

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Resolution No. 258-30 (COR)

As amended.

Introduced by:

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R. J. Respicio

Judith T. Won Pat, Ed.D.

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T. C. Ada

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E. J.B. Calvo

J. V. Espaldon

Adolpho B. Palacios, Sr.

v. c. pangelinan

Telo Taitague

Ray Tenorio

Relative to expressing the strong and abiding opposition of *I Liheslaturan Guåhan* and the People of Guam to any use of eminent domain [condemnation] for the purpose of obtaining Guam lands for either the currently planned military buildup or other U.S. federal government purposes, *or both*.

1 **BE IT RESOLVED BY I MINA'TRENTA NA LIHESLATURAN**
2 **GUÅHAN:**

3 **WHEREAS**, the island of Guam has only one hundred forty-seven
4 thousand (147,000) acres of land available to it for all purposes; and

5 **WHEREAS**, the Department of Defense currently possesses forty
6 thousand (40,000) acres, constituting 27.21 percent of the island's land mass;
7 and

8 **WHEREAS**, the United States National Park Service currently possesses
9 six hundred ninety-five (695) acres, *or* 0.47 percent of the island; and

10 **WHEREAS**, the United States Fish & Wildlife Service currently
11 possesses three hundred eighty-five (385) acres, *or* 0.26 percent of the island;
12 and

13 **WHEREAS**, the Government of Guam currently possesses thirty-seven
14 thousand six hundred seventy-three and thirty-six (37,673.36) acres, *or* 25.6
15 percent of the island; and

16 **WHEREAS**, the private lands of Guam consist of *only* sixty-eight
17 thousand two hundred forty-six (68,246) acres, *or* 46.43 percent of the island;
18 and

19 **WHEREAS**, the federal Government, in its draft Environmental Impact
20 Statement (DEIS) for the military buildup, has stated it desires additional land
21 for its buildup for a Proposed Training Range Complex, offering two (2)
22 alternatives: Alternative A, identified as the preferred alternative, calls for
23 acquiring by lease *or* condemnation nine hundred twenty-one (921) acres for

1 this training range complex, which apparently is limited to public lands
2 belonging to the *Chamorro* Land Trust Commission and the Ancestral Lands
3 Commission, and Alternative B, east of Andy South, that calls for acquiring by
4 long-term lease *or* condemnation one thousand one hundred twenty-nine
5 (1,129) additional acres, some private and some public; and

6 **WHEREAS**, the DEIS also states that the military desires the former
7 FAA Housing Area, comprising six hundred eighty (680) acres of Ancestral
8 Lands, which would fill in a gap in the future Marine Corps base between
9 NCTS *Finegayan* and South *Finegayan*; and

10 **WHEREAS**, the Joint Guam Program Office (JGPO) has declined to be
11 clear regarding the possibility of eminent domain/condemnation being used
12 as a tool to acquire the desired access to additional land in Guam, either
13 directly *or* indirectly as a threat to back up “negotiations”; and

14 **WHEREAS**, the Joint Guam Program Office has stated that all options
15 “are on the table” when it comes to additional land needed by the military,
16 and that there is such a thing as “friendly condemnation”; and

17 **WHEREAS**, it appears that the federal government has *no* appreciation
18 for the history of Federal land takings in Guam, *or* the importance of land to
19 the people of Guam; and

20 **WHEREAS**, the history of land takings and the importance of land in
21 the local culture of a tiny island have resulted in a significant sensitivity to
22 Federal land takings on the part of the local people; and

1 **WHEREAS**, *Chamorro* historian, Reverend Joaquin Flores Sablan, wrote
2 that land and family lineage continued to be the basis of wealth and prestige:
3 “Land ownership was the greatest security, particularly inherited property
4 which they treated as a sacred trust from their parents. To part with the land
5 was the same as committing suicide.” [Destiny’s Landfall: A History of
6 Guam, by Robert F. Rogers, University of Hawai’I Press, 1995, page 142]; and

7 **WHEREAS**, the Naval government, from 1898 until 1950, completely
8 ignored the *Chamorro* people’s devotion to the land, issuing their second
9 order, on January 30, 1899, to confiscate land in the *Piti* area to use for a
10 coaling site and Navy yard. The people of Guam were never compensated for
11 that very first land taking, just the “first of a long series of controversial steps
12 whereby United States governmental agencies acquired large portions of land
13 on Guam” [Rogers, page 115]; and

