



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Office of the Legislative Secretary
1000 G. F. ...

DEC 03 2004

TIME: 5:45 (AM/PM)
RECEIVED: [Signature]

DEC 03 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. 345 (LS), "AN ACT TO AMEND SECTION 7(c) OF PUBLIC LAW 22-145, RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN PARCELS OF LAND BELONGING TO THE GOVERNMENT OF GUAM," which I signed into law on December 2, 2004 as **Public Law No. 27-123**.

Sinseru yan Magâhet,

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

Attachment: copy attached of signed bill

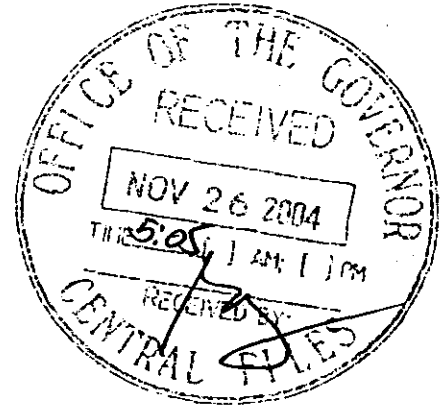
cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary



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

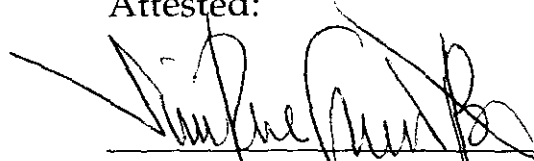
Enclosures (19)

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

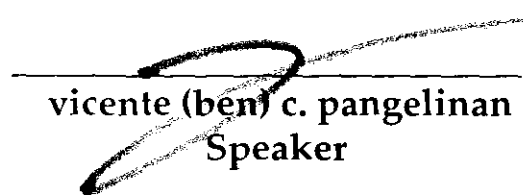
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 345 (LS), "AN ACT TO AMEND SECTION 7(c) OF PUBLIC LAW 22-145, RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN PARCELS OF LAND BELONGING TO THE GOVERNMENT OF GUAM," was on the 24th day of November, 2004, duly and regularly passed.

Attested:

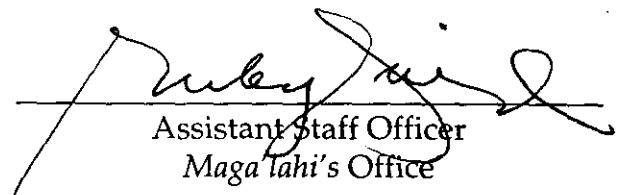


Tina Rose Muña Barnes
Senator and Legislative Secretary




vicente (ben) c. pangelinan
Speaker

This Act was received by I Maga'lahaen Guåhan this 26th day of November, 2004,
at 5:25 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. 27-123

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

Bill No. 345 (LS)

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

Introduced by:

v. c. pangelinan
Toni Sanford
Carmen Fernandez
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 AMEND SECTION 7(c) OF PUBLIC LAW 22-145,
RELATIVE TO LAND USE POLICY AND PLANS FOR
CERTAIN PARCELS OF LAND BELONGING TO THE
GOVERNMENT OF GUAM.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds restrictions within the terms and conditions of Public Law 22-145 that
4 unnecessarily limit and economically deprive private landowners from
5 maximum development of their properties.

1 Section 7 of Public Law 22-145 places restrictions on the development of
2 said properties, requiring fifty-one percent (51%) ownership in the venture by
3 the original landowners or heirs.

4 **Section 2.** Section 7(c) of Public Law 22-145 is hereby *amended* to read as
5 follows:

6 **“(c) Lease of property authorized.** Lands conveyed under this
7 Act to their original landowners or heirs may be leased for farming,
8 commercial, recreational, tourism, aquaculture, mariculture, or other
9 forms of business or economic ventures; provided, that said lease
10 includes provisions for a term no longer than fifty (50) years prior to
11 renewal or termination.”

