
ENCLOSURE E

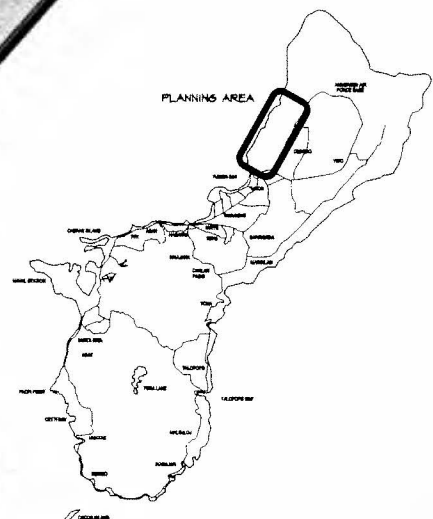
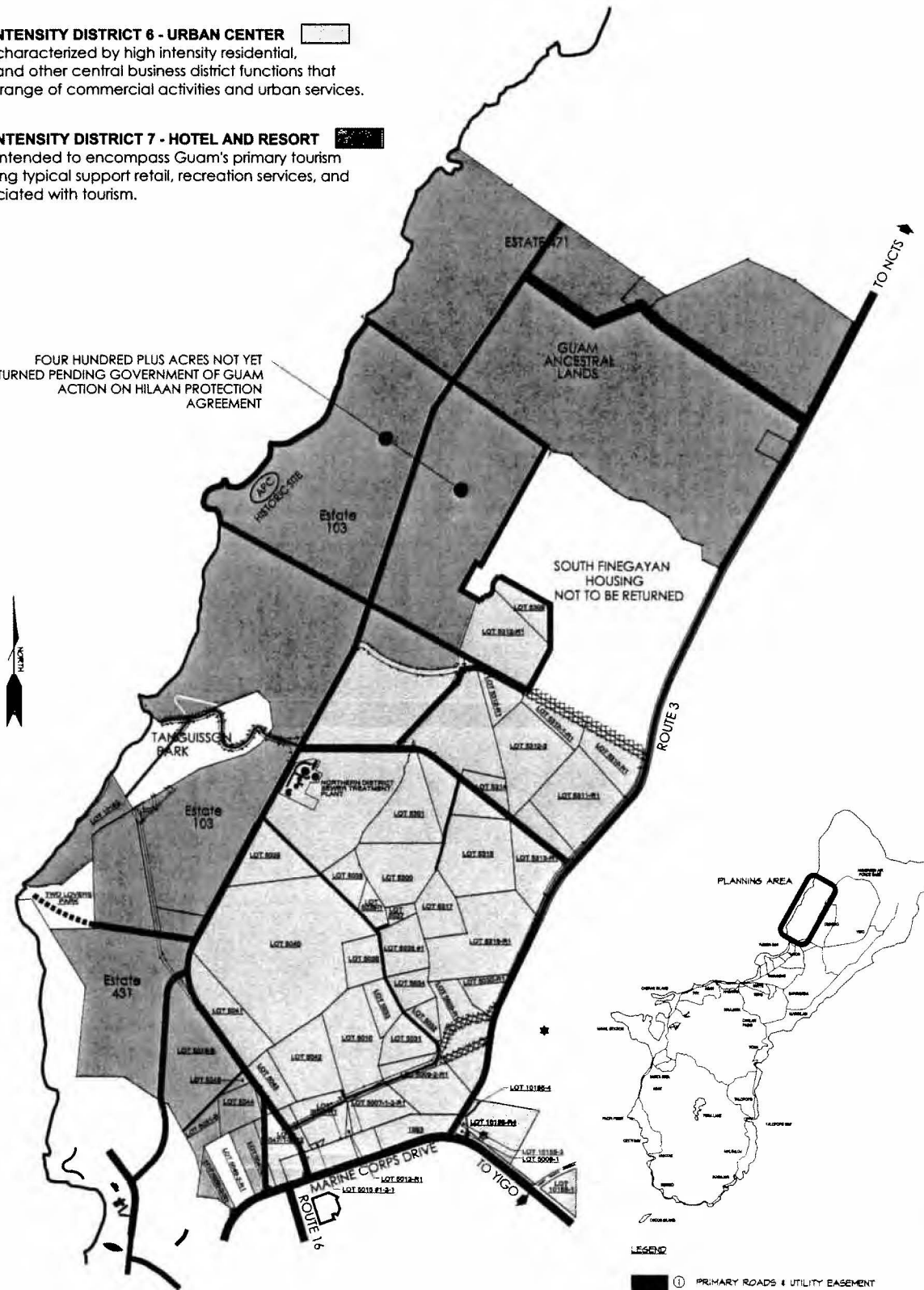
I TANO'-TA INTENSITY DISTRICT 6 - URBAN CENTER

This District is characterized by high intensity residential, commercial and other central business district functions that provide a full range of commercial activities and urban services.

I TANO'-TA INTENSITY DISTRICT 7 - HOTEL AND RESORT

This District is intended to encompass Guam's primary tourism areas, including typical support retail, recreation services, and facilities associated with tourism.

FOUR HUNDRED PLUS ACRES NOT YET RETURNED PENDING GOVERNMENT OF GUAM ACTION ON HILAAN PROTECTION AGREEMENT



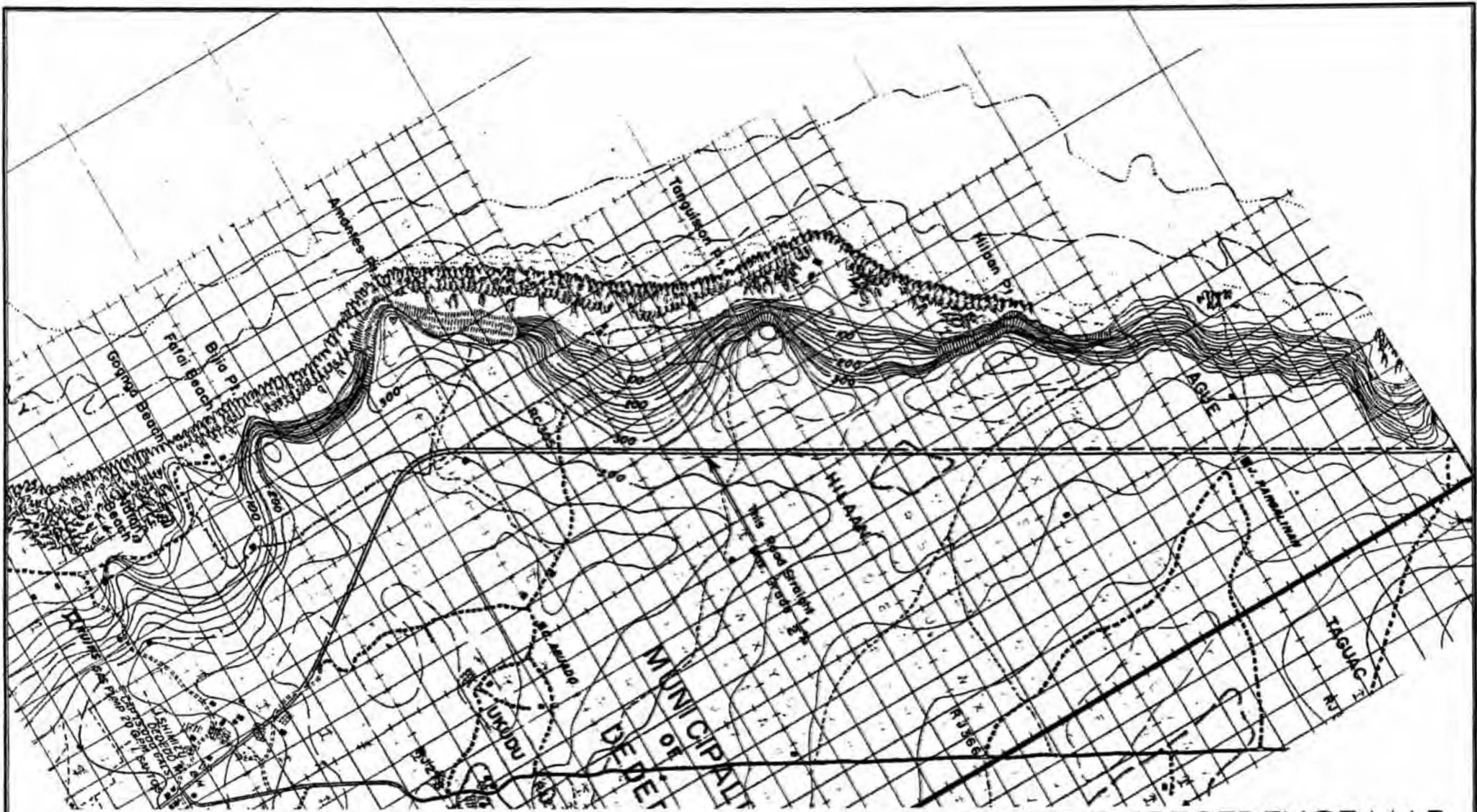
DOS AMANTES PLANNING AREA
LAND USE PLAN JULY 19th 2005



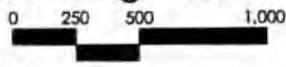
TOTAL PLANNING AREA 1,200 HECTARES
ORIGINAL DRAWING SIZE IS 30 x 42
IF DRAWING IS REDUCED USE GRAPHIC SCALE

- LEGEND**
- ① PRIMARY ROADS & UTILITY EASEMENT
 - ② SECONDARY ROADS & UTILITY EASEMENT
 - EXISTING EASEMENTS THAT COULD BE VACATED
 - PROPERTY LINE