14 **WHEREAS**, the Naval government held over one-third of the island of
15 Guam on the eve of World War II, and within three (3) months of the
16 liberation of the island in 1944, five (5) airfields were built; and

17 **WHEREAS**, by Public Law 594, the Land Acquisition Act passed by the
18 U.S. Congress on August 2, 1946, the Navy Department was authorized to
19 acquire private land needed for permanent military installations on the island,
20 but compensation was inadequate, due in part to a lack of proper land
21 valuation in the largely agrarian island, amounting to only pennies on the
22 dollar for the actual value of the land; and

1 **WHEREAS**, from 1947 to 1950, the main mission of Guam’s military
2 command was to complete building facilities, and for this purpose large
3 pieces of land were taken; and

4 **WHEREAS**, the postwar land takings were mixed in time and process
5 with limited and inadequate compensation for personal injury and death and
6 property damage under the Federally-created Land and Claims Commission;
7 and

8 **WHEREAS**, the United States federal government still has *not*
9 appreciated the connection between compensation for the sufferings of the
10 people of Guam at the hands of the Japanese occupiers and the takings of
11 land; and

12 **WHEREAS**, the Land and Claims Commission condemned land, but
13 became bogged down in the legal complexities of hundreds of property
14 transactions. Rogers states [p. 215] that, “The commission was understaffed
15 as well as inexperienced in real estate matters. Higher commands nonetheless
16 pressured the staff to meet tight deadlines for land transfers in order for
17 construction of new military projects to proceed”; and

18 **WHEREAS**, when former landowners *or* their heirs attempted to take
19 these injustices to Federal court for redress of the situation, they were told that
20 the statute of limitations had been exceeded; and

21 **WHEREAS**, without consultation with Guam officials *or* owners of
22 leased properties, the new civilian governor, Carlton Skinner, signed a quit-
23 claim deed on July 31, 1950, the day before the Organic Act went into effect,

1 whereby the Government of Guam transferred all condemned property to the
2 United States of America “for its own use.” This left the Navy and Air Force
3 in direct control of about forty-nine thousand six hundred (49,600) acres, *or*
4 over thirty-six percent (36%) of the island; and

5 **WHEREAS**, the very first case in the new court under the Organic Act,
6 which granted American citizenship to the *Chamorros*, was a retaking of all of
7 the previous takings, to ensure that *no* claim could be made that land could
8 *not* be taken from the *Chamorros* prior to their becoming American citizens;
9 and

10 **WHEREAS**, in 1977, the creation of the new War in the Pacific Memorial
11 Park saw the condemnation of coastal land in the *Agat* area, thus preventing
12 the construction of the *Agat* Marina for many years; and

13 **WHEREAS**, in the 1980’s, the U.S. Congress attempted to correct the
14 obvious injustice of the postwar land takings by authorizing the land taking
15 cases to be reopened and additional compensation be paid; and

16 **WHEREAS**, while many former landowners accepted the class action
17 settlement under this law, some previous landowners of large holdings, such
18 as those at Andersen Air Force Base and including the very land at NCTS
19 envisioned by the federal government for the new Marine Corps base, opted
20 out of the settlement and their claims against the federal government under
21 that law have *not* been settled to this day; and

22 **WHEREAS**, the final insult to the people of Guam came when the three
23 hundred eighty-five (385) acres of the former Naval Facility, Guam at *Ritidian*

1 Point was declared excess in the 1990's and was grabbed quietly, without
2 fanfare *or* advance notice, by the U.S. Fish & Wildlife Service, rather than
3 being returned to the original landowners via the Government of Guam; and

4 **WHEREAS**, a former Assistant U.S. Attorney handling land matters in
5 Guam in 2000 and 2001, freely admitted that many *Chamorro* landowners at
6 the time were cheated out of their land by land agents telling them that the
7 paperwork to be signed was compensation for damage to coconut trees *or* that
8 the land would be returned to the owner once there was no longer any need
9 for it; and

10 **WHEREAS**, this sordid history of the people of Guam's most precious
11 resource, other than its children, needs to be and must be appreciated by the
12 United States federal government; and