12 **Section 3.** Any property deeded to any landowner under Public Law
13 22-145 that contains restrictions on the deed pursuant to Public Law 22-145
14 *prior* to the passage of this Act, shall be issued a new deed by the issuing
15 authority, removing such restrictions.

16 **Section 4. Severability.** *If* any provision of this Act or its application to
17 any person or circumstances is found to be invalid or contrary to law, such
18 invalidity shall *not* affect other provisions or applications of this Act which
19 can be given effect without the invalid provisions or applications, and to this
20 end the provisions of this Act are severable.

IX TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN
(Included in File w/ All Bills Transmitted)

BILL NO. 345(LS)

- EXHIBITS ATTACHED *None*
- CONFIRM NUMBER OF PAGES *2*
- 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/sj*

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: _____



Mina' Bente Siete Na Liheslaturan Guåhan

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 345**, "AN ACT TO AMEND SECTION 7(C) OF PUBLIC LAW 22-145, RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN PARCELS OF LAND BELONGING TO THE GOVERNMENT OF GUAM," 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 345 (LS): "AN ACT TO AMEND SECTION 7(C) OF PUBLIC LAW 22-145, RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN PARCELS OF LAND BELONGING TO THE GOVERNMENT OF GUAM."

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

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

Bill 345 (LS)

AN ACT TO AMEND SECTION 7(c) OF PUBLIC LAW 22-145,
RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN
PARCELS OF LAND BELONGING TO THE GOVERNMENT OF
GUAM.

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) |
|------------------------|--------------------------------------|--|---------------------------------------|
| Mr. Henry Eclavea | Self | Oral | For |
| Mr. John D. Gilliam | Self | Written and Oral | For |
| Ms. Patty Garrido | Ancestral Landowners Coalition | Oral | Oppose |
| Mr. Joe Garrido | Self | Oral | For |
| Mr. Joe Borja | DLM | Oral | _____ |

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

Bill 345 (LS)

AN ACT TO AMEND SECTION 7(c) OF PUBLIC LAW 22-145,
RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN
PARCELS OF LAND BELONGING TO THE GOVERNMENT OF
GUAM.

The Committee on Utilities and Land, to which was referred Bill 345 (LS), "AN ACT TO AMEND SECTION 7(c) OF PUBLIC LAW 22-145, RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN PARCELS OF LAND BELONGING TO THE GOVERNMENT OF GUAM," 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 Vice Chair Carmen Fernandez, Senators Lou Leon Guerrero, Rory Respicio, Toni Sanford, and Tina Rose Muna Barnes.

Speaker/Chairman: Si Yu'os ma'ãse', Mr. Garrido. The public hearing for 348 is now done. Let's now hear from the public Bill Number 345, "An act to amend Section 7(c) of Public Law 22-145, relative to land use policy and plans for certain parcels of land belonging to the Government of Guam." And that was Bill 345. Is Mr. Eclavea still here?

Male voice: They're calling you in.

Speaker/Chairman: And Mr. Gilliam, you signed up. Mr. Eclavea?

Mr. Eclavea: Hi, Mr. Speaker, and members of the panel. I'm H. M. Eclavea, and thank you for assisting me in trying to amend that law that explain it to you about 345.

Speaker/Chairman: Mm-hmm.

Mr. Eclavea: That 51%'s actually not going to help us at all us here if you don't amend that law. Because I noticed about 5 developers already that came to me and they want to amend that law because they don't want that. Because, just for example, you own the property, right? And then you have to own 51% of the property. There's no developer that's going to go in there, *ãmbi*, and you know, develop the property while we own 51. Not only that, for a fact, that if we own 51%, that means we have to pay tax, insurance on the property, and everything. Let's say they put about 200 to 300 infrastructure of the property, then we die. Then second or third generation can come and say, "Wait a minute, we own 51% of that property." I think, I don't think it's going to work that way.