LOT 5301 LOT NUMBER

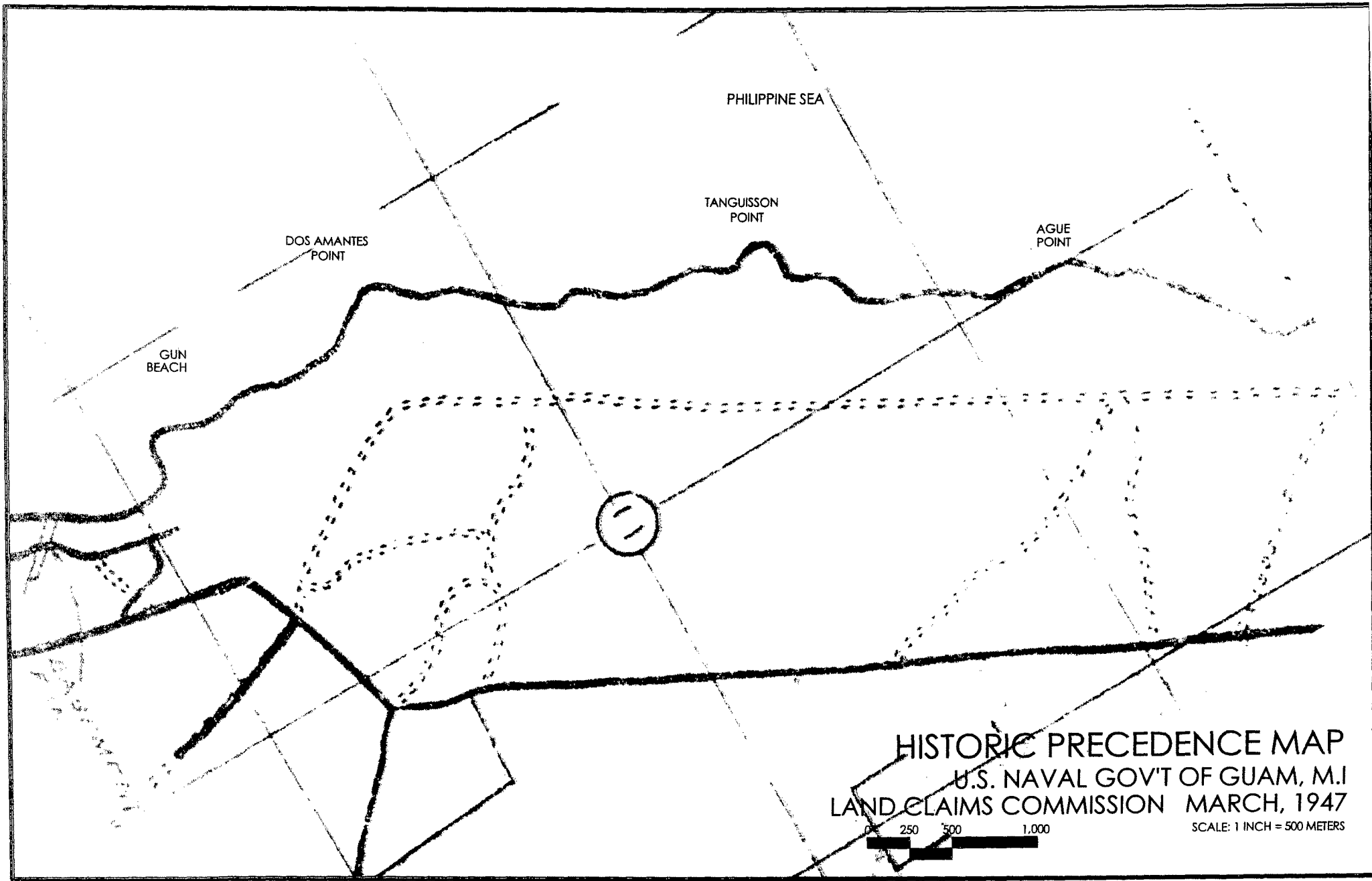


HISTORIC PRECEDENCE MAP
Corps of Engineers, Tactical Map printed 1922



SCALE: 1 INCH = 500 METERS

ENCLOSURE F



PHILIPPINE SEA

TANGUISSON
POINT

AGUE
POINT

DOS AMANTES
POINT

GUN
BEACH

HISTORIC PRECEDENCE MAP

U.S. NAVAL GOV'T OF GUAM, M.I.

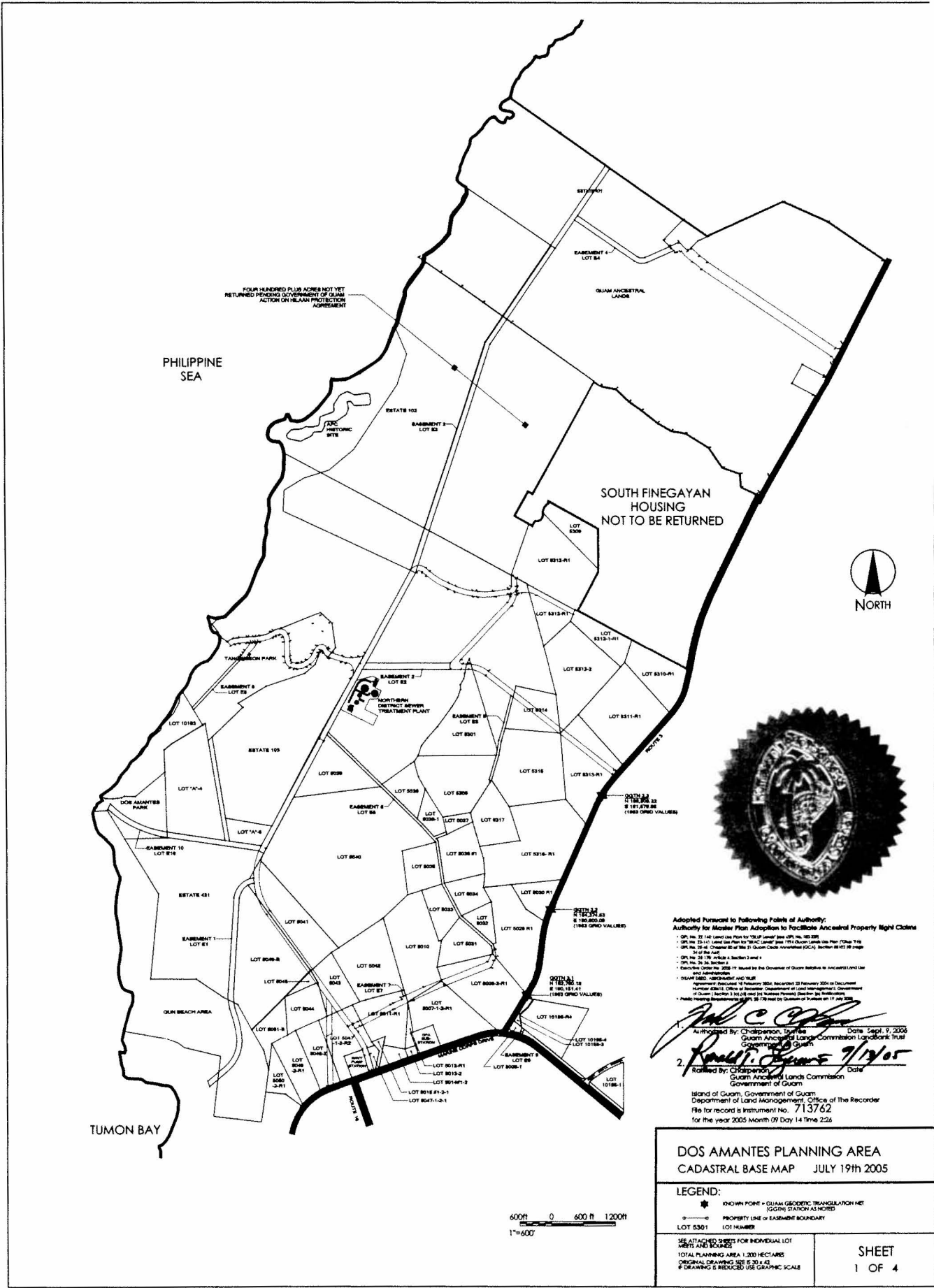
LAND CLAIMS COMMISSION MARCH, 1947

0 250 500 1,000

SCALE: 1 INCH = 500 METERS

APPENDIX A

A-1 – CADASTRAL BASE MAP



FOUR HUNDRED PLUS ACRES NOT YET RETURNED PENDING GOVERNMENT OF GUAM ACTION ON HEALTH PROTECTION AGREEMENT

PHILIPPINE SEA

SOUTH FINEGAYAN HOUSING NOT TO BE RETURNED



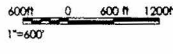
Adopted Pursuant to Following Pats of Authority:

- Authority for Master Plan Adoption to Facilitate Ancestral Property Right Claims
- OPR No. 22 (48) Land Use Plan for "Old Land" (see OPR No. 163 2001)
- OPR No. 23 (47) Land Use Plan for "New Land" (see 1993 Guam Land Use Plan (7/24/93))
- OPR No. 25 (46) Chapter 80 of Title 21, Guam Code Annotated (GCA) Section 80107 (18 June 2001)
- OPR No. 26 (45) Article 2, Section 1 and 2
- OPR No. 26 (45) Section 2
- Executive Order No. 2002-19 issued by the Governor of Guam Relating to Ancestral Land Use and Administration
- OPR No. 27 (44) Administration and Rules
- Agreement Reached 14 February 2004, Revisited 23 February 2004 in Document Number 82812, Office of Historic Development and Land Management, Development Department
- 4 Guam 1 Section 3 (4) (4) and 201 Numbered, Section 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

1. Approved by Chairperson, *[Signature]* Date: Sept. 9, 2005
 Guam Ancestral Land Commission Landbank Trust
 Government of Guam

2. Ratified by Chairperson, *[Signature]* Date: 7/13/05
 Guam Ancestral Land Commission
 Government of Guam

Island of Guam, Government of Guam
 Department of Land Management, Office of the Recorder
 File for record & Instrument No. 713762
 for the year 2005 Month 09 Day 14 Time 226



DOS AMANTES PLANNING AREA CADASTRAL BASE MAP JULY 19th 2005	
LEGEND: KNOWN POINT - GUAM GEODESIC TRIANGULATION NET (COORDINATES AS NOTED) PROPERTY LINE or EASEMENT BOUNDARY LOT NUMBER	
SEE ATTACHED SHEETS FOR INDIVIDUAL LOT NUMBERS AND EASEMENTS TOTAL PLANNING AREA 1,200 HECTARES ORIGINAL DRAWING SIZE 8.50 x 11.00 THIS DRAWING IS REDUCED USE GRAPHIC SCALE	SHEET 1 OF 4

LOT No. 8046
1983 GRID VALUES

FROM DATA 3.1		NORTHING	EASTING
LINE	Dist.	Sta.	Dist.
1	0	0	0
2	1	1	1
3	2	2	2
4	3	3	3
5	4	4	4
6	5	5	5
7	6	6	6
8	7	7	7
9	8	8	8
10	9	9	9
11	10	10	10
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A-2 – MAPPING PROJECT PROPOSAL LETTER

John D. Gilliam

May 5, 2005

Mr. G. Ricardo Salas
P.O. Box 3148
Hagatna, Guam 96932

Subject: Harmon Return Lands

Dear Mr. Salas.

