



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Office of the Governor of Guam

DEC 31 2004

Handwritten signature and date 4:30

31 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. 406 (COR), "AN ACT TO AUTHORIZE I MAGA'LÁHEN GUÅHAN TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM, FOR LOT NO. 5147-1-1ANEW-1R/W, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM, FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT NO. 5147-1-1ANEW-1R/W," now designated as Public Law 27-149.

Sinseru yan Magåhet,

Handwritten 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

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

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

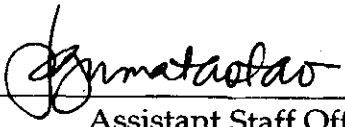
This is to certify that Bill No. 406 (COR), "AN ACT TO AUTHORIZE I MAGA'LAHEN GUÅHAN TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM, FOR LOT NO. 5147-1-1ANEW-1R/W, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM, FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT NO. 5147-1-1ANEW-1R/W," was on the 20<sup>th</sup> day of December, 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 20 day of December, 2004,  
at 5:50 o'clock P.M.

  
Assistant Staff Officer  
Maga'lahaen's Office

APPROVED:

  
FELIX P. CAMACHO  
I Maga'lahaen Guåhan

Date: December 30, 2004

Public Law No. 27-149

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

**Bill No. 406 (COR)**

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

Introduced by:

F. B. Aguon, Jr.  
J. M.S. Brown  
F. R. Cunliffe  
Carmen Fernandez  
Mark Forbes  
L. F. Kasperbauer  
R. Klitzkie  
L. A. Leon Guerrero  
J. A. Lujan  
T. R. Muña Barnes  
v. c. pangelinan  
J. M. Quinata  
R. J. Respicio  
Toni Sanford  
Ray Tenorio

**AN ACT TO AUTHORIZE *I MAGA'LAHEN GUÅHAN* TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM, FOR LOT NO. 5147-1-1ANEW-1R/W, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM, FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT NO. 5147-1-1ANEW-1R/W.**

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

2           Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*  
3 finds that a large portion of Ypao Road in Tamuning, Guam, currently  
4 encroaches significantly onto Lot No. 5147-1-1A, Tumon, Municipality of

1 Tamuning (formerly Dededo), Guam, which is private property owned by  
2 Joaquin C. Arriola. The encroachment includes the existing roadway and  
3 various utilities. This encroaching land is reflected as Lot No. 5147-1-  
4 1ANEW-1R/W on that Severance Map of Lot No. 5147-1-1ANEW, prepared  
5 by Frank L.G. Castro, RLS No. 19, Surveyor's Drawing No. FC067/2004,  
6 which contains approximately 278 square meters. This is prime residential  
7 property overlooking Ypao Beach and Tumon Bay.

8 The Government of Guam owns Lot No. A-3 and Lot. No. A-2, Tract  
9 111, Tumon, Municipality of Tamuning (formerly Dededo), Guam. These are  
10 contiguous lots, which abut the private property of Joaquin C. Arriola,  
11 specifically Lot No. 5147-1-1-A and Lot No. 5147-1-1C-2. Lot No. A-3 and Lot  
12 No. A-2 are steep cliffside lots with extremely limited use and value.  
13 Pursuant to Section 3 of Public Law 21-14, Lot No. A-3 and Lot No. A-2 were  
14 authorized to be sold to Joaquin and Elizabeth Arriola, however, such a sale  
15 was never consummated.

16 The Government encroachment on Lot No. 5147-1-1A is prime  
17 residential property and the encroachment is significant as the Arriola  
18 boundary encompasses more than half of the roadway abutting the Arriola  
19 lot, as well as utility structures. An exchange of Lot No. A-3 and Lot No. A-2  
20 for the encroachment on Lot No. 5147-1-1A is a value for value exchange. The  
21 exchange benefits the Government of Guam by maintaining the current Ypao  
22 Road and easement, avoiding land condemnation proceedings and purchase  
23 of the private land, and related claims or litigation over the continuing  
24 encroachment. The exchange benefits Joaquin C. Arriola by providing a form  
25 of just compensation for the encroachment, deprivation and prior use of his

1 private property, and enhancing his private properties which abut  
2 Government of Guam lands.