Speaker/Chairman: ****Unable to hear what Speaker said****

Mr. Eclavea: Yeah, that's all, Mr. Speaker. And I hope that you agree with me and try to amend that law because it's really hurting that family up at the Harmon Cliffline. Cause we want to develop the land, but we cannot do it on account of that 51%.

Speaker/Chairman: Let me just be, be very clear, Mr. Eclavea, the property being referred here's property you own outright, fee simple, is that correct?

Mr. Ecalvea: Yes sir.

Speaker/Chairman: Okay. Mr. Gilliam, did you have a testimony?

Mr. Gilliam: Yes. My printer was giving out as I was coming in so your copies are being made. It's very brief.

Speaker/Chairman: Okay.

Mr. Gilliam: There's ... Excuse me, there's ... Speaker Pangelinan, this testimony is provided in support of your Bill 345 (LS), "An act to amend Section 7(c) of Public Law 22-145." Section 7(c) of Public Law 22-145 places unnecessary restrictions on ancestral landowners seeking development of their reclaimed property. Previously, it was assumed that this provision of Public Law 22-145, was superceded by later law and therefore moot. Recently, prospective lessees and their attorneys have expressed discomfort with the uncertain applicability of the lease term restriction. And rather than second guessing the ambiguous impact of more recent ancestral land law, it is suggested that formal law revision is the more prudent course. Accordingly, I support your proposed amendment to Public Law 22-145 as offered. On two related matters, if I may, real property tax assessment and ancestral land use and zoning. For many good reasons, including the property rights restrictions, you addressed with Bill 345 real property tax assessment should not be imposed on ancestral lands until identified use restrictions are removed and defined used rights are established by Guam law. As regards ancestral lands zoning, no ancestral land use zones have been established by law and for this reason land value appraisals needed for land tax assessments cannot be made. Land returned to, quote-unquote, "an original owner" is actually being returned to deceased people and must be probated before living heirs can assume tax obligations. As long as land use and responsible land users remain undesignated, it is inappropriate, in my opinion, to impose real property tax. However, nothing in current law prohibits taxation before this is achieved. Accordingly, I respectfully suggest the language of this bill be expanded and revised to address these two related issues I've discussed above. If I could just supplement this by making three quick points. First of all, we're not here dealing today just with the Eclavea property, but the issue applies to all ancestral lands and therefore the restriction is upon all ancestral land recipients and that's all the more reason, I believe, for other relief from this restriction you suggested, Mr. Speaker. Secondly, the problem is aggravated because all deeds that Guam Ancestral Land Commission has

issued heretofore contain references to 22-145. And compel those restrictions be abided by for their people getting these lands back for their estate, receiving these lands and their heirs getting these lands back. And that's where the legal discomfort arises. It's not just a matter of the operation of the law in whether or not it's been mooted by superceding law, but rather the fact the Commission has memorialized this statute as it now stands in the deeds. And therefore, there is a question as to just what that statute intends may be, and this is clearly obstructing development prospects for the properties and diminishing the values as you proceed. And then, finally, if I may just with respect to the zoning issue, we do have the Land Use Commission responsible for rezoning and entertaining zoning applications. But although they haven't formally taken up this issue, there is concern among its members as to whether they have initial zoning authority or not. Some of them believe that they do not and therefore could only entertain rezoning. So the question remains: How do all these lots of land that have been given back to ancestral claimants through the adjudication process get a zone? And if they're zoneless and the Land Use Commission is not going to entertain initial zoning requests, must each of these then spot-zoned or must each of these become somehow otherwise zoned by this Legislature? My suggestion is that the Guam Land Use Commission be directed by legislation to establish the zoning best suited for the properties, and if you wish to have that then become legislatively adopted, referred here for enactment after it's been, if you will, staffed out by the professionals in that commission and supported by the people at Land Management. But sooner rather than later, there needs to be zoning set but in the meantime, while there is no zoning set, and probates are going on, it's really, I think, inequitable to try to tax the reality at question. Thank you.