13 **WHEREAS**, in response, *I Liheslatura* has specifically enacted legislation
14 addressing Federal acquisition of property, including:

15 (a) Public Law 29-113, specifically §15105 of Chapter 15, Title 21
16 of the Guam Code Annotated, which calls for duly enacted legislation
17 by *I Liheslatura* to authorize "the acquisition by condemnation *or*
18 otherwise of private property" by means of Congressional
19 appropriation to acquire property for public use; and

20 (b) Public Law 30-21, specifically § 2401 (c) of Chapter 24, Title 1
21 of the Guam Code Annotated, which tasks the Guam First Commission
22 to determine which land the federal government may intend to lease *or*
23 sub-lease, exchange for other land, *or* purchase, and to report their

1 findings to *I Liheslatura* and *I Maga'lahi*, and also requires Legislative
2 approval of any Federal acquisition of government of Guam property,
3 whether by lease, sub-lease, exchange *or* sale; now, therefore, be it

4 **RESOLVED**, that *I Mina'Trenta Na Liheslaturan Guåhan* does hereby, on
5 behalf of the people of Guam, absolutely oppose the use, *or* threat of use, of
6 eminent domain/condemnation for any acquisition of any additional Guam
7 land, private *or* public, for any purpose whatsoever related to the planned
8 military buildup; and be it further

9 **RESOLVED**, that *I Mina'Trenta Na Liheslaturan Guåhan* does hereby, on
10 behalf of the people of Guam, demand negotiations at arms length, with a
11 level table, and without undue pressure being exerted on Guam landowners
12 by the United States federal government/Department of Defense, for the
13 acquisition of any additional land, public *or* private; and be it further

14 **RESOLVED**, that *I Mina'Trenta Na Liheslaturan Guåhan* does hereby, on
15 behalf of the people of Guam, demand dealings concerning land are held in
16 good faith between the United States federal government/Department of
17 Defense and private landowners that are willing to lease/sell their property to
18 the federal government, and are also held in good faith with the official
19 representatives of the people of Guam in discussing the potential lease of land
20 from the government of Guam; and be it further

21 **RESOLVED**, that *I Mina'Trenta Na Liheslaturan Guåhan* does hereby, on
22 behalf of the people of Guam, demand that the federal government renounce
23 any repeat of history, and declares that condemnation *SHALL NOT* be a tool

1 available to the federal government, either directly *or* through the use of
2 intimidation, in relation to the Guam military buildup; and be it further

3 **RESOLVED**, that *I Mina'Trenta Na Liheslaturan Guåhan* does hereby, on
4 behalf of the people of Guam, recognize and memorialize the many years of
5 injustice and mistreatment of the people of Guam, as reflected in the foregoing
6 history of Federal land takings; and be it further

7 **RESOLVED**, that the Speaker certify, and the Legislative Secretary
8 attest to, the adoption hereof, and that copies of the same be thereafter
9 transmitted to the Honorable Barack Obama, President of the United States; to
10 the Honorable Nancy Pelosi, Speaker of the United States House of
11 Representatives; to the Honorable Robert Byrd, President Pro Tem of the U.S.
12 Senate; to the Honorable Madeleine Z. Bordallo, Guam Delegate to Congress;
13 to the Honorable Ban Ki-moon, Secretary General of the United Nations; to
14 the Honorable Hillary Rodham Clinton, Secretary of State; to the Honorable
15 William Gates, Secretary of Defense; to the Honorable Ray Mabus, Secretary
16 of the Navy; to the Honorable Michael B. Donley, Secretary of the Air Force; to
17 the Honorable John M. McHugh, Secretary of the Army; to the Honorable Ken
18 Salazar, Secretary of Interior; to the Honorable Anthony Babauta, Assistant
19 Secretary of the Interior for Insular Affairs; to the Honorable Benigno Fitial,
20 Governor of the Commonwealth of the Northern Mariana Islands; and to the
21 Honorable Felix P. Camacho, *I Maga'lahaen Guåhan* (Governor of Guam).

DULY AND REGULARLY ADOPTED BY I MINA'TRENTA NA
LIHESLATURAN GUÅHAN ON THIS 22ND DAY OF JANUARY 2010.



JUDITH T. WON PAT, Ed.D.
Speaker



TINA ROSE MUÑA BARNES
Legislative Secretary