3       **Section 2.** *I Maga'lahi* shall exchange Lot No. A-3, Tract 111, Tumon,  
4 Municipality of Tamuning (formerly Dededo), Guam, containing an area of  
5 approximately 351 square meters, and Lot No. A-2, Tract 111, Tumon,  
6 Municipality of Tamuning (formerly Dededo), Guam, containing an area of  
7 approximately 308 square meters, both as shown on Map Drawing No.  
8 ES9114, LM No. 451 FY 94, recorded in the Department of Land Management,  
9 Government of Guam, under Document No. 519383, owned by the  
10 Government of Guam, for Lot No. 5147-1-1ANEW-1R/W as shown on  
11 Severance Map of Lot No. 5147-1-1ANEW, prepared by Frank L.G. Castro,  
12 RLS No. 19, Surveyor's Drawing No. FC067/2004, which contains an area of  
13 approximately 278 square meters, owned by Joaquin C. Arriola. In exchange  
14 for Lot No. 5147-1-1ANEW-1R/W, Lot No. A-3, Tract 111, Tumon,  
15 Municipality of Tamuning (formerly Dededo), Guam, and Lot No. A-2, Tract  
16 111, Tumon, Municipality of Tamuning (formerly Dededo), Guam, shall be  
17 conveyed by the Government of Guam to Joaquin C. Arriola. In exchange for  
18 Lot No. A-3, Tract 111, Tumon, Municipality of Tamuning (formerly Dededo),  
19 Guam, and Lot No. A-2, Tract 111, Tumon, Municipality of Tamuning  
20 (formerly Dededo), Guam, Lot No. 5147-1-1ANEW-1R/W shall be conveyed  
21 by Joaquin C. Arriola to the Government of Guam.

22       **Section 3.** As a condition of the land exchange authorized by this Act,  
23 the landowner of Lot No. 5147-1-1ANEW-1R/W shall waive any claims  
24 against the Government of Guam, for the government's use of Lot No. 5147-1-  
25 1ANEW-1R/W prior to this land exchange.



The People

Mina' Bente Siete Na Liheslaturan Guåh

vicente (ben) c. pangelinan  
Speaker

Committee on Utilities and land  
Chairman

DEC 15 2004

The 27<sup>th</sup> Guam Legislature  
I MINA' BENTE SIETE NA LIHESTURAN GUÅHAN  
155 Hesler Street  
Hagåtña, GU 96910

The Committee on Utilities and Land, to which was referred Bill 406 (COR), "AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (formerly DEDEDO), GUAM FOR LOT NO. 5147-1-1ANEW-R/W, TUMON, MUNICIPALITY OF TAMUNING (formerly DEDEDO), GUAM FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT 5147-1-1ANEW-R/W," has had the same under consideration, and wishes to report back an amended version with the **recommendation to**  
do pass.

The Committee votes are as follows:

- 7 To Do Pass
- 0 Not to Pass
- 0 Abstain
- 0 Inactive File

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

Sincerely,






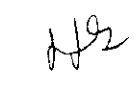
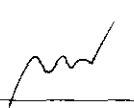
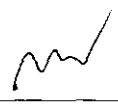


  
vicente (ben) c. pangelinan  
Speaker & Chairman of the Committee on Utilities and Land

enclosure

**Committee on Utilities and Land**  
*I Mina Bente Siete Na Libeslaturan Guahan*

**VOTING SHEET ON**

**Bill No. 406 (COR):** *As amended by the Committee on Utilities and Land: "AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (formerly DEDEDO), GUAM FOR LOT NO. 5147-1-1ANEW-1R/W TUMON, MUNICIPALITY OF TAMUNING (formerly DEDEDO), GUAM FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT 5147-1-1ANEW-1R/W."*

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



Senator Lou Leon Guerrero RN, MPH

Office of the Secretary of the Senate  
Vice President of the Senate

MEMORANDUM

DEC 03 2004

DEC 03 2004

To: Speaker vicente c. pangelinan  
Chairman, Committee on Utilities and Land

TIME: 1:00 PM JAN 1 2005  
RECEIVED BY: [Signature]

From: *Agilone to*  
Senator Lou Leon Guerrero, Chairwoman  
Committee on Rules and Health

