



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 6.5.98

Time: 3:00pm

Rec'd by: [Signature]

Print Name: P. Robert

JUN 04 1998

Refer to
Legislative Secretary

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuáttro na Liheslaturan Guáhan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	[Signature]
Time	4:55pm
Date	6.5.98

Dear Speaker Unpingco:

Enclosed please find Bill No. 383 (COR), "AN ACT TO ADD ARTICLE 12 TO CHAPTER 68 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE TIYAN TRUST", which I have signed into law today as **Public Law No. 24-214**.

This legislation establishes a trust for the property known as "Tiyan", in favor of the original landowners. The net income from the use of Tiyan is to be retained or invested and the proceeds distributed to the original landowners.

Before this legislation can be properly implemented, a number of clarifications need to be made. Some needed changes are the following:

1. The Trust should not be controlled by 4 Beneficiaries. This legislation provides that a majority of the Trustees are to be also Beneficiaries. If 4 individuals who are also Beneficiaries control the actions of the Trust, there would be the possibility of abuse of discretion in the management of the Trust.
2. The definition of who is are the beneficiaries is circular. On page 6, lines 3-6, the beneficiaries are stated to be: landowners of Tiyan as of the date of the acquisition of Tiyan by the United States, and the living descendants of such landowners." Then, on page 3, lines 1-5, the legislation

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states that beneficiaries means: "those original owners of Tiyan and their descendants as identified by the Trustees of the Tiyan Trust. A descendant of such owner must be able to show to the Trustees his or her direct decent [sic] from such owner." The definition of who is a beneficiary is subject to favoritism or interpretation by the Trustees, who are controlled by a clique of "beneficiaries". The definition of beneficiaries should not be open to interpretation.

3. It is not clear whether I Liheslaturan Guåhan is appropriating money for the Tiyan Trust in the current rentals of government agencies who now occupy Tiyan property in the interim, before this property is turned over to the government of Guam.

4. The Trustees are to serve without bond and are not responsible for accounting errors or errors in judgment. This is not an adequate standard, and would not be acceptable if a bank were the Trustee, or other reliable trust institution.

5. This legislation needs the full review of all of the original landowners of the property known as "Tiyan". The committee report of Bill No. 383 does not show that these individuals were contacted or were invited to testify, or are in concurrence with this legislation as presently drafted. Until a full review of the legislation is concurred in with the original landowners, and until legal review of the legislation is undertaken so that the interests of the original landowners are protected, this legislation will not be put into effect.

Very truly yours,


Carl T. C. Gutierrez
I Maga'lahaen Guåhan
Governor of Guam

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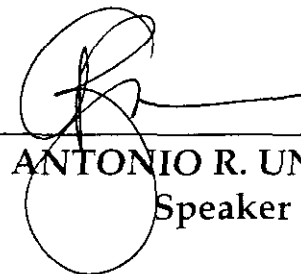
Attachment: copy attached for signed bill
 original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session


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

This is to certify that Bill No. 383 (COR), "AN ACT TO ADD ARTICLE 12 TO CHAPTER 68 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE TIYAN TRUST," was on the 22nd day of May, 1998, duly and regularly passed.



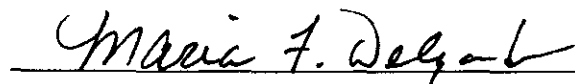
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

.....
This Act was received by *I Maga'lahaen Guahan* this 28 day of May, 1998,
at 3:00 o'clock P.M.



Maria F. Delgado
Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 6-4-98

Public Law No. 24-214

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1997 (FIRST) Regular Session

Bill No. 383 (COR)

As amended on the Floor.

Introduced by:

A. C. Lamorena, V.
Mark Forbes
F. B. Aguon, Jr.
T. C. Ada
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
L. F. Kasperbauer
C. A. Leon Guerrero
L. A. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

**AN ACT TO ADD ARTICLE 12 TO CHAPTER 68 OF
TITLE 21 OF THE GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING THE TIYAN TRUST.**

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

2 **Section 1.** Article 12 is hereby *added* to Chapter 68 of Title 21 of the Guam

3 Code Annotated to read as follows:

1 "ARTICLE 12.