This letter is a follow up to our recent discussion regarding survey problems associated with the lands returned under the Federal Excess Lands Act and BRAC.

Although I am not a surveyor, my understanding is that property surveys are typically based on previous surveys and/or land descriptions. Physical monuments for the parcel in question and/or for abutting/adjacent lots may already exist in the field. The surveyor recovers (finds) such monuments and uses the monuments as a basis for the survey. The Harmon Cliffline return lands apparently have unique problems/disabilities/histories. With respect to the land to be deeded to claimant(s), existing monuments for the parcel in question and/or for abutting/adjacent parcels are unlikely to exist. In addition some of the return parcels had not been surveyed (either by the landowner or by the U.S. Government), at the time of condemnation. Thus, the precise boundaries of these unsurveyed parcels have yet to be determined.

Chaos may ensue if the individual claimants hire individual surveyors to establish the boundaries of individual lots.

- a) Each surveyor must establish controls (GGTN) and tie the individual parcel to the Gov-Guam controls. The results could well be overlapping of parcels due to surveyor error/interpretation, especially in view of an apparent glitch in the Gov-Guam control system that can produce different results by different survey routes for establishing controls.
- b) Some of the claimants may endeavor to enhance their holdings at the expense of their neighbors.
- c) One survey may be approved by DLM, only to be followed by a subsequent survey of abutting land that disputes the boundaries set by the first surveyor.
- d) Some land parcels may be left landlocked. (I understand that some planning work has commenced that makes recommendations for a viable traffic circulation master plan for the Harmon Cliffline area, and that also provides legal and viable access to land parcels that could otherwise be land locked).

As required by U.S. Public Law 103-339, the land parcels returned by the Federal Government have been surveyed, with physical monuments set in the field, and the return deeds (from the GSA to the Government of Guam) are accompanied by certified maps and complete legal descriptions of the land being returned. The Federal Government maps and legal descriptions do not address the individual land parcels that existed at the time of condemnation.

John D. Gilliam
P.O. Box 3637 Hagatna, Guam USA 96932
Tel. (671) 482-8050 * E-Mail: ggi@kuentos.guam.net

JG

I understand the Director of Land Management has prepared a map identifying (by metes and bounds and areas) individual land parcels that had been surveyed at the time of condemnation**.

In view of the above discussion, it appears to me that a viable program that would expedite individual lot surveys and subsequent land registration is to first prepare a table top survey that collates existing survey data as follows:

1. Prepare a Base Map by plotting the boundaries of the land parcels returned to the Government of Guam by the Federal Government using the certified surveys and legal descriptions prepared by local surveyors under contract to the Federal Government (the Federal Government maps do not address the individual lots that were condemned and that comprise the return parcels).
2. Superimpose on the Base Map the boundaries (determined by DLM) of the individual lots that had been surveyed at the time of condemnation.
3. Superimpose on the Base Map the access easements retained by the Federal Government, and add access easements where necessary to ensure a viable traffic circulation master plan and to ensure all land parcels have legal and viable access easements.
4. Based on records and consultation with the claimants of those parcels that were unsurveyed at the time of condemnation, select boundary lines of the land parcels that were unsurveyed at the time of condemnation, considering the requirements for the traffic circulation master plan, legal and viable access easements to all individual land parcels, providing maximum road frontage where feasible and providing for public use areas (Tanguissan Beach Park e.g.).

By using CAD to plot the above data, the precise coordinates of individual land parcels can be determined without the benefit of field surveys, much as the coordinates of individual lots within a sub-division map can be determined without the benefit of field surveys. If accepted by the Director of Land Management as a subdivision map or tentative subdivision map, physical monuments can then be set in the field by using GPS (if acceptable to the Director of Land Management).

Even if the approach discussed above may not be a commonly used approach, it makes a lot of sense as:

- a) I will ensure the coordinates of all land parcels are coordinated and based on a common coordinate system.
- b) It will minimize the chaos that is likely to ensue if each landowner is left to his/her own devices, (creating a nightmare for the DLM in the process).
- c) Will ensure all land parcels have legal and viable access and utility easements.

** The Land Management maps do not address the boundaries of those land parcels that were unsurveyed by either the owners or the U.S. at the time of condemnation. The Land Management maps also contain glaring and inexplicable errors with respect to ownership of the unsurveyed parcels, however the Land Management maps appear to accurately depict location and area of those land parcels that had been surveyed at the time of condemnation.

The end result would be an overall cadastral map that precisely defines:

- a) Boundaries of the land parcels deeded by the U.S. to the Government of Guam.
- b) Boundaries of the land parcels already deeded or to be deeded by the ALC to the claimants. (GALC Deeds do not contain precise legal descriptions of lots. This program will provide precise legal descriptions for all affected land parcels).
- c) Boundaries of land parcels to be retained by the Government of Guam for public use.
- d) Boundaries of the land parcel(s) to be deeded by the ALC to its "Land Bank".
- e) Boundaries of the access easements required to ensure each land parcel is afforded legal and viable access and to ensure a viable traffic circulation master plan for the entire area.
- f) The coordinates of all property corners (including the access easements discussed above). Basing the property corner coordinates on the GGTN coordinates and boundary coordinates included in the certified survey maps accompanying the return deeds from the U.S. to the Government of Guam should greatly facilitate individual land parcel surveys, especially if the Director of Land Management will accept the proposed cadastral map and the use of GPS for land surveys.

If this approach appears attractive to you, perhaps the land claimants in the Harmon Cliffline Area would be willing to fund the table top survey. If said table top survey is accepted by the Director of Land Management, the individual land claimants can then fund the cost of setting the property corner monuments for their individual lots. To iterate, this approach would ensure all of the individual land parcels have legal and viable access, may facilitate the surveying and land registration of the individual lots, and in the process, may save the Director of Land Management a world of headaches.

Very Truly Yours,


John Gilliam

os may'os

A-3 – MAPPING PROJECT ACCEPTANCE LETTER

May 28, 2005

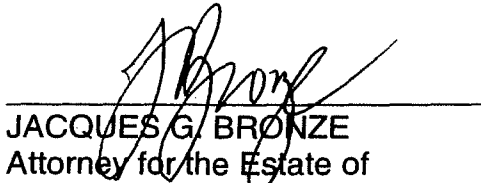
Dear Mr. Gilliam,

You are hereby authorized to proceed with the tabletop survey as outlined in your letter of May 5, 2005 to Mr. G. Ricardo Salas. I understand this is a major undertaking. Please advise me of the approximate cost of the project.

Very Truly Yours,



G. RICARDO SALAS
Attorney-in-fact for the Estate of
Vicente Flores San Nicolas



JACQUES G. BRONZE
Attorney for the Estate of
Vicente Flores San Nicolas and
Guillermo Flores San Nicolas

A-4 – MAPPING PROJECT TRANSMITTAL LETTER

John D. Gilliam

July 12, 2005

Mr. G. Ricardo Salas
P.O. Box 3148
Hagatna, Guam 96932

Subject. Harmon Return Lands

Dear Mr. Salas,

On May 5, 2005, I sent you a letter suggesting the possibility of preparing a table top survey to address survey problems associated with the lands returned under the Federal Excess Lands Act and BRAC. On May 28, 2005, you authorized me to proceed with the project. Attached are the results, labeled Cadastral Base Map, and the following is an explanation of the procedure used in development of the Cadastral Base Map.

GOALS

Mr. Dan Swavely, Professional Land Planner, prepared a Land Use Master Plan that addresses land disabilities that, if not immediately addressed, would constitute serious impediments to the landowners quest (and duty) to use the returned lands to promote economic development and public benefit, and to achieve the highest and best public benefit use of their land as quickly as possible (as referred by P.L. 22-145). Therefore, the attached Cadastral Base Map is in harmony with, and is considered an essential and integral part of, the Land Use Master Plan developed by Mr. Swavely. Areas addressed in Mr. Swavely's Land Use Master Plan include:

- Ensuring that all return lots are afforded legal and viable access.
- A viable traffic circulation plan.
- Ensuring that amenities such as public parks are made available to the public as a whole.

Since the Land Use Master Plan authored by Mr. Swavely cannot be implemented without a viable cadastral map that matches the Land Use Master Plan, a primary focus in the preparation of the Cadastral Base Map has been to:

- Ensure that legal and viable access is extended to all return lots (i.e. to ensure that no return parcels are landlocked).
- Ensure that easements are available to implement the traffic circulation plan envisioned in the Land Use Master Plan.
- Arrange the boundaries of previously unsurveyed land in a manner to facilitate Tanguisson Park (which Guam P.L. 22-145 explicitly returned to the original landowners or heirs), becoming public property for enjoyment by all of the people of Guam as envisioned by the Land Use Master Plan (**Caveat**. This action will require obtaining the approval of the heirs of Estate 103 since Guam P.L. 22-145 explicitly returned this land to the heirs of Estate 103).

John D. Gilliam
P.O. Box 3637 Hagatna, Guam USA 96932
Tel. (671) 482-8050 * E-Mail: ggl@kuentos.guam.net

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PROCEDURE

The basic procedure employed in the preparation of the Cadastral Base Map is the retrieval and compilation of existing survey data. Existing survey data available include:

1. As required by U.S. Public Law 103-339, the land parcels returned by the Federal Government have been surveyed, with physical monuments set in the field, and the return deeds (from the GSA to the Government of Guam) are accompanied by certified maps and complete legal descriptions of the land being returned. However, the Federal Government maps and legal descriptions do not address the individual land parcels that existed at the time of condemnation; they address only the boundaries of the composite return parcels.
2. The Director of Land Management prepared a series of maps that provide precise descriptions (in the form of metes and bounds) of the majority of the land parcels that had been previously surveyed** at the time of condemnation, and said descriptions are based on the certified maps accompanying the return deeds from the Federal Government to the Government of Guam.

