the map that the sub-divider signs off on, which is really one of the things we are trying to correct here.

Ms. C. Jackson: Right.

Speaker/Chairman: If that map was signed you know...and grants that...

Ms. C. Jackson: Correct, correct, the verbiage is the one that needs...

Speaker/Chairman: Has to be...

Ms. C. Jackson: ...yes it has to say "formerly dedicated and grants..."

Speaker/Chairman: Okay...

Ms. C. Jackson: Okay...those, those words are...

Speaker/Chairman: Yeah, let me just ask you one question. When we go back on Section J, who would you recommend grants this authorization? Who do you think in the government of Guam is in position to best make the judgment on this grant?

Ms. C. Jackson: We'll as it is now, it is...the responsibility, um...lies with Guam Land Use Commission.

Speaker/Chairman: Okay...

Ms. C. Jackson: But, because the process is so tedious, what people have been doing is they've been shortcutting the process. Part (of the) process is you submit a formal application, along with a formal map to be signed by all five agencies. What people...at that approved delimitation, but what people have been doing is just taking...a map, having a map commissioned and having it signed by all five agencies and recording it at Land Management. And then people are interpreting that this is...has completed the due process, which in fact it hasn't, because notice has not been given to the surrounding landowners, and therefore, it creates a dispute again.

Speaker/Chairman: Okay...

Ms. C. Jackson: So um...you can keep it with ah...the present process...

Speaker/Chairman: Uh huh...

Ms. C. Jackson: Because you know it, it gives due process to the surrounding landowners. You just need to make...require that...

Speaker/Chairman: Okay.

Ms. C. Jackson: You know strictly....I, I...

Sen. T. Sanford: So it's not currently required to, to acknowledge that the neighboring ah, ah...those impacted have been notified?

Ms. C. Jackson: It is...

Speaker/Chairman: It is...you go through the entire process...

Ms. C. Jackson: Yeah, but people have been shortcutting and the agencies have been accepting it.

Speaker/Chairman: Yeah.

Ms. C. Jackson: That's the problem.

Speaker/Chairman: What happens is, if you do go to the GLUC, then they are required by law to (do) the public hearings and the notice on that, but if you just go to the agencies to sign off on it..

Ms. C. Jackson: Right.

Speaker/Chairman: They don't do the public notice and the notification of surrounding landowners.

Ms. C. Jackson: Right.

Speaker/Chairman: So that's what we need to fix.

Ms. C. Jackson: You need to enforce that.

Speaker/Chairman: Okay.

Ms. C. Jackson: Okay.

Speaker/Chairman: All right. Anything else?

Ms. C. Jackson: Um...not that I can see. You may want to do one thing um... I'm glad where you gave the sub-divider, where you required that he had no way (to) retain special property rights. We've been having certain problems where just because a sub-divider has put in the road and may have put in sewer directly to his place and then in adjacent lot needs to connect to that sewer, they're being

charged by that original sub-divider. So that's something that we, that we like to have eliminated, you know.

Speaker/Chairman: So once you put that in, it becomes...either the property of the utility agency or the government of Guam.

Ms. C. Jackson: Yes, yes, and they have the right to connect the adjacent property...without any special fees impose by that previous owner.

Speaker/Chairman: Yeah, I know cause I've had to pay my neighbor to hook to the line he puts in. You know, even though it's running on government easements and everything else.

Ms. C. Jackson: Right, GHURA has had ah...has a court case currently on going because of this.

Speaker/Chairman: Oh, okay.

Ms. C. Jackson: Yeah...so.

Speaker/Chairman: Okay.

Ms. C. Jackson: Other than (that), thank you.

Speaker/Chairman: Thank you very much. Si Yu'os ma'ase. Any other members of the public who wish to testify on Bill Number 293? Mr. Garrido, at this time though, before we start, I like to formally recognize, of course, the presence of Senator Jesse Anderson Lujan, Senator Toni Sanford, and Senator Lou Leon Guerrero. Si Yu'os ma'ase' for joining us this morning. Mr. Garrido, you may proceed on 293.

Mr. J. Garrido: Thank you Mr. Speaker, and good morning to um...the honorable members of this Committee. I'm Joe Garrido. I come from Macheche, Dededo. I have to apologize for the lack of preparation ah...this bill... Actually, this morning, this is the first time, five minutes ago, that I have read this. I haven't been able to go into the Internet and at least try and understand what this bill tells for private landowners.

What I want to say though, Mr. Speaker and honorable members of this Committee, is that taking of property for any purpose is inscribed in the Constitution. And even our laws, the Organic Act, that there must be eminent domain process. I am, I am very disappointed when government expanded a 40, a 60 into a hundred feet wide road, highway without eminent domain process. I'm not very astute or, or versed in the land taking issues, but I understand, I think, and I may be corrected...if I'm not totally wrong on this, but when a road is condemned for the purpose of creating a 40 feet easement and the government

comes in, create a hundred feet wide easement that there must be an eminent domain process...