2 THE TIYAN TRUST.

3 Section 68980. Statement of Legislative Findings and Purpose.

4 *I Liheslaturan Guahan* finds that the principle of returning to the original
5 landowners those Guam properties taken for military defense purposes
6 and then turned over to the government of Guam when defense needs no
7 longer exist is fair and equitable and is supported by all branches of the
8 government of Guam. However, in certain instances, when only a
9 relatively small proportion of a particular piece of excess military property
10 can be returned to the original landowners, it is unfair to the majority of
11 such owners whose land cannot be given back that only one (1) small set
12 of owners benefits from the return of the ancestral property. *I Liheslaturan*
13 *Guahan* finds the return to the government of Guam of the military
14 property known as, 'the United States Naval Air Station Agana' ('Brewer
15 Field') and now known as, 'Tiyán,' its original Chamorro name, is such an
16 instance since as long as the Guam International Air Terminal remains in
17 its current location abutting Tiyán, most of the land cannot be returned to
18 its original owners.

19 *I Liheslaturan Guahan* therefore declares that the purpose of this
20 Article establishing the Tiyán Trust is to set aside all the net income derived
21 from Tiyán into a trust fund to be administered for the benefit of the
22 original owners of the Tiyán property and their descendants, since in this
23 way, all of the original owners of Tiyán and their progeny can be fairly
24 treated.

25 Section 68981. Definitions. For purposes of this Article.

1 **Section 68981.1. Beneficiary.** 'Beneficiary' or
2 'Beneficiaries' mean those original owners of Tiyan and their
3 descendants as identified by the Trustees of the Tiyan Trust. A
4 descendant of such owner must be able to show to the Trustees his
5 or her direct decent from such owner;

6 **Section 68981.2. Funds.** 'Funds' for purpose of the
7 transfer of Tiyan funds to the Trust as required by §§68982 and 68984,
8 *infra*, means those funds available for such transfer after all the costs
9 and expenses of operating the lands from which such funds are
10 derived have been deducted therefrom so that when the transfer to
11 the Trust of such funds is completed, there will be no debt or
12 obligation that such funds must cover;

13 **Section 68981.3. GEDA.** 'GEDA' means the Guam
14 Economic Development Authority, created in Chapter 50, Division
15 2 of Title 12 of the Guam Code Annotated;

16 **Section 68981.4. Income.** 'Income' for purpose of
17 distribution of Tiyan income to the Beneficiaries as required by
18 §§68985 and 68987, *infra*, means the net income of the Tiyan Trust
19 after deduction therefrom of all authorized expenses of the Trust, as
20 determined by the Trustees;

21 **Section 68981.5. Tiyan.** 'Tiyan' means the property
22 constituting the former United States Naval Air Station Agaña also
23 known as 'Brewer Field' returned to the possession of the
24 government of Guam and now under the control of the Tiyan Reuse
25 Authority, the Antonio B. WonPat Guam International Airport

1 Authority and GEDA set-aside for Industrial Development;

2 **Section 68981.6. Tiyan Reuse Authority.** 'Tiyan
3 Reuse Authority' means that local agency, formerly known as the
4 Komitea Para Tiyan, created to act as caretaker of Tiyan under
5 Executive Order Number 95-02;

6 **Section 68981.7. Trust.** 'Trust' means the Tiyan
7 Trust created in this Article; and

8 **Section 68981.8. Trustees.** 'Trustees' mean those
9 persons charged with administration of the Tiyan Trust who shall be,
10 *ex officio*, the Administrator of the Guam Economic Development
11 Authority ('GEDA'), the Administrative Director of the Chamorro
12 Land Trust Commission, and seven (7) members of the public to be
13 appointed by *I Maga'lahaen Guahan* with the advice and consent of *I*
14 *LiheSlaturan Guahan* for a term of five (5) years. Four (4) of the
15 members shall be beneficiaries as defined under §68981.1 of Article
16 12, Chapter 68 of Title 21 of the Guam Code Annotated. The terms
17 of the *ex officio* members shall be conterminous with their respective
18 terms of office. The Trustees shall elect a chairperson from among
19 themselves.