Speaker/Chairman: Thank you very much, Mr. Gilliam. Patty, Ms. Garrido, you had signed up to testify, and Mr. Joe Borja from Department of Land Management.

Mr. Gilliam: Mr. Speaker one if I may make one final thing. Mr. Eclavea reminded me some of these properties are actually landlocked as well, and that's another issue that has to be resolved before the uses can occur.

Speaker/Chairman: I'm sorry, Mr. Gilliam, I don't think I was paying attention to what you were saying.

Mr. Gilliam: Mr. Eclavea asked me to read, to mention, he reminded me that some of the lots, lands returned are locked properties like the ones you were talking about in the earlier ...

Speaker/Chairman: Right.

Mr. Gilliam: Tiyon hearings and use of those lands are inhibited while lock occurs and so until they're, you know ...

Speaker/Chairman: Granted access.

Mr. Gilliam: Open. That's another reason not to try to impose or it's inappropriate, I think, to impose taxes.

Speaker/Chairman: Okay. Ms. Garrido.

Ms. Garrido: Once again, thank you, Mr. Speaker and senators for the opportunity to address you. And again, I oppose Bill 345 simply for the fact that going back to the history of Bill 12-31, which became Public Law 22-145, one of the last acts if not the last bill signed into law by former Governor Ada. And I also remember how we also fought for this particular legislation. And I remember of the controversy of the 51% and I remember that for the most part not having had an Ancestral Lands Commission in place or any entity that we could go to with respect to a process, where lands being excessed by the federal government would then find their way back to the hands of the original landowners. It didn't exist at the time and I think in their benevolence, honorable benevolence as it were, at the time the legislative body probably saw fit to put that control measurement so people wouldn't automatically lose their land. But we fast-forward to today's June 1999 with the creation of the Ancestral Lands Commission, that there is now a body, there is a board and the board makeup is required to be original landowner heirs. There is the Governor, there is the Legislature that continues to oversee these processes and so my position on Bill 345 as it is written is to completely do away with that requirement. And this Section C, as the bill refers to, that lands conveyed under 22-145 or this Act to the original landowners and heirs may be and then further state what may be done to these lands. As far as I am concerned, once property is deeded to the family, it becomes theirs and the only steps left to be taken would be to determine who all the rightful heirs are within that family group. Take it to probate and go through that legal process for proper recognition of those entitled heirs. Take it to surveyors, pay them thousands upon thousands of dollars to properly put the markers on the boundaries on, so that the family knows exactly how much property they are entitled to and how they are going to divide it. Properly document them and record them at Department of Land Management. And so to me this section as mentioned in Bill 345 is interfering in the exercise of private property rights of individuals now that you have that deed back. Why does the Legislature need to continue its benevolence to tell us how long you can, or what you're going to do with the property and then how long you're willing to lease it? By the time the deeds comes out of Ancestral Lands Commission, that should be the last step the government needs to take as far as their benevolent attitude to protecting these lands. Now, it's in the families' hands so far it is to say there are some families that are not being cooperative with one another. But that's a family matter. We don't want to be a part of that. Let the deed go to the family. Let them decide what they're going to do with the land, period.

But I do support what Mr. Gilliam has referred to because we've been advocating for this for the last maybe nine or ten years. Before, one of the last bills that, if I'm not mistaken, that Senator Lamorena tried to have passed, addressed this as far as the taxation. What we're asking rather than this, we're, and I do appreciate this because it brings it to light just to completely repeal Section C, 7(c) of Bill 22-145, but you need to take it a step further. And you need to allow some kind of moratorium on real property taxation for

original landowners that are getting their lands back. Because they do need that time, they do need that time to go to probate to divide the property to determine what to do with the property. There is no zoning. How can Revenue & Taxation determine the proper taxation when you don't even know what zone the property is in? So we need to properly recognize some kind of time period, once the deeds goes to the families, how much time they are given to properly distribute the lands amongst themselves and properly register themselves through Land Management and Rev & Tax to begin paying taxes to the government. So that's, that's my position on this bill today. I'm very cold, I'm coming down with the cold, that's why I'm shaking.