Existing survey data was compiled as follows:

CAD was used to:

1. Plot the boundaries of the land parcels returned to the Government of Guam by the Federal Government in accordance with the certified surveys and legal descriptions prepared by local surveyors under contract to the Federal Government (the Federal Government maps do not address the individual lots that were condemned and that comprise the return parcels).
2. Superimpose on the Base Map the boundaries (determined by DLM) of the individual lots that had been surveyed at the time of condemnation.
3. Plot the easements necessary to ensure legal and viable access to all land parcels and to implement the traffic circulation master plan incorporated into the Land Use Master Plan. These easements include:
 - a. Those access easements retained by the Federal Government that are essential to the traffic circulation plan envisioned by the Land Use Master Plan (access easements retained by the Federal Government not considered to be essential to the traffic circulation plan envisioned by the Land Use Master Plan are not included. The Gov-Guam may seek to vacate these easements).
 - b. The addition of access easements necessary to implement the traffic circulation plan (as envisioned by the Land Use Master Plan).
 - c. The addition of access easements necessary to ensure all land parcels have legal and viable access and utility easements (again, as envisioned by the Land Use Master Plan)**.

** The Land Management maps do not address the boundaries of those land parcels that were unsurveyed by either the owners or the U.S. at the time of condemnation.

The Land Management maps also contain glaring and inexplicable errors with respect to ownership of the previously unsurveyed parcels, however the Land Management maps appear to accurately depict location and area of those land parcels that had been surveyed at the time of condemnation.

The enclosed Cadastral Base Map envisions combining and relocating approximately 12,000 feet of old bull cart trails (which are no longer needed) into wider access and utility easements to serve those lots that would otherwise be landlocked.

- d. The Land Management maps also do not address landlocked parcels, whereas the attached Cadastral Base Map, in harmony with the Land Use Master Plan, provides legal and viable access to all individual land parcels.
4. Based on records (land records and deeds granted by the GALC e.g.), and consultation with the claimants of those parcels that were unsurveyed at the time of condemnation, boundary lines of these particular land parcels were set to match the intent of the Land Use Master Plan, i.e:
 - a. Incorporating the traffic circulation master plan land requirements.
 - b. Incorporating land requirements necessary to ensure legal and viable access easements to all individual land parcels.
 - c. Provide maximum road frontage where feasible.
 - d. Providing for public use areas (Tanguisson Beach Park e.g.).

By using CAD to plot the above data, the precise coordinates of individual land parcels were determined without the benefit of costly and time consuming field surveys, much as the coordinates of individual lots within a sub-division map can be determined without the benefit of field surveys. If accepted by the Director of Land Management as a subdivision map or tentative subdivision map, physical monuments can be set in the field by using GPS (if the use of GPS is acceptable to the Director of Land Management).

In summary, the Cadastral Base Map precisely defines:

- a) Boundaries of the land parcels deeded by the Federal Government to the Government of Guam**
- b) Boundaries of the land parcels already deeded, or to be deeded, by the GALC to the claimants.
- c) Boundaries of land parcels to be retained by the Government of Guam for public use (as envisioned by the Land Use Master Plan).
- d) Boundaries of the land parcel(s) to be administered by GALC's LandBank Trust.
- e) Boundaries of the access/utility easements required to ensure each land parcel is afforded legal and viable access and to allow implementation of the traffic circulation master plan envisioned by the Land Use Master Plan.
- f) The coordinates of all property corners (including the access easements discussed above). Basing the property corner coordinates on the GGTN coordinates and boundary coordinates referenced in the certified survey maps accompanying the return deeds from the Federal Government to the Government of Guam could greatly facilitate individual land parcel surveys, especially if the Director of Land Management will accept the Cadastral Base Map and the use of GPS for land surveys.

The Cadastral Base Map may also be acceptable as a plan plat to describe property subject to land registration proceedings.

**** CAVEAT!**

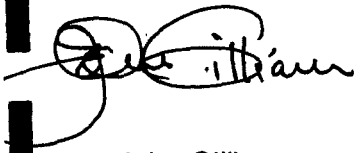
As noted on the Land Use Master Plan, the return of a land parcel exceeding 400 acres in area, has yet to be finalized, pending action on the part of Gov-Guam. Survey maps of this land parcel are not presently available and the boundaries used in preparation of the attached Cadastral Base Map are assumed. When survey maps of this particular land parcel are made available, some adjustments to the Cadastral Base Map may be necessary.

July 12, 2005

As discussed and/or implied in my letter of May 5, 2005, utter chaos may ensue if a Cadastral Base Map is not adopted for use by land surveyors. If the individual land claimants hire individual surveyors to establish the boundaries of individual lots without the benefit of a Cadastral Base Map.

- a) Each surveyor must establish controls (GGTN) and tie the individual parcel to the Gov-Guam controls. The results could well be overlapping of parcels due to surveyor error/interpretation, especially in view of an apparent glitch in the Gov-Guam control system that can produce different results by different survey routes for establishing controls.
- b) Some of the claimants may endeavor to enhance their holdings at the expense of their neighbors.
- c) One survey may be approved by DLM, only to be followed by a subsequent survey of abutting land that disputes the boundaries set by the first surveyor.
- d) Some land parcels may be left landlocked.
- e) The traffic circulation for the Dos Amantes would leave much to be desired.
- f) Hagglng between competing surveyors and land claimants could produce a nightmare for the landowners, for the courts and for the DLM.

Very Truly Yours

A handwritten signature in black ink, appearing to read "John Gilliam", written over a horizontal line.

John Gilliam

**Adopted Resolution
No. 2005-0001**

8 September 2005

**Guam Ancestral Lands
LandBank Trust**

**Guam Ancestral Lands Commission
LandBank Trust**

Resolution No. 2005-0001

8 September 05
(date)

Relative to Ancestral Land Use and Administration

Whereas: Federal excess lands have been returned to the Government of Guam by operation of U.S. Public Law(s) requiring returned lands be reused for redevelopment and public benefit uses, to wit: (see: U.S. Public Law (USPL) No. 103-339; U.S. Base Closure and Redevelopment Act(s) – BRAC); and

Whereas: Federal excess land acts required Government of Guam to formally plan for the use of returned lands as a precondition to turn-over of surplus, doing so through various measures including public land laws, directives, land use plans and protective land grants, to wit: (see Guam Public Law (GPL) No's. 16-111; 17-52; 20-222; 22-145 (as amended); 23-141; 23-23; 25-45; 25-178; 25-180; 26-36; Governor's Executive Order No. 2002-19; Grant Deed, Assignment and Trust Agreement of 18 February 2004 recorded 23 February 2004 as Document / Instrument No. 688615, Office of the Recorder, Department of Land Management, Government of Guam); and

Whereas: The Organic Act of Guam, Section 3 (48 U.S.C. § 1421a) provides for a three (3) branch system of government for Guam, consisting of an Executive, Legislative and Judicial Branch and specifies that GovGuam shall have the powers set forth in the Act.

Pursuant to the setting forth of powers, Section 28 (b) (48 U.S.C. § 1421f), of the Organic Act provides as follows:

- (b) All other property, real and personal, owned by the United States within ninety days after the date of this Act [Organic Act], is hereby placed under the control of the Government of Guam, to be administered for the benefit of the people of Guam, and the Legislature shall have the authority, subject to such limitation as may be imposed upon this Act by this [Organic Act] or subsequent acts of Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable. (Emphasis added)

Thus, the legislative branch of GovGuam is empowered by the Organic Act to be the controlling branch of GovGuam concerning the use and disposition of the real and personal property of GovGuam acquired pursuant to Section 28 (b), which includes the real property presently held by GovGuam and federal excess lands returned, or to be returned, to GovGuam in the future.

A close reading of the powers granted by the Organic Act discloses no such concomitant power being granted to the executive or judicial branches by the Organic Act. Further in Bordallo v. Camacho, 475 F.2d 712 (1973), the Court held that the Guam Legislature is part of the Government of Guam, within the meaning of the Organic Act of 1950 and, as such, can put appropriate lawful conditions on any request by the Governor to sell, lease or otherwise dispose of land transferred by the United States to Guam. Sections 3 and 28 of the Organic Act were the authority relied upon by the court in reaching this decision.

Thus, the Legislature, by the Organic Act, as sustained by Bordallo, supra, is the proper branch of GovGuam to authorize the disposition of the real property of GovGuam. The ultimate legality of any transfer of real property must be based upon legislation passed by the Legislature pursuant to Section 19 of the Organic Act (48 U.S.C. 1423(i)); and

Whereas: The Guam Legislature, pursuant to the powers granted by the Organic Act, has authorized land use by passage of zoning law, (see: Title 21 “Real Property”, Chapter 61 GCA, “Zoning Law” with applications to establishing zones, boundaries and [land] use regulations eg: §61210. Tumon Bay H Resort – Hotel Zone; §61211. Artero Urunao Property Zone H (with precise property description by lot number(s) metes-bounds, and reference to official maps); §61207. Tumon Commercial Zone et al) has described property for purpose of zoning administration, has enacted land use law by reference to cadastral base map(s) (ie: 1963 Drawing 10995 described in §61211 Title 21 GCA) and has enacted law prescribing the same type of master plan elements identified for the “Dos Amantes” Planning Area (see: Title 21 “Use and Development of Government and Other Land” Chapter 68, Article 6 “Southern Development Master Plan” Sections 68601 / 68610 pursuant to Guam Public Law No’s. 19-38 / 20-90); and

Whereas: The Office of the Attorney General provides Opinion by Memorandum to assist with interpretation of statutes applicable to Guam, offering three (3) pertinent opinions attached herewith, incorporated herein as Attachment No’s. 1, 2 and 3 (respectively, dtd. 5 December 1983, 14 October 2004 and February 5, 1990); and

Whereas: Supplementing the aforementioned and described United States and Guam Public Land Laws, directives and the like are numerous, successive federal and local government land transfer agreements, including deeds, prescribing detailed terms and conditions further governing specific returned land parcels / lots, whether held for protective use as Ancestral Public Domain by this LandBank Trust or

returned by and under supervision of the Guam Ancestral Lands Commission into private ownership for authorized reuse, redevelopment and / or public benefit use as the U.S. Congress and Guam Legislature have authorized; and