20 **Section 68982. Creation of the Tiyan Trust.** The government
21 of Guam hereby creates a trust fund ('Tiyan Trust Fund') of all the monies
22 hereafter derived from Tiyan by way of lease or purchase or other method,
23 which funds are to be delivered by either the Tiyan Reuse Authority or
24 GEDA to the Trustees in trust for the purposes stated in this Article.

25 **Section 68983. Purpose of the Tiyan Trust.** The purpose of

1 the Tiyan Trust is the promotion of the health, education, welfare and well-
2 being of the Beneficiaries of the Trust.

3 **Section 68984. Transfer of Trust Funds.** The government of
4 Guam, the Tiyan Reuse Authority and GEDA ('grantors') hereby give,
5 grant and transfer to the Trustees all of the funds hereafter derived from
6 the use and development of Tiyan by the grantors, together with its income
7 and profits and any other sums that may be transferred to the Trustees or
8 their successors pursuant to the terms of this Article, to hold in trust for the
9 uses and purposes set forth in this Article.

10 **Section 68985. Investment and Application of Trust Fund and**
11 **Income.** The Trustees shall hold the Trust Fund and, in their discretion,
12 invest it or parts of it in securities in which trustees are permitted to invest
13 under the laws of Guam, or retain the monies in cash, and collect the
14 income. The Trustees shall, on a quarterly basis, and in such amounts as
15 in their discretion the Trustees shall deem proper, devote and apply the
16 Trust Fund and income from the Trust Fund exclusively to the Beneficiaries
17 in the proportions set out in §68987, *infra*.

18 **Section 68986. No Self-Dealing, Etc.** The Trustees shall
19 make distributions at times and in a manner so as not to subject the Trust
20 to tax under §4942 of the Internal Revenue Code ('Code'), as applicable to
21 Guam, and shall *not* engage in any act of self-dealing as defined in §4941
22 of the Code. The Trustees shall not retain any excess business holdings as
23 defined in §4943 of the Code and shall not make any investments as
24 defined in §4944 of the Code nor make any taxable expenditure which
25 would subject the Trust or the Trustees to tax under §4945 of the Code.

1 **Section 68987. Identification of Beneficiaries: Division of**
2 **Income Among Beneficiaries.** The Trustees shall establish a roster of
3 beneficiaries consisting of the names of all of the landowners of Tiyan as
4 of the date of the acquisition of Tiyan by the United States, and the living
5 descendants of such landowners. The income of the Trust shall be divided
6 among the Beneficiaries as follows: after each original landowner of Tiyan
7 is identified, the aggregate area of his or her parcel or parcels of land in
8 Tiyan shall be determined and the share that such landowner and his or
9 her direct descendants shall have in the income of the Trust shall be in the
10 proportion that such parcel or parcels of Tiyan land bear to the total size of
11 Tiyan. The Department of Land Management is directed and the Superior
12 Court of Guam is respectfully requested to assist the Trustees identifying
13 both the Beneficiaries and the original sizes of the separately-owned parcels
14 of land in Tiyan prior to their taking by the United States.

15 **Section 68988. Restriction on Use of Trust Fund.** The Trust
16 Fund and the income of the Trust Fund shall be devoted exclusively to the
17 purposes described in this Article and shall in no part and in no event be
18 given or contributed to or inure to the benefit of any private person or
19 corporation other than a Beneficiary. No part of the Trust Fund shall be
20 used to carry on propaganda or otherwise attempt to influence legislation,
21 or to participate in any political campaign.

22 **Section 68989. Additional Gifts to Fund.** Either the grantors or
23 other persons may, from time to time, make additional gifts of money or
24 property to the Trustees to become part of the Trust Fund.

25 **Section 68990. Good Faith Duty of Trustees.** The Trustees

1 shall be chargeable only with the exercise of good faith in carrying out the
2 provisions of the Trust. The Trustees shall not, in the absence of bad faith,
3 be responsible or accountable for errors of judgment in making the
4 determinations and distribution pursuant to the provisions of §68987, *supra*.
5 The Trustees shall serve without bond.

6 **Section 68991. Reimbursement and Compensation of Trustees.**

7 The Trustees shall be reimbursed from revenues derived from the lease of
8 the Tiyan properties for all expenses reasonably incurred by them in the
9 administration of the Trust Fund. No part of such expenses shall be paid
10 from the Trust Fund. The Trustees shall serve without compensation.