Speaker/Chairman: Mr. Garrido, this has nothing to do with the taking of the property at all. This just has do...when the property is dedicated for the purpose of a public access, what are the rights of the individuals that have access to that public access. It has nothing to do with the taking of property and I understand, I realize that...if we were to have a public hearing on whether or not easement should...I mean public access should be 40, 60 or what is the correct process of requiring people to dedicate those accesses, then I think that the testimony would be on point. I think it's not on point on this one.

Mr. J. Garrido: Okay...

Speaker/Chairman: Because this is who has rights to that access after the process is done?

Mr. J. Garrido: I would try to be as ah...to the point on this bill. Sub-division laws are, are...were carefully written at least in my understanding from reading many of the laws that the Department of Land Management has been able to enforce. I know that in a sub-division, you are required to do particular ah...commitments to public easement for example. I'm not so sure though that the government can go into these properties for example, ah...we're talking about a large excess land—lands that have been given back to the original landowners. I'm not sure that the government can just go in there and create easements ah...

Speaker/Chairman: Again Mr. Garrido, this has nothing to do with the government creating those easements. It has to do with what are the rights of the public to pass through those easements after they've been created. So we're not creating new...opportunities here. We're just saying when you have these easements, what are the things you need to do to ensure that the public has access to that; if you're going to change the easements, that the notification to landowners surrounding those easements occur, and so I hate to do this...

Mr. J. Garrido: Right, right...

Speaker/Chairman: But that's what this bill is about.

Mr. J. Garrido: Well, I guess we're talking about mainly on the issue of when a person wants to sub-divide his property and there are certain regulations that you must comply with. Ah...for example, i.e., um...public easements, roads, whatever... Where does the government go in to enforce this because I am in the understanding that when a government goes in and enforces certain types of easements, the sizes and all that? I am saying that, that is a land taken for the purpose of providing easements, public right of ways in a subdivision. Does the

government require, for example, that ah, ah, ah...a developer or the person that subdivide their property, do they require ah... Do they require that individual to provide, for example large ah...roads, for instance?

Speaker/Chairman: It depends on the type of subdivision. The number of lots that are going to be served in the sub-division, whether or not the roadways are going to be just collected roadway, whether there's going to be arterial roadways... So it really depends on the size of the subdivisions and the requirements.

Mr. J. Garrido: I think it's something like more than 4, right? If you're going to divide the property more than 4, ah...lots, this or may be 10, you are required to do public easements...

Speaker/Chairman: That's correct. That's correct, and again....

Mr. J. Garrido: I'm just being careful here, Mr. Speaker. That, that it...if everything here sounds really nice and good, and it's for the public good. But, what I'm trying to stress is wherever the government has to step in, I think that the...the eminent domain process must be ah...must be complied with. That's all I'm, all I'm saying, Mr. Speaker. Ah...I'm not against public easements, right of ways or whatever. I'm just concerned that every time the government steps into um...private property, I think that, that can be fundamentally a landtaking.

Speaker/Chairman: Uh huh, yeah and I don't disagree with you there.

Mr. J. Garrido: And ah...that's it for my, for my, ah testimony. Ah...I (am) neither for nor against this. I just have to read it more and understand.

Speaker/Chairman: I we appreciate your views on this Mr. Garrido.

Mr. J. Garrido: Thank you very much.

Speaker/Chairman: Si yu'os ma'ase. Anybody else on the panel has a question for Mr. Garrido? I also just like to thank Senator Tina Muna-Barnes for joining us this morning.

Sen. T. Muna-Barnes: Good Morning.

Speaker/Chairman: There being no other testimony on Bill Number 293... Yes, Cynthia?

Ms. C. Jackson: I'm sorry. I um...I'm, I just thought about this one. Since our Department is given oversight responsibility for the development of the rights of way and everything, may I ask...that you also include...that we are given the um...property rights to it or as caretaker? As it is now with...as it stands, is that

it's given to Chamorro Land Trust all rights of way. Unless, of course, there's a legislative hearing in which we are to request for the ownership for certain rights of way. But as you know, subdivision occurs daily, and there are so many you just can't... You know, the process is too large so if that could be stated, then that can be included in our assets inventory. Because rights of way is our...so rightfully...an asset, a government assets, and right now, there really is no control, and we need some type of control. You know, when you want to increase your budget money and all that stuff you can list this. These are viable asset of the island and rightfully so, there has to be some um...recording and someone has to care...be the caretaker of it. So um...that's what I like to see...

Speaker/Chairman: Okay...

Ms. C. Jackson: If you can include and clarify that because right now, it's between... No one wants to take care of it even though it rightfully belongs with Chamorro Land Trust. Always send to Public Works because we're responsible for it so there's, you know, the ownership is diluted here, so if you could make it whole, that would be really great.