Subject: Principal Referral – Bill No. 406 (COR)

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

**Bill No. 406 (COR) AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (formerly DEDEDO), GUAM FOR LOT NO. 5147-1-1ANEW-R/W, TUMON, MUNICIPALITY OF TAUMINING (formerly DEDEDO), GUAM FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT 5147-1-1ANEW-R/W.**

is referred to your Committee on Utilities and 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: Senator F.B. Aguon, Jr., Author, Bill No.406 (COR)  
Clerk of the Legislature

- 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



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

**Bill 406 (COR)**

AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM FOR LOT NO. 5147-1-1ANEW-R/W, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT 5147-1-1ANEW-R/W.

The Committee on Utilities and Land, to which was referred Bill 406 (COR), "AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM FOR LOT NO. 5147-1-1ANEW-R/W, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT 5147-1-1ANEW-R/W," conducted a public hearing on Friday, December 10, 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, Joanne Brown, Robert Klitzkie, and Jesse Lujan.

**Summary**

Mr. Jay Arriola, the son of the property owner, testified in favor of the bill. He said recent surveying of Lot No. 5147-1-1ANEW, Tamuning, reveals that more than half of Ypao Road near the cliffline is on Arriola private property. The encroachment, with necessary setbacks, consists of about 278 square meters. The encroachment has never been condemned by the Government. Meanwhile, the Government owns the cliffside property on the other side of the Arriola lot. This cliffside property is not accessible, and the terrain is a steep slope. He said the cliffside property is essentially useless to the Government, but of some benefit to the Arriola lot. The Government property is about 623 square meters, but although the size is larger, the value for value exchange clearly benefits the Government. It saves the Government money if the Government were to buy the Arriola property that was encroached by the Government, and it also saves the Government from expensive litigation. He believes this bill is a win-win situation for the Arriolas and the Government.

Ms. Jakie Marati, representing the Arriola Family, also testified in favor of the bill. She said the property is home for the Arriolas for over 50 years. It is the only home the Arriolas have ever known. The land exchange is a fair deal for both parties involved.

Mr. Frank Castro, the land surveyor for the Arriola property, testified in favor of the bill. He indicated that the bill is a win-win situation. The property being exchanged is not usable, unless thousands of dollars are spent for a retaining wall and to fill in the slope. The Government is benefiting more with this land exchange. He said he is available to answer any technical questions about the survey.

Sen. Toni Sanford commented how she fully supports the bill. The land exchange will prevent the Arriolas from suing the government.

Sen. Lou Leon Guerrero also expressed her support for the bill. She believes the Arriolas have been more generous in providing access to the public and to the government. She appreciates their family for not suing.

Sen. Bob Klitzkie asked about the perpetual easement that would cut through the Arriola property. Mr. Jay Arriola informed him that this perpetual easement is for power lines and other utilities. It cannot be used for roads.

Sen. Bob Klitzkie raised the issue of the Arriola Family filing a claim against the Government of Guam for the use of their property for many years. Mr. Jay Arriola said their family is willing to waive such claim. They just want a land exchange.

Mr. Joaquin Arriola briefly testified that their family has never blocked access to their property that was encroached by the Government.

Sen. Joanne Brown inquired as to why the Arriolas have never taken action back then.

Mr. Jay Arriola indicated that they have no use of the government property they will acquire through this land exchange. They simply want to clear their boundaries and guarantee that there are no trespassers. They also do not want anybody else building in front of them. The property also has a sentimental value to them, as it was part of their play area as kids.

### **Findings and Recommendations**

The Committee on Utilities and Land, to which was referred Bill 406 (COR), "AN ACT TO AUTHORIZE THE GOVERNOR OF GUAM TO EXCHANGE LOT NO. A-2 AND LOT NO. A-3, TRACT 111, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM FOR LOT NO. 5147-1-1ANEW-R/W, TUMON, MUNICIPALITY OF TAMUNING (FORMERLY DEDEDO), GUAM FOR THE EASEMENT, ROAD AND OTHER PUBLIC USE OF SAID LOT 5147-1-1ANEW-R/W," reports back with an amended version with its recommendation to

---



LAW OFFICES

*Arriola, Cowan & Arriola*

259 MARTYR STREET, SUITE 201  
C & A BUILDING  
HAGÁTÑA, GUAM 96910

JOAQUIN C. ARRIOLA  
MARK E. COWAN  
ANITA P. ARRIOLA  
JOAQUIN C. ARRIOLA, JR.