11 **Section 68992. Decision of Majority of Trustees.**

12 The act of a majority of Trustees on all matters pertaining to the Trust, including the
13 investment and distribution of funds, shall be conclusive. Evidence of such
14 majority actions shall be in writing and shall be filed with the Office of *I*
15 *Maga'lahaen Guahan* and the Office of the Speaker of *I Liheslaturan Guahan*.

16 **Section 68993. Control of Funds.**

17 A Federally-insured bank with offices in Guam selected by the Trustees shall have custody of the
18 securities and cash of the Trust Fund. Such bank shall have the right to
19 register securities or other property held under and pursuant to this Article
20 in the name of its nominee.

21 **Section 68994. Gifts Irrevocable.**

22 Gifts made in trust to the Trustees under this Article shall be irrevocable. If it shall be determined by
23 the Department of Revenue and Taxation, subsequent to the creation of this
24 Trust and the transfer of any funds to the Trustees by the grantors or any
25 other person, that the Trust Fund is *not* exempt from the payment of

1 income tax upon its income or that the non-governmental donors to the
2 Fund may not be entitled to charitable deductions for income tax purposes
3 for contributions made thereto in the manner and to the full extent
4 provided by the Code, then such gifts as remain in the Fund at the time of
5 such determination shall be given by the Trustees to a qualified tax-exempt
6 charitable organizations selected by the Trustees to best carry out the
7 purposes of this Trust. This Trust shall thereupon terminate.

8 **Section 68995. Protection of Trust Fund.** The Trustees are
9 authorized to do all things deemed essential or advisable for the protection
10 of the Trust Fund.

11 **Section 68996. Dissemination of Information; Employment of**
12 **Personnel.** In properly carrying out and aiding the purposes and objects
13 of the Trust, the Trustees shall have full power and authority:

14 **Section 68996.1. Employ Others.** To employ and pay
15 attorneys, investigators, and such assistants and employees of every
16 kind as they may deem necessary;

17 **Section 68996.2. Distribute Notices.** To buy, print,
18 publish and/or distribute, by mail or otherwise, to whom they may
19 think proper, appropriate cards, notices and information; and

20 **Section 68996.3. Disseminate Information.** To
21 disseminate by all lawful means such information as in the judgment
22 of the Trustees may be useful in carrying out the purposes of the
23 Tiyan Trust.

24 **Section 68997. Explanation of Trustees' Powers.** No
25 powers granted in this Article to the Trustees, or accorded them by law,

1 shall be interpreted to give the Trustees, the grantors or any other person
2 the power to dispose of all or part of the Trust income or principal for less
3 than full consideration, or to empower the grantors or any of them to
4 borrow all or part of the trust income or principal without giving sufficient
5 security and paying suitable interest. No person or persons except the
6 Trustees shall have the power to vote any voting stock held by the Trust,
7 to direct or prohibit specific investments or re-investments of Trust
8 property, or to exchange Trust property for other property of equal value.

9 **Section 68998. Trustees' Annual Accounting.** The Trustees
10 shall render an annual accounting which shall be conclusive and binding
11 on all interested parties if no written objection is filed with the Trustees
12 within sixty (60) days of the date of their accounting.

13 **Section 68999. Construction of Trust.** The Trustees shall
14 have full power to construe any provision of this Article relating to their
15 duties or decisions where the intention of *I Liheslaturan Guahan* may appear
16 uncertain or ambiguous.

17 **Section 69000. Selection of Beneficiaries by Court on Failure of**
18 **Trustees to Act.** The Trustees are empowered to designate the
19 Beneficiaries, pursuant to the provisions of §68987, *supra*. In the event the
20 Trustees shall fail to exercise this power within a reasonable time after
21 enactment of this Article, such power may be exercised by the Superior
22 Court of Guam.

23 **Section 69001. Development of Rules and Regulations.**
24 Within ninety (90) days of enactment of this Act, the Trustees shall develop
25 rules and regulations under the Administrative Adjudication Law in order

1 to implement this Act and its purposes, including the administration of the
2 Trust Fund.