Whereas: Ancestral Land lot owners located within the vicinity of “Dos Amantes” Point have voluntarily organized in association with professional land use master planning professionals led by Daniel D. Swavely to provide a Land Use Master Plan on a pro bono (no fee) basis designed to address property problems inherent in lands returned to them by operation of the laws and transfer agreements described above, and have petitioned this LandBank Trust for adoption of the proposed “Preliminary Plan” as a Final Plan for governance of future improvement and economic development in this area which includes a large undeveloped, unimproved and unsurveyed portion of LandBank Trust Land – corpus (aka “Crown Land”), which proposed plan is provided in its entirety herewith and incorporated herein as Attachment No. 4; and

Whereas: To determine location, area and boundaries of returned lands and an equitable means for Real Property tax assessment, a uniform method for determining precise geographic information (such as property corners unified in accordance with the GGNTN) is required. Accordingly, this LandBank Trust’s adopted geographic information system (GIS) is provided herewith as mapped and computed upon Cadastral Base Map dtd 19 July 2005 attached herewith (Sheets 1-4), incorporated herein and adopted hereby as Attachment No. 5; and

Whereas: To provide utility service easements, rights of way and to resolve access problems with landlocked lots which were returned without access or viable access (see Attachment No. 4) this LandBank Trust’s Access and Traffic Circulation Plan is hereby provided herein as mapped and computed upon Cadastral Base Map dtd. 19 July 2005 attached herewith (Sheets 1-4), incorporated herein and adopted hereby as Attachment No. 5; and

Whereas: To provide initial land use guidelines for returned lands consistent with vicinity land use requirements and to guide property improvement and appraisal of property for fiscal purposes this LandBank Trust’s “Land Use Master Plan – Land Use Control System” is provided herein as mapped, computed and attached herewith as Attachment No. 4 with accompanied narrative also provided in Attachment No. 4, detailing Plan Administration and additional Proposed Implementation Initiatives, all incorporated herein and adopted hereby; and

Whereas: Federal deed restrictions on sale and / or lease of returned lands have been applied to certain returned land parcels, to wit: (excerpt from pages 8-10 Island of Guam, Government of Guam, Department of Land Management, Office of the Recorder, Instrument No. 638645 of June 6, 2001)

- a. GRANTEE’s use of the PROPERTY is limited to the uses authorized in this instrument as well as subparagraph c (Environmental Provisions) of that

certain Quitclaim Deed between the UNITED STATES and the GUAM ECONOMIC DEVELOPMENT AUTHORITY dated April 18, 2001 (attached as Attachment 1), Navy Identification No. N6274201RP00001, Instrument Number 636645, recorded at the Department of Land Management on April 25, 2001, and incorporated by reference.

b. Seven Year Restriction on Sale or Lease

1. The GRANTEE hereby covenants and agrees that the proceeds from any sale or lease of the PROPERTY (or any portion thereof) received by the GRANTEE during the first seven (7) years after the date of conveyance under that certain Quitclaim Deed between the UNITED STATES and the GUAM ECONOMIC DEVELOPMENT AUTHORITY dated April 18, 2001 (attached as Attachment 1) Navy Identification No. N6274201RP00001, Instrument Number 636645, recorded at the Department of Land Management on April 25, 2001, and incorporated by reference, shall be used to support the economic redevelopment of, or related to, the PROPERTY.
2. For Purposes of b. (1) above, the use of the proceeds from a sale or lease described in such subparagraph to pay for, or offset the cost of, public investment on or related to the PROPERTY for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the PROPERTY:
 - (i.) Road Construction.
 - (ii.) Transportation management facilities.
 - (iii.) Storm and sanitary sewer construction.
 - (iv.) Police and fire protection facilities and other public facilities.
 - (v.) Utility construction.
 - (vi.) Building rehabilitation.
 - (vii.) Pollution prevention equipment or facilities.
 - (viii.) Demolition.
 - (ix.) Disposal of hazardous materials generated by demolition.
 - (x.) Landscaping, grading, and other site or public improvements.
 - (xi.) Planning for or the marketing of the development and reuse of the PROPERTY.
3. The UNITED STATES may recoup from the GRANTEE such portion of the proceeds from a sale or lease described in b. (1) above as the Secretary of the Navy determines appropriate if the GRANTEE does not use the proceeds to support economic development of, or related to, the PROPERTY for the period specified in b. (1) above. Such proceeds from a sale or lease described in b. (1) may be used for offsite investment and redevelopment related to the economic development of the PROPERTY, as approved by the NAVY; such approval shall not be unreasonably withheld; and

Whereas: Government of Guam, Department of Land Management, Land Survey Division Drawing[s] Number 033FY98 / 14-98T646 by title "Guam Ancestral Lands – Municipalities of Dededo and Tamuning: Land Square 11, Sections 1, 2, 3 and 4" have not been approved by the Guam Ancestral Lands Commission as previously proposed by Department of Land Management; and

Whereas: Guam Ancestral Lands Commission (GALC) pursuant to federal property deed restrictions and reversionary provisions ("reservations, covenants, limitations, reversions, exceptions, restrictions and conditions") has instituted a seven (7) year "Prohibition of Sale" applicable by explicit GALC deed condition to returned lots of Ancestral Land to wit:

"The Grantee(s) hereby covenants and agrees that during the first seven (7) years after the date of conveyance under this deed, there shall be no selling of the property unless being sold only between the legitimate heir(s) or descendant(s)."

and

Whereas: The Attorney General of Guam Memorandum (Opinion) of February 5, 1990 (Ref: BOP90-0064) Attachment 3 herewith determines lands previously held by the federal government are not automatically zoned agricultural upon their transfer to the Government of Guam. Excerpt: "[zoning] would need the approval of the Governor and the Legislature before these properties would receive their proper zoning status" (page 2 Attachment 3 underscoring added); now, therefore:

Be It Resolved: That the Guam Ancestral LandBank Trust does hereby approve and adopt the attached "Land Use Master Plan for "Dos Amantes" Planning Area" dated 19 July 2005 Attachment No. 4, and does hereby approve and adopt the attached Cadastral Base Map for the Dos Amantes Planning Area (Sheets 1-4) also dated 19 July 2005 Attachment No. 5; and

Be It Hereby Further Resolved: That the hereby approved "Land Use Master Plan for "Dos Amantes" Planning Area" dated 19 July 2005 Attachment No. 4, and the attached Cadastral Base Map for the Dos Amantes Planning Area (Sheets 1-4) also dated 19 July 2005 Attachment No. 5, attached herewith, are incorporated herein and adopted hereby; and

Be It Hereby Further Resolved: Trustees of the Guam Ancestral Lands Commission LandBank Trust do hereby unite to urge the Guam Economic Development and Commerce Authority (GEDCA) Board of Directors to also adopt the "Land Use Master Plan for "Dos Amantes" Planning Area" and Cadastral Base Map (Sheets 1-4) also dated 19 July 2005 as the Government of Guam's Reuse and Redevelopment Plan for former U.S. military installations previously located in the Harmon Cliffline / Finegayan aka "Dos Amantes" Point vicinity; and

Be It Hereby Further Resolved: Trustees of the Guam Ancestral Lands Commission do also urge the 28th Guam Legislature and the Hon. Felix P. Camacho, Governor of Guam, to likewise approve the “Land Use Master Plan for “Dos Amantes” Planning Area” and Cadastral Base Map (Sheets 1-4) dated 19 July 2005 as the “Approved Land Use Maser Plan and Cadastral Base Map (Sheets 1-4) of 19 July 2005 for the “Dos Amantes” Planning Area”; and

Be It Hereby Further Resolved: Trustees of this LandBank Trust do hereby respectfully recommend the Guam Ancestral Lands Commission substitute the Cadastral Base Map dated 19 July 2005 attached herewith as Attachment No. 5 in-lieu-of draft, unapproved Department of Land Management, Land Survey Division Drawing Number 033FY98 / 14-98T646 Sheets 1-14 in its entirety; and

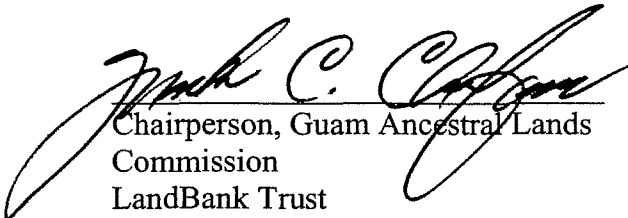
Be It Hereby Further Resolved: Pursuant to §24801 and 24803 Chapter 24, Title 11 GCA Notice of Delinquent Real Property Tax has been given to owners of recently returned Guam Ancestral Land lots. In consideration of the fact that federal government deeds restrict sale or lease of certain returned lands for a period of seven (7) years and this seven (7) year restriction also effectively precludes the landowners from using the proceeds of sale or lease for any purpose other than improvement of the land, and most Guam Ancestral land lots remain unzoned, in probate subject to survey, or, if surveyed but subject to Director of Land Management Moratorium on Recordation of Survey Maps platted for lots in the “Dos Amantes” Planning Area (effective September 2004 – ongoing) therefore of undetermined area and possibly uncertain access, the Trustees of this LandBank do hereby respectfully request the Real Property Tax Collector, Governor of Guam and 28th Guam Legislature defer Real Property Tax Assessment on Guam Ancestral Land lots for seven (7) years from the effective date of legislation enacting land-use controls for subject lots upon which an equitable basis for Real Property Tax Assessment may be made. LandBank Trustees hereby offer “Dos Amantes” Master Plan and Cadastral Base Map (Sheets 1-4) of 19 July 2005 as a suitable and commendable example of a master plan successfully addressing and resolving the significant land use issues, which are prerequisite to equitable Real Property Tax Assessment; and

Be It Hereby Further Resolved: Trustees of the Guam Ancestral Lands Commission LandBank Trust do hereby commend those Ancestral Land lot owners in the “Dos Amantes” area and their master land use planning consultants who have voluntarily joined in a commendable and exemplary grass roots planning effort all at their own expense to master plan the “Dos Amantes” area’s Ancestral Lands such that it may be accessed, improved, redeveloped and prepared for equitable tax assessment as well as highest and best reuse.

Be It Hereby Finally Resolved: Trustees of the Guam Ancestral Lands Commission LandBank Trust do hereby unite to urge the Director of Public Works to adopt the “Land Use Master Plan for “Dos Amantes” Planning Area” and Cadastral Base

Map (Sheets 1-4) dated 19 July 2005 as the Government of Guam's official street and highway plan for inclusion in the Department's "Guam 2020 Highway Master Plan".