Speaker/Chairman: Thank you very much. Would you please just identify yourself for the record?

Ms. P. Garrido: Is this on sir? First of all, I apologize. Good morning, Mr. Speaker and Senators. What Mr. Garrido just tried to say and what um the rights of way supervisor—if I'm mistaken, Ms. Cynthia—just now said, is what I just heard, is a conflict. Now, now diving into areas that you're saying in what they tried to do at Harmon cliff line, where you put up your proposal for circulation already before the land is distributed to the people so that you already have your future planning for easements, whether utilities or egress or whatever, is that what you're trying to say...that it's a part of this...okay.

Okay, I just wanted to clarify that one more time, whether it be for Ancestral Lands or whether it be for lands under the Chamorro Land Trust. Please um...we need to always make sure that these planning ideas come back before the Legislature before any um, ah...department approvals are ah...cut in stone so that easements or traffic circulation, whatever future planning is being done with these lands, are made final. And then, that's it before they're even distributed to the people... That is my caution. Every movement, whether on ancestral or Chamorro Land Trust lands, um...properly address procedures of deeding the properties or leasing the properties. Any other thing has to always come back to the Legislature for scrutiny. That's what I'm asking for. Thank you.

Speaker/Chairman: Thank you very much. We'll now proceed, being no further testimony on 293... Oh, Vic, did you want to testify on 293? Okay, please join us.

Mr. Vic Taisipic: Good morning Mr. Speaker, Senator Barnes, Senator Lou Leon Guerrero and Senator Sanford. I appear this morning on behalf of myself and my family of Bill 293... I hope I'm not out of order in regards to my testimony, but I did not know about this hearing until last week.

Speaker/Chairman: Okay.

Mr. Vic Taisipic: Over a hundred years ago, to this date, my family use to own property down in As Inan, Yona, and I am the third generation. It's been an access even before the Spanish came to Guam, according to my great...I mean, according to my grandmother. And then during the American occupation first time around, it's been an access road to our property. Then the Japanese came, it was an access to a property. Then the American came and in 1944, before the war are even terminated, the military built a two and a half land road to our property. And then, all of a sudden when they passed the Organic Act... I was on the coconut tree harvesting for tuba and vinegar syrup, they told me I was an American citizen. I asked what the hell was that. He said, 'well, you be expecting to be drafted next week.' So anyway, I went to war to fight for my property and my country and somebody else's country, the U.S. flag. I came back and it was still access road, and now, all of a sudden, a businessman by the name of Israel, sent a messenger down the boon docks to tell the property owners that he is going to close the road. That is the most pathetic thing I have heard in my whole life. They said, according to the Land Management, there's no record that it was a bull cart trail. I like to give Mr. Israel a coverall and a boon dock shoes to come down. We still have reminisced of power poles when the military built the place, built the road. We still have reminisced of pipes, foundation. They were pumping millions of water a day to supply water for the invading forces, for Okinowa, Ima-Jima and mainland Japan. So I'm pleading to reiterate this Bill 293, whether this falls on my family property..

Speaker/Chairman: This is what that will do, Mr. ah...

Mr. Vic Taisipic: There is no way that he's going to stop me, my family, my dog, and my chicken, and my ducks. I respect Mr. Israel. I testify this morning. I call this a preventive maintenance. We don't want to take arms with that businessman. But if I have, my family have, we will.

Speaker/Chairman: That is what exactly what we intend to do with this bill, Mr. Taisipic, is that. It will prevent those kinds of situations from happening with the recognition of rights of the public on those public easements and rights of ways.

Mr. Vic Taisipic: I appreciate it, Mr. Speaker, because I, I tried to set up a meeting with Yona Mayor, but apparently, when he saw my name, Vic Taisipic, he furthered himself apart from me. May be because I didn't sign the Proposition A, 'yes'.

Speaker/Chairman: Yes, may be we'll...

Mr. Vic Taisipic: But I do appreciate very much if this bill could prevent Israel from crossing that road.

Speaker/Chairman: That's what it's intended to do. Any anybody on the members of the panel has a question or comments on 293...

Mr. Vic Taisipic: In fact, the place was also a camp during the Japanese um...it was a concentration camp. It's not as many as the people that they put in Manneggon. There's over thousand refugees at that camp. But like I said, I'm willing to foot up the bills to give anybody the coveralls, a boon docks shoes to come down there. You were down there....

Speaker/Chairman: Yes, absolutely. I've been down there. Thank you. Si Yu'os ma'ase.

Findings and Recommendations

The Committee on Utilities and Land, to which was referred Bill 293 (COR), "AN ACT TO CLARIFY THE EASEMENT RIGHTS AND OBLIGATIONS OF SUBDIVISION PROPERTY OWNERS AND THE PUBLIC BY ADDING A NEW §62112 TO CHAPTER 62 OF TITLE 21, GUAM CODE ANNOTATED," recommends that the legislation be passed.