3 **Section 69002. Severability.** If any provision of this Article or
4 the application thereof to any person or circumstance is held invalid, such
5 invalidity shall not affect other provisions or applications of the Article
6 which can be given effect without the invalid provision or application, and
7 to this end, the provisions of this Article are severable.”

24th Guam Legislature
Committee on Rules, Government
Reform and Federal Affairs
Senator Mark Forbes, Chairman



MAR 18 1998

Speaker Antonio R. Unpingco
Twenty-fourth Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Rules, Government Reform and Federal Affairs, to which Bill No. 383 was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 383** "An act to add Article 12 to Chapter 68, Title 21, Guam Code Annotated, to establish the Tiyan Trust for the benefit of the former owners and their descendants of that property now in the possession of the government of Guam consisting of the former U.S. Naval Air Station Agana known as Brewer Field now under the control of the Tiyan Reuse Authority and the Guam Economic Development Authority."

The voting record is as follows:

TO PASS	<u>10</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Thank you and si Yu'os ma'ase for your attention to this matter.


MARK FORBES

Attachments

24th Guam Legislature
Committee on Rules, Government
Reform and Federal Affairs
Senator Mark Forbes, Chairman



MEMORANDUM

TO: Committee Members

FR: ~~Chairman~~

SUBJECT: Committee Report- BILL NO. 383 "An act to add Article 12 to Chapter 68, Title 21, Guam Code Annotated, to establish the Tiyan Trust for the benefit of the former owners and their descendants of that property now in the possession of the government of Guam consisting of the former U.S. Naval Air Station Agana known as Brewer Field now under the control of the Tiyan Reuse Authority and the Guam Economic Development Authority."

Transmitted herewith for your information and action is the report on Bill No. 383 from the Committee on Rules, Government Reform and Federal Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 383
4. Public Hearing Sign-in Sheet
5. Written Testimony
6. Fiscal Note/Fiscal Note Waiver
7. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.



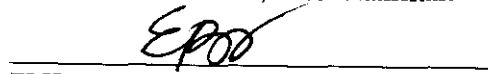

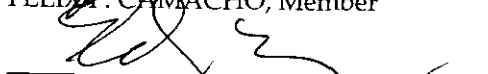

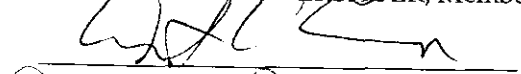
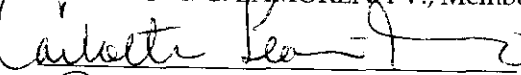
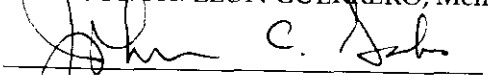

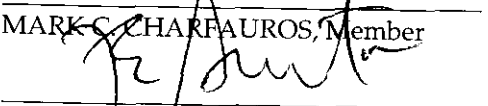
MARK FORBES

Attachments

Committee on Rules, Government Reform and Federal Affairs
Twenty Fourth Guam Legislature

Voting Record

BILL NO. 383 "An act to add Article 12 to Chapter 68, Title 21, Guam Code Annotated, to establish the Tiyan Trust for the benefit of the former owners and their descendants of that property now in the possession of the government of Guam consisting of the former U.S. Naval Air Station Agana known as Brewer Field now under the control of the Tiyan Reuse Authority and the Guam Economic Development Authority."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK FORBES, Chairman	✓	_____	_____	_____
 ANTHONY C. BLAZ, Vice-Chairman	✓	_____	_____	_____
 ELIZABETH BARRETT-ANDERSON, Member	✓	_____	_____	_____
JOANNE M. S. BROWN, Member	_____	_____	_____	_____
 FELIX F. CAMACHO, Member	✓	_____	_____	_____
 EDUARDO J. CRUZ, M.D., Member	✓	_____	_____	_____
 LAWRENCE F. KASPERBAUER, Member	✓	_____	_____	_____
 ALBERTO A. C. LAMORENA V., Member	✓	_____	_____	_____
 CARLOTTA A. LEON GUERRERO, Member	✓	_____	_____	_____
 JOHN C. SALAS, Member	✓	_____	_____	_____
 MARK C. CHARFAUROS, Member	_____	_____	_____	_____
 FRANCIS E. SANTOS, Member	✓	_____	_____	_____
ANTONIO R. UNPINGCO, Member	_____	_____	_____	_____