Presented for Public Hearing 19 July 2005 as required by law.


Chairperson, Guam Ancestral Lands
Commission
LandBank Trust

(date)


Trustee, LandBank Trust

25 Aug 2005
(date)


Trustee, LandBank Trust

Aug. 25, 2005
(date)

Anderson V. P. ^{25 AUG} ₂₀₀₅
Trustee, LandBank Trust

25 AUG 2005
(date)

Rechen
Trustee, LandBank Trust

8/25/05
(date)

Sydia M. Dyer
Trustee, LandBank Trust

9/07/05
(date)

Trustee, LandBank Trust

(date)

HAGÁTNA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Mark C. Charfauros, Chairperson of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Handwritten signature]

NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTNA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Antonio A. Sablan, Vice Chairperson of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Handwritten signature]

NOTARY PUBLIC


JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Peter A. San Nicolas, Trustee of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC


JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Anthony J. Ada, Trustee of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC


JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Ronald F. Eclavea, Trustee of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC

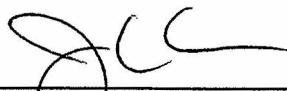
JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared Lydia M. Tyner, Trustee of the Guam Ancestral Lands Commission LandBank Trust, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC

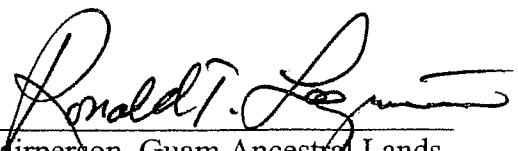
JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

Ratified Hereby By: Guam Ancestral Lands Commission, pursuant to Guam Public Law 25-45; 25-178; 25-180; 26-36; Governor's Executive Order No. 200219; and Grant Deed, Assignment and Trust Agreement of 18 February 2004 recorded as Document Instrument No. 688615, Office of the Recorder, Department of Land Management, Government of Guam.

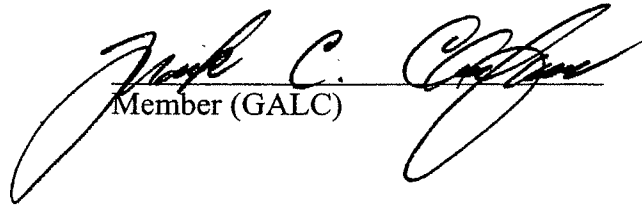
By virtue of this Ratification, Guam Ancestral Lands Commission does hereby, upon recommendation of Trustees of this Commission's LandBank Trust, approve and adopt by Ratification the "Land Use Master Plan for "Dos Amantes" Planning Area" dated 19 July 2005 Attachment No. 4, and does hereby approve and adopt the attached Cadastral Base Map for the "Dos Amantes" Planning Area also dated 19 July 2005 Attachment No. 5 attached herewith, incorporated herein and Ratified hereby, in-lieu-of and in substitution for unapproved draft sheets 1-14 of Department of Land Management Land Survey Division Drawing[s] Number 033FY98 / 14-98T646 titled "Ancestral Lands Municipalities of Dededo and Tamuning, Land Square 11, Sections 1, 2, 3 and 4".

The Executive Director, Guam Ancestral Lands Commission, is hereby directed to transmit certified copies of this Ratified Resolution inclusive of all Attachments (1-5) to the Governor of Guam for the Government of Guam Executive Branch; to the Speaker of the 28th Guam Legislature, for members of the Government of Guam Legislative Branch; to the Chairman, Guam Economic Development and Commerce Authority, for officers and members of the Board and Administrators and staff of the Authority; to the Director of Public Works for the Highway Planning Authorities; and to forthwith prominently post a complete copy of the approved Cadastral Base Map dated 19 July 2005 (Sheets 1-4) in the public area of the Administrative offices of the Commission for public use and information; and to forthwith maintain, to be provided upon request from the public, a complete copy of the approved "Master Plan for the "Dos Amantes" Planning Area" dated 19 July 2005 inclusive of all narrative, maps, attachments and this Ratified Resolution all for the public's future use as reference, information or for reproduction at page copy cost at requester's personal expense, to be fully paid by the public member requesting copies of documents or drawing reproductions.

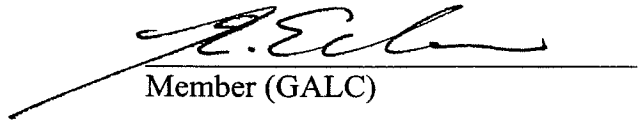
The Executive Director, Guam Ancestral Lands Commission, is hereby further directed to notify in writing by certified mail with return receipt, each Estate Administrator or Authorized Representative of returned land within the Planning Area addressed by this Ratified Resolution (see Cadastral Base Map, Attachment 5 to the Land Use Master Plan for the "Dos Amantes" Planning Area, dated 19 July 2005) that complete copies of this Resolution and Attachments are available at the Office of the Guam Ancestral Lands Commission for review of, and / or reproduction of, these documents during normal working hours of the Guam Ancestral Lands Commission.


Chairperson, Guam Ancestral Lands
Commission (GALC)

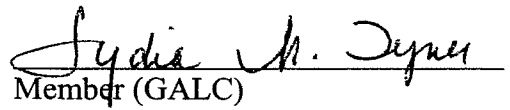
9/8/05
(date)


Member (GALC)

(date)


Member (GALC)

(date)


Member (GALC)

4/07/05
(date)

Maren G. C...
Member (GALC)

9/7/05
(date)

P. Matman
Member (GALC)

9/8/05
(date)

Member (GALC)

(date)

HAGÁTÑA, GUAM) ss:

On this 21 day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Ronald T. Laguana**, Acting Chairperson of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Mark C. Charfauros**, Acting Vice Chairperson of the Board of Commissioners of the Guam Ancestral Lands Commission known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



NOTARY PUBLIC


JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Ronald F. Eclavea**, Member of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Lydia M. Tyner**, Member of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





NOTARY PUBLIC


JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **Maria G. Cruz**, Secretary of the Board of Commissioners of the Guam Ancestral Lands Commission, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.




NOTARY PUBLIC


JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

HAGÁTÑA, GUAM) ss:

On this 13th day of September 2005, before me, a Notary Public, in and for Guam, U.S.A., personally appeared **James C. Matanane**, Member of the Board of Commissioners of the Guam Ancestral Lands Commission known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same as her/his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.




NOTARY PUBLIC

JOEY G. LEON GUERRERO
Notary Public
In and for Guam, U.S.A.
My Commission Expires: October 15, 2005
P.O. Box 2950, Hagatna, Guam 96932

ATTACHMENT No. 1



OFFICE OF THE ATTORNEY GENERAL

Government of Guam
7th Floor, Pacific News Building
238 O'Hara St.
Agana, Guam 96910
Tel.: 472-6841/6844

RICHARD G. OPPER
Attorney General

To Initial Date

AAG	7/18	12/5/83
DAG	re	12-5
FILES		

December 5, 1983

The Honorable Pilar C. Lujan
Chairperson, Committee on Economic
Development, Housing and Com-
munity Development
Seventeenth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Re: Authority of the Legislature to Concur on Land
Sale Applications
LEG 83-0029

Dear Chairperson:

This office is in receipt of your letter of September 28, 1983 in which you requested information on the following:

REQUEST: Does the Legislature have the power to subsequently concur or reject the Governor's transfer of land made pursuant to specific legislative authority?

ANSWER: Once the Legislature has granted the Governor authority by legislation to sell, lease or otherwise transfer government land, the Legislature has no further authority to concur with the transfers.

1. BACKGROUND

The Organic Act of Guam, Section 3(48 U.S.C. § 1421a) provides for a three branch system of government for Guam, consisting of an Executive, Legislative, and Judicial Branch and specifies that GovGuam shall have the powers set forth in the Act.

Pursuant to the setting forth of powers, section 28(b) (48 U.S.C. § 1421f), of the Organic Act provides as follows:

- (b) All other property, real and personal, owned by the United States within ninety days after the date of this Act [Organic Act], is hereby placed under the control of the Government of Guam, to be administered for the benefit of the people of Guam, and the Legislature shall have the

authority, subject to such limitation as may be imposed upon this Act by this [Organic Act] or subsequent acts of Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable. (Emphasis added)

Thus, the legislative branch of GovGuam is empowered by the Organic Act to be the controlling branch of GovGuam concerning the use and disposition of the real and personal property of GovGuam acquired pursuant to section 28(b), which includes the real property presently held by GovGuam.

A close reading of the powers granted by the Organic Act discloses no such concomitant power being granted to the executive or judicial branches by the Organic Act. Further in Bordallo v. Camacho, 475 F.2d 712 (1973), the Court held that the Guam Legislature is part of the Government of Guam, within the meaning of the Organic Act of 1950 and, as such, can put appropriate lawful conditions on any request by the Governor to sell, lease or otherwise dispose of land transferred by the United States to Guam. Sections 3 and 28 of the Organic Act were the authority relied upon by the court in reaching this decision.

Thus, the Legislature, by the Organic Act, as sustained by Bordallo, supra, is the proper branch of GovGuam to authorize the disposition of the real property of GovGuam. The ultimate legality of any transfer of real property must be based upon legislation passed by the Legislature pursuant to section 19 of the Organic Act (48 U.S.C. 1423(i)).

Pursuant to this power and responsibility, the first Guam Legislature in 1952 enacted P.L. 1-88, which in its pertinent part, provided a statutory system for the leasing and sale of GovGuam real property. This was formally chapter VI, Title XIV of the Government Code of Guam. This statutory system delegated to the executive branch the authority to lease or sell GovGuam real property pursuant to the procedural requirements specified in chapter VI.

In November 1973, P.L. 12-61 was passed by the Guam Legislature overriding the Governor's veto. Section 3 of P.L. 12-61 provides in part that: "Notwithstanding any other law to the contrary, the Land Transfer Board, the Governor of Guam, and the Director, Department of Land Management, shall not sell, lease or exchange government-owned property without the prior approval of the legislature". The legislature, by the enactment of this section, was either expressing its desire to more closely supervise the leasing, selling and exchanging of land owned by GovGuam by requiring a second legislative approval of land transfers and exchanges or the Legislature was simply restating its right and responsibility to legislate with respect to such real property pursuant to section 28(b) of the Organic Act. The former interpretation of section 3 of P.L. 12-61 has been followed by the government since its passage.