MAILING ADDRESS:  
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TELEPHONE  
(671) 477-9730/3  
TELECOPIER  
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acalaw@netpci.com

JACQUELINE T. TERLAJE


December 7, 2004

**VIA HAND DELIVERY**

Honorable ben c. pangelinan  
Speaker & Chairman, Committee on Utilities and Land  
I Mina Bente Siete Na Liheslaturan Guahan  
155 Hessler Street  
Hagatna, Guam 96910

Office of the People's Speaker  
Vicente (Ben) C. Pangelinan

DEC 09 2004

TIME: 8:50 | AM | PM  
RECEIVED BY: 

Dear Mr. Speaker and Senators:

I write on behalf of Joaquin C. Arriola in support of Bill No. 406, which authorizes the exchange of his property in Ypao, Tamuning, Guam with adjacent Government of Guam property.

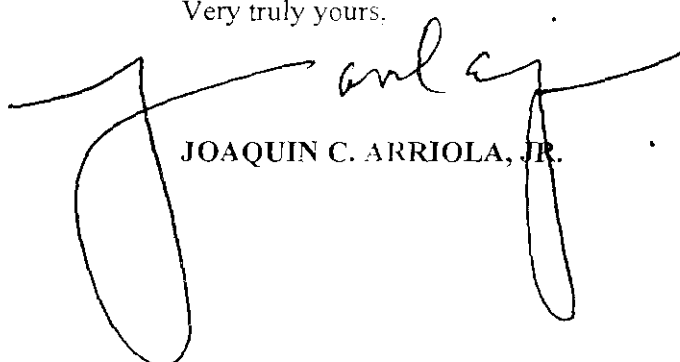
The Legislative Intent and Findings in Bill 406 set forth the basics facts underlying the exchange. Recent surveying of Lot No. 5147-1-1ANEW, Tamuning, reveals that more than half of Ypao Road near the cliffline is on Arriola private property. Ypao Road is only a two-lane road, but a major access route to Tumon Bay. The encroachment, with necessary setbacks, consists of about 278 square meters. The encroachment has never been condemned by the Government. This is prime residential property on the island, in perhaps one of the most exclusive executive residential neighborhoods.

Meanwhile, the Government owns the cliffside property on the other side of the Arriola lot. This cliffside property is not accessible, and the terrain is a steep slope. The cliffside property essentially is useless to the Government, but of some benefit to the Arriola lot. The Government property is about 623 square meters. However, I would confidently estimate that the cliffline property is over twice the value per square meter of the cliffside property. Although the Government property is larger in size, the value for value exchange clearly benefits the Government.

Maps, photos and other documents of title, as well as the professional opinion of a registered surveyor are available, and can be provided if required. Also, it should be noted and clarified in the Bill, that the exchange would be for Lot No. 5147-1-1ANEW-1R/W on that Severance Map of Lot 5147-1-1ANEW, prepared by Frank L.G. Castro, RLS No. 19, Surveyor's Drawing No. FC067/2004, which contains an area of approximately 278 square meters.

Bill No. 406 is a simple remedy for a major problem, which presents a win-win situation for the Government and private landowner. We ask for your favorable consideration.

Very truly yours,

  
JOAQUIN C. ARRIOLA, JR.

LAW OFFICES

*Arriola, Cowan & Arriola*

JOAQUIN C. ARRIOLA  
MARK E. COWAN  
ANITA P. ARRIOLA  
JOAQUIN C. ARRIOLA, JR.