Speaker/Chairman: If I can understand in the sign up, you say you're against the bill?

Ms. Garrido: I am against it as it is written, where it continues to qualify that Bill 22-145 may, if you got your land back you may do this or you may lease it for fifty years. My position is just repeal that section, 'cause once the deed is back, it's up to the family what they want to do with the property.

Speaker/Chairman: Okay. But you're not ...

Ms. Garrido: But at the same time, we need another bill that would allow a moratorium on taxation to give the families that time to go through the probate process, and subdivision of their properties and properly register to them with the appropriate bodies in order to get the proper zoning.

Speaker/Chairman: You're against the bill because you don't think it goes far enough, basically.

Ms. Garrido: I'm against it because I don't want the government telling us what to do with our lands.

Speaker/Chairman: Right.

Ms. Garrido: But at the same time, we need the government to give us the time to properly register these lands for proper taxation.

Speaker/Chairman: Okay, alright. Thank you very much. Mr. Borja.

Mr. Borja: I'm cold too, and I got wet coming in here too. But the section certainly does and ... My name is Joseph Borja from the Department of Land Management. The section certainly does inhibit, at least the section that is intended or the part the section that's intended to be deleted. Certainly does inhibit the development and I also want to echo Ms. Garrido and Mr. Gilliam's concern on the lack of zoning for the property and that's where Land Management actually comes in and on the landlocked situation. And normally these landlocked situations are determined by just the nature of the market, the necessity of providing one. But normally these things revolve over a series of years and not immediately. Like, you know, like the present situation is and most of the passages

in this area at one time were just, you know, "Tun Joaquin, can I pass by your property?" and it's alright. But nowadays we need these access mapped out and surveyed and things like that, so the Department's two concerns are the lack of zoning and the landlocked situation with these parcels have some of them, not all of them. And there are several ways, I guess, as Mr. Gilliam mentioned, to address the zoning. One of them is to authorize the Land Use Commission to entertain that initial zoning application and of course we have an absence of lack ... absence of a master land use plan for the entire island. So we don't really have a plan as to what that area should be zoned. And I don't want to use the word "spot zoning," but certainly the Legislature can come in because this is really not a spot but rather a big area of several hundred acres. It's really not spot zoning in that sense. But just some sort of a master land use plan for the area for the zoning issue. Thank you.

Speaker/Chairman: Thank you very much, Mr. Borja. Senator Sanford, did you have ... ? Senator Leon Guerrero? Senator Muña-Barnes? Thank you very much. Si Yu'os ... Oh, Mr. Garrido, you had signed up to testify on this bill also?

Mr. Joe Garrido: (Translated) I will make it fast. I know it's cold and that we're in a rush also.

Speaker/Chairman: (Translated) Yes and we're all getting hungry.

Mr. Jose Garrido: (Translated) Si Yu'os ma'ãse' for calling me up, I thought ...

Speaker/Chairman: (Translated) No I didn't forget.

Mr. Jose Garrido: (Translated) ... you weren't going to call me. My name too, I am Jose Garrido, Mr. Speaker and all of you that are up there. You are great people.

Female voice: ***Tape unable to clearly pick up the conversation***

Mr. Jose Garrido: (Translated) Ai (I) the women, yeah right. Mr. Speaker, it's like ...

Male voice: You're outnumbered, Mr. Speaker.

Mr. Jose Garrido: You're out gunned up there. I support this bill merely because I believe that the Legislature found it in its great wisdom that they should not be interfering with private property and I certainly the removal of the requirement for 51% of the majority interest. And as stated eloquently by my sister that once the land is conveyed to the original landowners, they have become therefore private property and the land use restrictions necessarily runs with whatever they want to do with the property. I find this very similar to the land use law of the Northern Marianas. Of course, I believe if it's also 51% whenever they deal ...