On January 1, 1975, section 1 of P.L. 12-226, commonly known as the Chamorro Land Trust Act, took effect. Section 1 of the Act repealed Chapters VI, leases and sales; VII, land use permits; VIII, agricultural leases; and XI, land development, of Title XIV (Land Management) of the Government Code of Guam.

Section 2 of P.L. 12-226 was enacted to replace Chapter VI which was repealed by section 1. However, section 2 was to take effect on the date of the first meeting of the Chamorro Land Trust Commission. There is no record of any meeting of the Chamorro Land Trust Commission. Therefore, the effect of P.L. 12-226 was to repeal the above enumerated sections of Title XIV. Consequently, GovGuam land can presently only be sold, leased or exchanged pursuant to other legislation. There are several enabling acts passed by the Legislature authorizing the executive branch to sell specific tracts of government owned land and acts to lease GovGuam land for commercial and agricultural purposes. The following legislation serves as authority given by the Legislature to the executive branch to sell, lease or exchange government land.

P.L. 10-195 and 11-91. P.L. 10-195 authorized the Governor to sell land in Pagat Pagacho, Agat. P.L. 11-91 authorized the Governor to sell land in the subdivisions of Pigua, Merizo. Both of these laws were repealed by P.L. 15-127. However, P.L. 15-127 also states that any lots which were unsold and upon which contracts were signed and executed at the time of the passage of the act could be sold in those subdivisions.

P.L. 11-127. Section 1 authorizes the Director of Land Management, with the approval of the Governor, to sell or lease the subdivision of Chalan Canton Tasi, Umatac. Section 4 sets up a priority system for the sale of these lots. Section 5 provides that the lots shall be sold or leased at less than fair market value under certain circumstances.

P.L. 15-131. Section 1 authorizes the Governor to subdivide into residential lots and sell certain government land in Umatac. The lots must be between 5,400 and 10,000 square feet in size. Section 2 restricts potential buyers to those who currently own no land in Guam and who are tenants of any part of the property to be sold. Lots are to be sold at less than fair market value, but in no case may the price exceed \$2,500.00. The buyer cannot sell any of the conveyed property within five years after the date of execution by the Governor.

P.L. 16-92. Section 3 authorizes the Governor to convey land where the government of Guam has, prior to May 10, 1982, entered into agreements to sell land without existing legislative authority. Essentially, this act provides remedial authorization for land transactions that took place in the past. Section 3 states, in part:

Notwithstanding any other provision of law with respect to the sale of government land including but not

limited to the Chamorro Land Trust Act and laws requiring the concurrence of the legislature in the sale of government land, the Governor shall sell government real property or exchange government real property with any person, partnership or corporation in accordance with the terms of any agreement entered prior to May 10, 1982 if such transaction was approved by a resolution of the Guam Legislature duly and regularly adopted prior to May 10, 1982.

P.L. 16-97. Section 1 authorizes the Governor to subdivide into lots and sell any unsold land in the government subdivision at Malojloj. The lots shall be sold at less than fair market value but for no more than \$2,500.00. Section 2 sets up by priority system for the sale of the lots. Section 3 provides that a covenant be included in the contract and deed stating that the buyer shall erect a residence on the lot in conformity with the building code.

P.L. 16-118. Section 1 provides that the Governor may convey the remaining unsold lots in the Talofofu subdivision to qualified purchasers at less than fair market value of the lot and at less than that expended by the government in developing and improving the lots. The selling price of the lot shall be \$2,500.00. Preferences for sale are then indicated. A restriction will be placed in the deed prohibiting alienation or sale of the real property for a period of ten years after the deed is executed with the exception that the title may pass under the laws of succession.

P.L. 15-6:4. This law provides general statutory authority for long term leases of government-owned land for agricultural purposes. Section (e) of the act specifically provides for legislative approval of each lease pursuant to P.L. 12-61:3 [as amended by P.L. 15-133:2]. Section (c) states that all leases shall be executed by the Governor, attested by the Lieutenant Governor and be approved as to form by the Attorney General. Section (b) requires written consent by the Governor and approval as to form by the Attorney General for any sublease.

P.L. 15-18. This law authorizes long term agricultural leases of government-owned land whereby the lessee pays no rent for the first five years of the lease.

Section 7 of P.L. 15-18 provides for the form of the lease.

Upon approval of the application [the Department of Agriculture] and approval of the legislature as required by P.L. 12-61 [as amended by P.L. 15-133:2] the Governor shall execute a lease with the applicant in a form approved by the Attorney General which, among other lease provisions, shall include the following:

1. A maximum term shall be fifty (50) years, to be divided into ten (10) year increments renewable at the option of the lessee.
2. No rent shall be collected for the first five (5) years operation under the lease and thereafter, rent will be due on an annual basis at the end of the sixth year and those years following.

P.L. 15-6:3. This law provides general statutory authority for long term leases of government land for commercial purposes. The leases are to be executed by the Governor, attested by the Lieutenant Governor and approved as to form by the Attorney General. Leases are to be approved by the Legislature as provided in Section 3 of P.L. 12-61 [as amended by 15-133:2]. Subleases require the consent of the Governor, approved as to form by the Attorney General and approved by the Legislature pursuant to P.L. 12-61:3 as amended.

DISCUSSION:

P.L. 15-133 section 2 amends section 3 of P.L. 12-61 and reads as follows:

Section 3. Notwithstanding any other provision or law to the contrary the Land Transfer Board, the Governor of Guam and the Director of the Department of Land Management shall not sell, lease or exchange government-owned property without the prior approval of the legislature. This section shall not apply to land use permits issued pursuant to chapter VII of the Government Code of Guam.

As mentioned above, this section could be interpreted as a reaffirmation of the legislative authority pursuant to section 28(b) of the Organic Act, such that the Legislature shall have authority subject to such limitations as may be imposed upon its acts by the Organic Act or subsequent acts of Congress to legislate with respect to property real and personal belonging to GovGuam in such manner as it may deem desirable. However, the interpretation of P.L. 15-133 section 2 has been such that the Legislature has approved the sale and lease of GovGuam land by resolution after selection of the individual buyers and lessees prior to the Attorney General's approval and the approval by the Governor of Guam. This second approval by the Legislature amounts to special legislation and is prohibited by 48 U.S.C. section 1471 (act of July 30, 1866, CH. 818, section 1, 24 stat.170). This section creates an absolute bar against special

-
1. (Chapter VII, Title XIV of GCG was repealed in its entirety by P.L. 12-226. No legislation for land use permits presently exists. The land Transfer Board was also repealed by P.L. 12-226.)

legislation in any of 24 enumerated cases, among these, the "[g]ranting to any ... individual [of] any special or exclusive privilege ... whatever". This section further provides: "In all other cases where a general law can be made applicable, no special law shall be enacted in any of the Territories of the United States by the Territorial legislatures thereof."

As applied to the subdivision laws described above, the legislature cannot pass special legislation by law. Currently, this is attempted by resolution. Resolutions are not provided for in the Organic Act. Pursuant to section 19 of the Organic Act (48 U.S.C. section 1421i): "Every bill passed by the legislature shall, before it becomes law, be entered upon the journal and presented to the Governor." Since resolutions are not presented to the Governor for his approval, they do not carry the weight of law and are merely advisory. It is axiomatic that the Legislature cannot authorize by resolution (which does not carry the weight of law) what it cannot authorize by the passage of a law. Thus, the requirement of a second legislative approval for the sale of government land to specified individuals is invalid.

The provisions for agricultural leases in P.L. 15-6:4 and P.L. 15-18 and commercial leases in P.L. 15-6:3 require legislative approval of leases pursuant to P.L. 12-61, as amended by P.L. 15-133:2. This again is a requirement for special legislation and is invalid. Declaring the provision for prior approval of the Legislature to be invalid does not affect the validity of the laws it purports to effect. "[W]hen the general object of the act can be achieved without the invalid part, the act will be upheld" (Sutherland, Statutory Construction, § 44.07 Volume 2, Fourth edition, 1972). The invalid requirement for approval of specific leases can be separated out of the existing laws without invalidating the laws in their entirety. "A provision is ... presumed severable if what remains after severance is fully operative as a law." (I.N.S. v. Chadha, 103 S.Ct. 2764, 2775 (June 23, 1983); Champlin Refining Co. v. Corporation Commission, 28 U.S. 210, 234, 52 S.Ct. 559, 565, 76 L. Ed. 1062 (1932)). Additionally, the provisions are prohibited by 48 U.S.C. section 1471 which prohibits the enactment of a special law "where a general law can be made applicable". The commercial and agricultural lease laws are of general application for all government land. The Legislature cannot require its approval of specific leases by enacting special laws or resolutions. Absent the invalid provisions, the general object of the acts, i.e. commercial and agricultural leases of government land, can be achieved.

48 U.S.C. section 1471 was applied to the passage of special legislation regarding a territorial land sale in Smith v. Government of Virgin Islands, 375 F.2d 714 (1967), which specifically found that a legislative act transferring property to a specified individual was a special law and was invalid.

CONCLUSION:

P.L. 12-61 as amended by P.L. 15-133:2 requires the Legislature to pass special legislation and is invalid pursuant to 48 U.S.C. section 1471. Therefore, the procedure for the sale and lease of government land is as follows:

1. The Legislature delegates to the executive department the authority to sell, lease or exchange government land. This may be accomplished by legislation identifying specific land to be alienated, as in the case of the subdivisions, or by general statutory law, as in the case of agricultural and commercial leases. This is the delegation of authority by the Legislature to the Executive Department to sell, lease, exchange, alienate or otherwise encumber government land pursuant to Section 28(b) of the Organic Act.
2. The executive branch then selects the individuals to whom government land is to be sold, leased or otherwise transferred according to the laws and regulations effecting the transfer through the applicable agency, i.e. the Department of Land Management or, in the case of agricultural leases, the Department of Agriculture. The agency then submits the lease or deed agreement to the Attorney General for legal approval and then to the Governor for final approval and execution. The document is then returned to Department of Land Management for recording.

As this opinion has reached the conclusion that a second approval by the Legislature of specific sales and leases is invalid on the above grounds, a discussion of the doctrine of separation of powers is not required. See generally, I.N.S. v. Chadha, 103 S.Ct. 2764 (June 23, 1983).