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acalaw@netpci.com

JACQUELINE T. TERLAJE


December 9, 2004

**VIA HAND DELIVERY**

Honorable ben c. pangelinan  
Speaker & Chairman, Committee on Utilities and Land  
I Mina Bente Siete Na Liheslaturan Guahan  
155 Hessler Street  
Hagatna, Guam 96910

Office of the People's Speaker  
vicente (ben) c. pangelinan

DEC 09 2004

TIME: 2:30 (AM) (4PM)  
RECEIVED BY: 

Re: Bill No. 406

Dear Mr. Speaker and Senators:

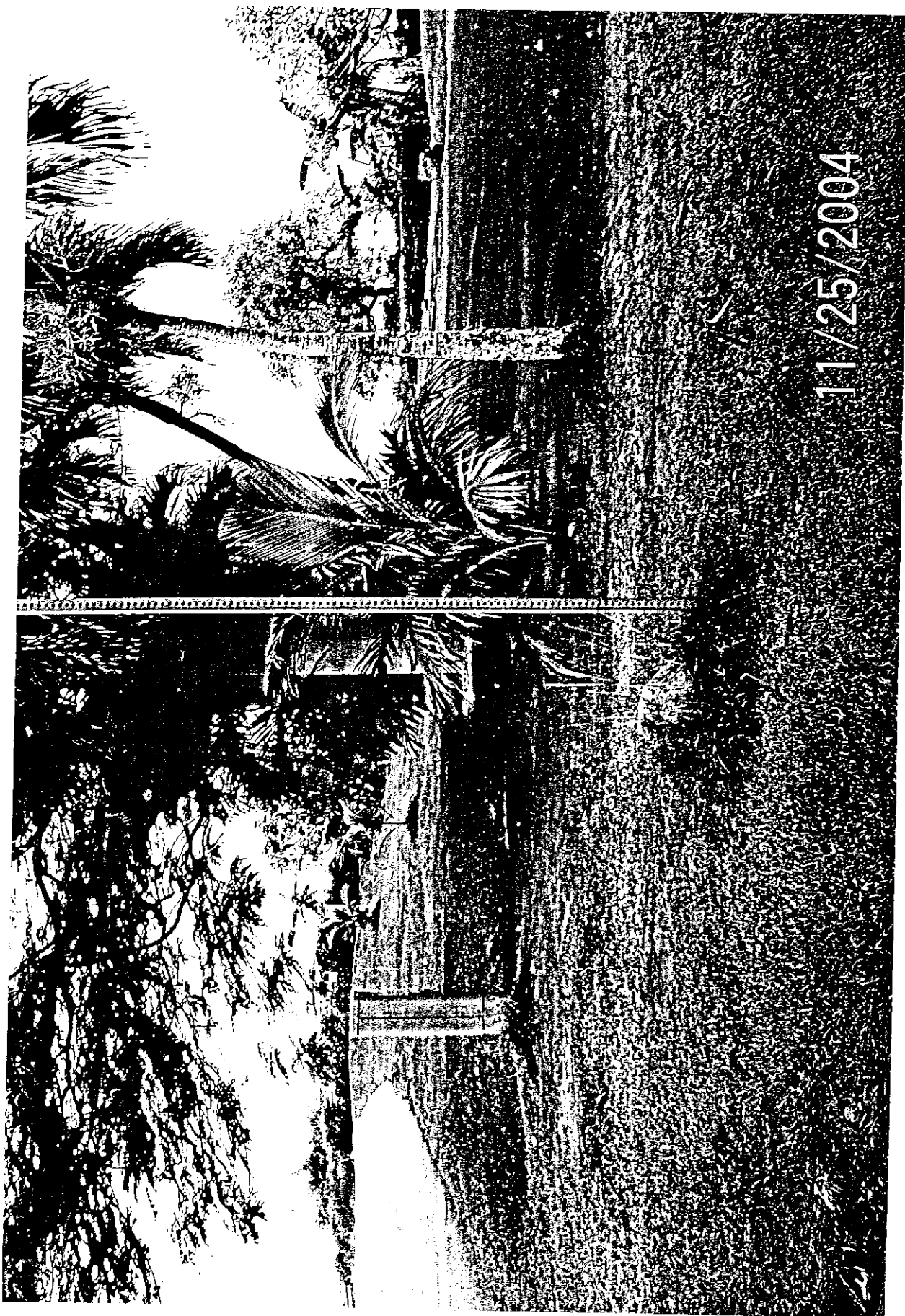
Supplementing my testimony dated December 7, 2004, and at the request of your office, I enclose three photos of the properties subject of Bill No. 406, as well as copies of the maps of the lots.