Speaker/Chairman: Leases.

Mr. Jose Garrido: Leases over there and also the 50 years, this is all good and even if I oppose this bill it's just looking as that the idea that the Legislature is actually have the intention of protecting properties is a good thing for me, because at least I recognize that the Legislature is thinking along that line. However, I do not agree that the Legislature and the government shouldn't interfere once the lands is in the hands of the private property owner, aside from other land restrict, land use restrictions. I just can't see why we should be told that we can only lease our property for fifty years. I know that perhaps all these restrictions were done on these basis that these lands were coming, came back from the federal government as excess land, right?

Speaker/Chairman: Yes.

Mr. Jose Garrido: And I think that's the reason why, but we need not forget that these properties were private property before it became federal property and now it's coming back to us. So I think that if there is any law that should be applicable it should be applicable to all private properties. And because we keep finding ourselves that because the land came back from the federal government that we should separate the land into two categories where we can interfere with the uses of the excess lands. And on the other hand, the private properties that were not taken by the military will then be applicable to land use restrictions as we have it today. And I think that's discriminatory in a way because I believe that excess land returned to the original landowners has always been private property. And we shouldn't be providing restriction in the use of excess land and that I think many, that much I can say, I can't add any more than what the others have said and thank you very much.

Speaker/Chairman: Thank you very much, Mr. Garrido. I think one of the reasoning and the rationale in terms of why we only deleted the last section really is, and maybe not as clear in terms as our intent, but by leaving in the lease, may be leased for these purposes, we are in fact zoning that property and making these uses permitted uses in those so you don't have to go to TLUC for rezoning. I just think that if we authorize the properties to be leased and you enter into a lease for a tourism facility, you could in fact build a hotel and it's properly permitted. It's a permitted use in that piece of property if it falls under the provisions of this law. That's one of the reasons why we decided not to delete anything so that we don't actually have to zone it hotel; it is zoned for that purpose. And then your taxes can be determined by the use that's applied when you develop the property. But I understand the need to be maybe more definitive in the zoning aspects of these properties and perhaps we'll discuss that with Mr. Borja and so forth. So that was one of the thinking why we just didn't delete the entire section.

Mr. Gilliam: Mr. Speaker, that's a very interesting reasoning and in the interim while zoning ...

Speaker/Chairman: Aren't ...

Mr. Gilliam: If that's the Legislature's intent, could that be ... as Legislative Intent?

Speaker/Chairman: Yes.

Mr. Gilliam: Because I think if that is the rationale ...

Speaker/Chairman: That.

Mr. Gilliam: To sort of form ... factual ...

Speaker/Chairman: Zone.

Mr. Gilliam: Zone.

Speaker/Chairman: It's ... What we're doing is determining what permitted uses are in those as you have in the zoning laws. There are permitted uses in those zoned areas and by identifying these as permitted uses with these properties, then in fact development can proceed consistent with these types of uses without having to go to rezoning aspect. You would then just have to comply with the requirements of density and things of that nature, other land use regulations for that use would be almost automatically zoned at use. So you kind of pick the zone, pick the use you want and then the zoning code is applied to that use in terms of your development plan. When you submit it, that's one of the rationale for not deleting the entire section we had in drafting this piece of legislation, but it may be much better to be more definitive. But we will explore that issue further with Land Management, with TLUC, and with legal counsel, so ...

Mr. Gilliam: I'm sure it would be more definitive.

Speaker/Chairman: Would facilitate.

Mr. Gilliam: It would fringe, yes it would facilitate and clearly ... two issues, really.

Speaker/Chairman: Right.

Mr. Gilliam: Taxation then can be predicated on the use as ...

Speaker/Chairman: Right.

Mr. Gilliam: The lease.

Speaker/Chairman: On what's ...