This memorandum supercedes prior memoranda by the Attorney General when inconsistent with their conclusions as to land sale and lease procedures. Specifically, but not limited to the following:

- A. Prior Approval of Legislature for Lease of Government-owned Housing, February 23, 1983.
- B. Current Law and Procedure for Sale or Lease of Government-owned Land by the Department of Land Management, January 4, 1983.
- C. Current Law and Procedure for Sale or Lease of Government-owned Land by the Department of Land Management, August 24, 1982 (Ref: AG82-0621).

Letter to the Honorable Pilar C. Lujan
December 5, 1983
Page 8

- D. Legislative Concurrence, June 29, 1981 (Ref: DLM81-0497).
- E. Sale of Fee Simple Interests of Government of Guam Land, March 10, 1980.

When making further inquiry regarding this memorandum or to the same subject matter, please make reference to the above file number. In an effort to expedite your inquiry, those requests referencing the file number will be given preferential consideration.

OFFICE OF THE ATTORNEY GENERAL

el
LEE M. CONOVER
Acting Attorney General



Seventeenth Guam Legislature

P. O. BOX CB-1
AGANA, TERRITORY OF GUAM
U.S.A. 96910

RECEIVED
OCT 1 1983
ATTORNEY GENERAL'S OFFICE

COMMITTEE ON ECONOMIC DEVELOPMENT,
HOUSING AND COMMUNITY DEVELOPMENT

September 28, 1983

MEMORANDUM:

TO: Attorney General of Guam

FROM: Chairwoman, Committee on Economic Development,
Housing and Community Development

SUBJECT: Inquiry on Land Sale by the Government

The Committee on Economic Development, Housing and Community Development has been receiving referrals of land transactions requiring legislative concurrence on land sale and public hearings have been conducted on some of these requests.

The authority of the Governor and the Legislature to concur on the land sale application has been challenged.

Please advise the committee on the authority of both the Governor and Legislature.

Thank you for your assistance.

PILAR C. LUJAN
Chairwoman

Chairwoman

PILAR C. LUJAN
Senator

Vice Chairman

Senator John Guan

Members

Senator John P. Aguon
Senator Franklin Gutierrez
Senator Don Parkinson
Senator Joseph F. Ada
Senator James Underwood II

ATTACHMENT No. 2



Office of the Attorney General
Douglas B. Moylan

Attorney General of Guam
Suite 2-200E, Judicial Center Bldg.
120 West O'Brien Drive
Hagåtña, Guam 96910

(671) 475-3324 (671) 472-2493 (fax)

law@mail.justice.gov.gu www.guamattorneygeneral.com

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MEMORANDUM (Opinion)

REF: GALC04-1021

To: Chairman, Guam Ancestral Lands Commission Land Bank Subcommittee
From: Attorney General
Subject: GALC Land Bank Program

LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By: A. Valencia
Time: 4:10
Date: 10/14/04

You have asked three questions for which you wish our Opinion.

First, you have hinted that the Public Law (26-36:6(f) [not Section 3] may mean that the GALC lacks authority to establish the Land Bank if it were not established by the end of FY 2004. Apparently it has not yet been established and we now are into FY 2005. In our opinion to Senator Carmen Fernandez on August 19, 2004, we determined that, unless consequences were attached to a failure to do something by a legislatively stated date, then the power did not expire. (LEG 04-0785) Since the circumstances are the same here, there is no expiration of your authority to create the land bank.

Secondly, you ask if the present rules and regulations are sufficient to permit you to solicit an RFP or issuance of annual land use licenses to further the process of the land bank program. First, you need to answer a few questions of ours. Has the land for the land bank been conveyed to the GALC? For what would be the Request for Proposals? To whom would you grant the annual land use licenses? You need policies to determine just what you can do with this land. Are there restrictions in the deeds granting the land to Guam? What are the consequences of violating these restrictions?

It seems to me that it is necessary to establish the Land Bank first, with its policies in place, before you can begin to license users for the land who are not already on it (such as government agencies). Before we can finally answer your question, please send us an outline of the status of the Land Bank program, the lands in it, and the purpose for which the land licensed will be used. Once we get a good idea of your program, we can answer your questions. There is nothing in the regulations passed by P.L. 25-178 which deals with the establishment of the Land Bank, the determination of what lands are to be in it, and the criteria for use of the funds generated by it. The seems to be intentional as the Land Bank is to be set up by the Commission as a separate entity. The rules as passed deal with how the claimants are to be

chosen, lands conveyed to them and the former claims extinguished.

The present rules do authorize, and the legislature has demanded, that you establish a land bank. You do have this power. In fact, 21 GCA §80104(e) specifically authorizes you to act as developer of the lands in the land bank. That subsection states:


(e) Land Bank. The Commission shall take title, as Trustees, of former Spanish Crown Lands and other non-ancestral lands that are conveyed by the Federal government to the government of Guam after the effective date of this Act, on behalf of ancestral landowners who, by virtue of continued government or public benefit use cannot regain possession or title to their ancestral lands.

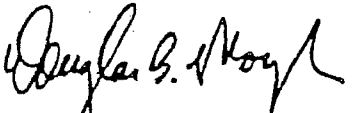
The Commission shall establish a Guam-based trust to administer all assets and revenues of the land bank of the aforementioned lands and manage the lands, and act as the developer of the lands, if necessary, to the highest and best use. The Commission shall establish rules and regulations pursuant to the Administration Adjudication Law for the Guam-based trust. The resulting income shall be used to provide just compensation for those dispossessed ancestral landowners.

Nevertheless, this section requires that the Commission act in their role as trustees of the Land Bank, not as the Ancestral Lands Commission alone. Therefore, you must exercise your authority to issue the RFP only under the authority of the trust.

we cannot determine from your request if this is being done. The existing rules authorize you to establish the trust, and get the government to convey the designated lands to the trust. Once this has been accomplished, you will have the power to seek the RFP, but under the trust only. So, the Rules are not sufficient since they make no mention of an existing trust within which you are to operate. What they do is authorize you to create the trust.

As to your second question, we cannot find that the GALC is required to work with any other agency. However, you must work with Land Management to determine the lands to be in the trust, with the Governor and Legislature to get the lands conveyed to the Trust (conveyance of government lands requires the concurrence of the Legislature), and with the TLUC and the other agencies to see to it that zoning is in place for whatever you want to do with the land. In other words, the Trust, as landowner, is not exempted from the various rules governing land development.


CHARLES H. TROUTMAN
Deputy Attorney General


DOUGLAS B. MOYLAN
Attorney General.

ATTACHMENT No. 3



GOVERNMENT OF GUAM
AGANA GUAM 96910

February 5, 1990

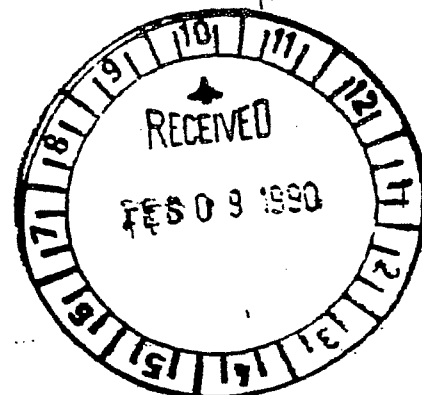
Memorandum (Opinion)

Ref: BOP 90-0064

To: Director, Bureau of Planning

From: Attorney General *EDD*

Subject: Zoning of Federal Lands



We are in receipt of your memorandum dated January 22, 1990 in which you requested the following:

REQUEST: Are lands currently held by the federal government automatically zoned agricultural upon their transfer to the government of Guam?

ANSWER: No.

STATEMENT OF FACTS:

The federal government has indicated a willingness to transfer portions of real property they currently hold to the government of Guam. The Director of the Bureau of Planning is inquiring whether these properties are automatically zoned agricultural upon their transfer to the government of Guam.

DISCUSSION:

The portion of Guam law most relevant to discovering the nature of lands transferred to the government of Guam is found in Government Code Section 13500, et. seq. Section 13503 of the Government Code provides:

§13503. Certain government lands designated "available lands". (a) All government lands excluding (1) lands held under agricultural lease, land use permit, or right of purchase lease, (2) all lands dedicated to a specific public use by law, and (3) all lands reserved in accordance with §13004 of this Code which reservations are submitted to and concurred in by the Legislature within ninety (90) days of the enactment of this Chapter, are hereby designated as available lands. (b) Any land acquired by the government by whatever means after the effective date of this Chapter shall acquire the status of available lands unless reserved in accordance with §13004 of this Code within sixty (60) days after its acquisition.

This section is contained in the Chamorro Land Trust Act (Public Law 12-226).

On January 1, 1975, Section 1 in its entirety and portions of Section 2 (Government Code Sections 13501 and 13503(b)) of P. L. 12-226, (commonly known as the Chamorro Land Trust Act), took effect. Section 1 of the Act repealed Chapters VI, leases and sales; VII, land use permits; VIII, agricultural leases; and XI, land development, of Title XIV (Land Management) of the Government Code of Guam.

However, the remaining portions of Section 2 were to take effect on the date of the first meeting of the Chamorro Land Trust Commission. There is no record of any meeting of the Chamorro Land Trust Commission. Therefore, the net effect of P. L. 12-226 was to repeal the above enumerated sections of Title XIV.

Since, Section 13503(b) of the Government Code is in effect, and Public Law 12-226 has repealed previous sections which dealt with the authority of the Department of Land Management to determine the classification of government property, any land acquired by the government after January 1, 1975 is to be considered "available lands". However, while newly acquired government properties are to be considered available lands, these properties are not automatically zoned by any previously determined zoning status. A review of the existing statutes fails to indicate that upon the acquisition by the government of Guam that property acquires a particular zoning status.

Rather, it appears from the duties and functions of the Central Planning Council (Government Code Sections 62010 et seq.) that the Central Planning Council* would have the authority to make an initial determination of the proper zoning of these properties and then present its determination to the Territorial Planning Commission. Once approved there, it would need the approval of the Governor and the Legislature before these properties would receive their proper zoning status. See Government Code Section 62010, et seq.

This memorandum is issued as an opinion of the Attorney General. For a faster response to any inquiry about this memorandum, please use the reference number shown.

OFFICE OF THE ATTORNEY GENERAL

* Note: Zoning process described herein was subsequently changed. Currently, only the Guam Legislature has the authority to set original land use zones.

By: *Robert H. Kono*
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