If you have any questions, please give me a call. Thank you.

  
JOAQUIN C. ARRIOLA, JR.



11/25/2004



11/25/2004







( IN METERS )  
1 inch = 5 M.

LOT 10, TRACT III  
DOC# 327283

POB  
N = 200,056.1978  
E = 104,233.1168  
(SEE SCHEME)

10 METERS WIDE PERPETUAL EASEMENT  
DOC# 85078

LOT B-RI, TRACT III  
DOC# 483090

LOT 5147-1-IC  
DOC# 519383

CONC. SLAB  
~~LOT 5147-1-IA NEW~~  
AREA = 1,557 ± SQ.M. REC. & COMP.

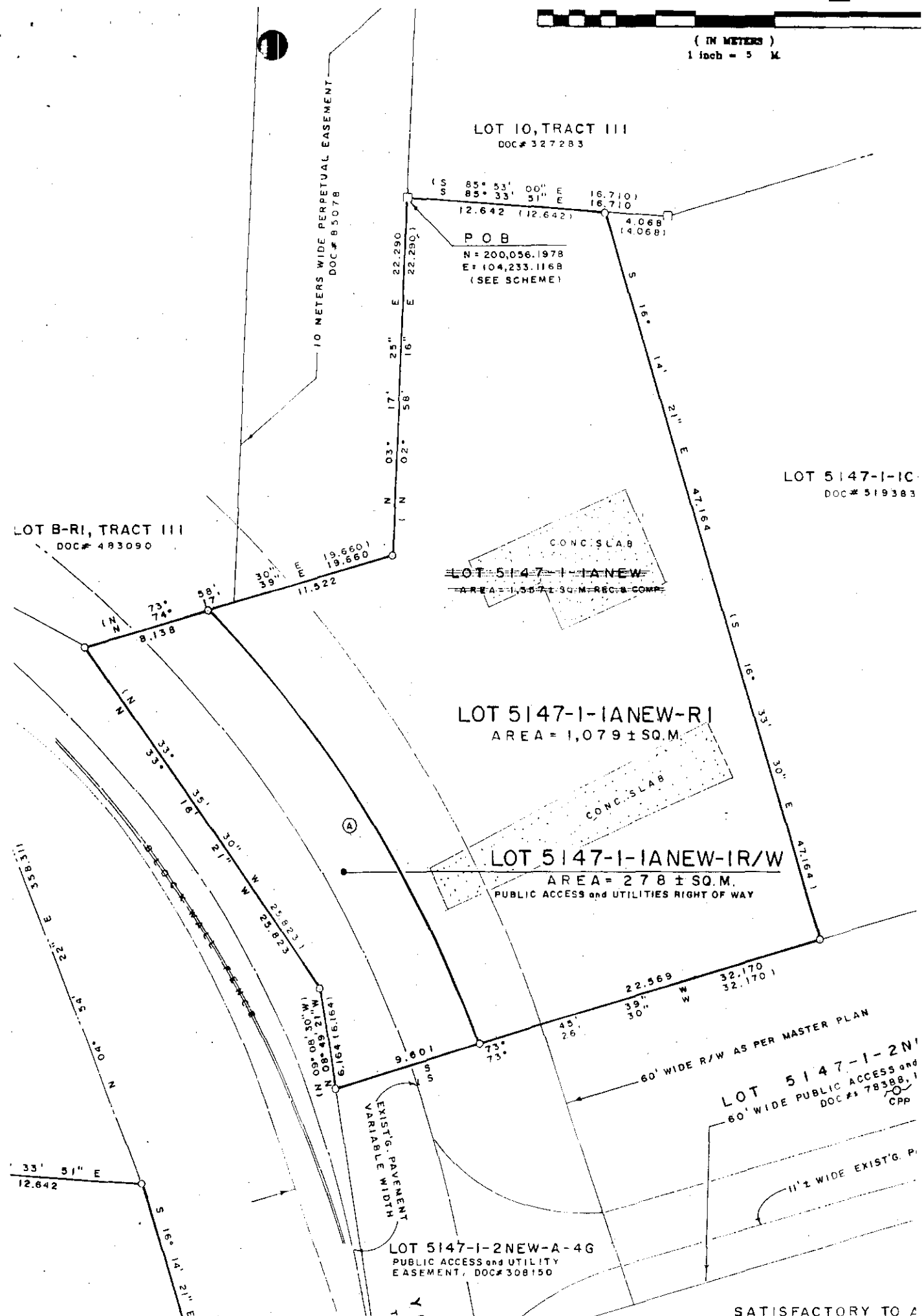
LOT 5147-1-IA NEW-R1  
AREA = 1,079 ± SQ.M.