Mr. Gilliam: Not by ... things in the interim and I think that's a good contribution to everybody as long as it doesn't get lost.

Speaker/Chairman: Right, I understand.

Mr. Gilliam: And if it's put in Legislative Intent, it ...

Speaker/Chairman: Okay alright. Thank you very much. We will now have the public hearing on Bill Number 347...

Findings and Recommendation

The Committee on Utilities and Land, to which was referred Bill 345 (LS), "AN ACT TO AMEND SECTION 7(c) OF PUBLIC LAW 22-145, RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN PARCELS OF LAND BELONGING TO THE GOVERNMENT OF GUAM," recommends that the legislation be passed.

TWENTY-SEVENTH GUAM LEGISLATURE
I MINA BENTE SIETE NA LIHESLATURAN GUAHAN
 Committee on Utilities and Land

Witness Sign in Sheet

BILL No. 345 (LS): "AN ACT TO AMEND SECTION 7(C) OF PUBLIC LAW 22-145, RELATIVE TO LAND USE POLICY AND PLANS FOR CERTAIN PARCELS OF LAND BELONGING TO THE GOVERNMENT OF GUAM."

| Name | Representing | Testimony (written/oral) | Testimony (against/for) |
|-----------------------------|--------------------------------|-----------------------------|----------------------------|
| Patricia (Patty) U. Larrido | Ancestral Landowners Coalition | Oral | Against |
| John D. Gillies | Self | Written | For |
| Joe Canedo | | oral | |
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John D. Gilliam

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Hagatna, Guam

U.S.A.

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Tel 482-8050 Email: ggl@kuentos.guam.net

07 September 2004

Hon. Vicente (Ben) C. Pangelinan
Speaker,
Mina' Bente Siete Na Liheslaturan Guahan
Chairman, Committee on Utilities and Land
155 Hesler St.
Hagatna, Guam 96910
U.S.A.

RE: Bill No. 345 (LS)
(An Act to Amend Section 7 of
(Public Law 22-145...
(_____

Dear Speaker Pangelinan;

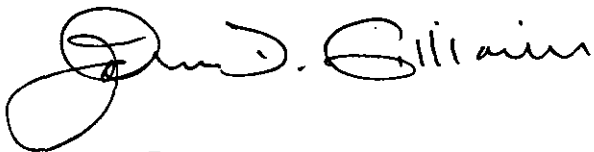
This testimony is provided in support of your Bill No.345 (LS), An Act to Amend Section 7(c) of Public Law 22-145....

Section 7 (c) of Public Law 22-145 places unnecessary restrictions on Ancestral Land owners seeking development of their reclaimed property. Previously, it was assumed that this provision of Public Law 22-145 was superceded by later law, thus moot. Recently, prospective leasees and their attorneys, expressed discomfort with the uncertain applicability of the lease term restriction. Rather than second-guessing the ambiguous impact of more recent Ancestral Land Law it is suggested that formal law revision is the more prudent course. Accordingly I support your proposed amendment to Guam Public Law 22-145, as offered.

On two related matters: Real Property Tax Assessment; Ancestral Land Use and Zoning. For many good reasons, including the property right restrictions you address with Bill 345 (LS), Real Property Tax Assessments should not be imposed on Ancestral Lands until identified use restrictions are removed and defined use rights are established by Guam law. As regards Ancestral Land zoning, no Ancestral land use zones have been established by law and for this reason land value appraisals, needed for land tax assessments, cannot be made. Land returned to "original owners" is actually being returned to deceased people and must be probated before living heirs can assume tax obligations.

As long as land use and responsible land users remain undesignated it is inappropriate to impose real property tax. However, nothing in current law prohibits taxation before this is achieved. Accordingly, I respectfully suggest the language of this Bill be revised to address the related issues discussed above.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John D. Gilliam". The signature is fluid and cursive, with a large loop at the beginning and end.

John D. Gilliam