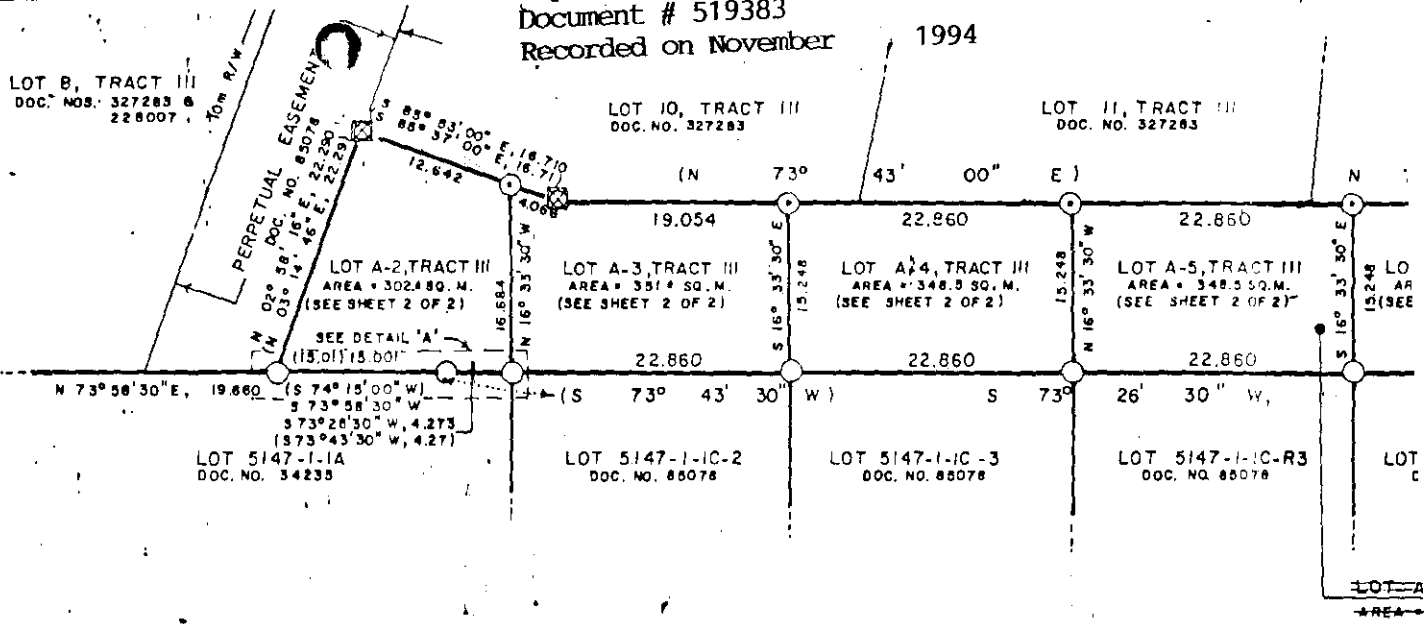
LOT 5147-1-IA NEW-IR/W  
AREA = 278 ± SQ.M.  
PUBLIC ACCESS and UTILITIES RIGHT OF WAY

LOT 5147-1-2 NEW-A-4G  
PUBLIC ACCESS and UTILITY  
EASEMENT, DOC# 308150

LOT 5147-1-2N1  
60' WIDE PUBLIC ACCESS and  
DOC# 78388, 1  
CPP

SATISFACTORY TO A  
APPROVED BY





**PARCELLING PLAT OF LOT A-RI, TRACT III**  
 NOT TO SCALE