Twenty-Fourth Guam Legislature

**Committee On Rules,
Government Reform & Federal Affairs
Senator Mark Forbes, Chairman**

**Committee Report
on
Bill No. 383**

“An act to add Article 12 to Chapter 68, Title 21, Guam Code Annotated, to establish the Tiyan Trust for the benefit of the former owners and their descendants of that property now in the possession of the government of Guam consisting of the former U.S. Naval Air Station Agana known as Brewer Field now under the control of the Tiyan Reuse Authority and the Guam Economic Development Authority.”

I. OVERVIEW

The Committee on Rules, Government Reform and Federal Affairs held a public hearing on Tuesday, March 10, 1998 at 10:35 a.m. in the conference room of the Chairman of the Committee on Rules, Government Reform and Federal Affairs. Public Notice of the hearing was announced in the March 5th, 6th, 8th, and 10th, 1998 issues of the Pacific Daily News.

Senators in attendance were:

Senator Mark Forbes, Chairman
Senator Edwardo J. Cruz, Member
Senator Frank Blas Aguon Jr.

Appearing before the Committee to testify on the bill:

Ms. Beverly Laguana Borja
Mr. Ronald T. Laguana

Submitting written testimony on the bill:

Ms. Beverly Laguana Borja (attached)

II. SUMMARY OF TESTIMONY

Ms. Beverly Laguana Borja read prepared testimony (attached) **in favor** of Bill No. 383. In her testimony, Ms. Borja described how her grandfather, the late Jose Padilla Laguana, farmed on the more than seven hectares of land in "Tuyan" (Tiyan), which he inherited from his father, Jose Aguon Laguana. She recounted how her grandparents worked hard farming their land, in order to provide sustenance for their family. She told of how they had to resort to hiding their livestock during the Japanese occupation of Guam. Ms. Borja related the story of her grandfather's departure from the farm to work as a carpenter, first for Dillingham and eventually for the Naval Hospital. During this time, Jose Padilla Laguana left the cultivation of his family's farm to his two sons, Carlos and Jose. Soon after, Jose was approached by a man in uniform, who told him that his farmland at Tiyan was needed by the U.S. government. In return for Jose's land, the man in uniform stated that he would receive compensation through a land exchange. However, upon his death in 1968, Jose Laguana was never given title to any land by the U.S. government. In closing, Ms. Borja appealed to the Committee and the members of the Legislature to correct this injustice.

Mr. Ronald T. Laguana, Ms. Borja's brother, also presented oral testimony **in favor** of Bill No. 383. Mr. Laguana stated that he represented his family and other Chamorro families who lived in Tiyan. Mr. Laguana vehemently stated that this highly important issue had to be addressed and that there had to be some resolution for the families of the Tiyan landowners. Mr. Laguana appealed to the Committee to pass this bill, as a start, because their families have no land. He asked that the Legislature act on Bill 383 and "give a little" so that his family can be fairly compensated for the land taken from his grandfather, the late Jose Padilla Laguana.

The Chairman, Senator Forbes indicated his strong support for this measure and indicated his desire to co-sponsor Bill 383. Senator Frank Aguon also stated that he supports the passage of Bill 383.

III. FINDINGS AND RECOMMENDATION

The Committee on Rules, Government Reform and Federal Affairs finds that Bill No. 383 would help provide redress for the unjust taking of lands from those Chamorros living in Tiyan. These original landowners were promised fair compensation for their land by the U.S. government decades ago. The Committee finds that Bill 383 provides a mechanism by which the heirs of the original landowners can receive compensation for those lands which cannot be given back to them. Due to the operations of the Guam International Air Terminal, it would not be feasible to return these properties to their original landowners. However, they and their descendants should not be left without any redress at all. Therefore, the Committee finds that the establishment of the Tiyan Trust wherein all the net income from Tiyan would be deposited into a fund administered for the benefit of the original landowners in Tiyan and their descendants, would help correct the grave injustice committed against these people.

Accordingly, the Committee on Rules, Government Reform and Federal Affairs, to which Bill No. 383 was referred does hereby submit its findings and recommendations to the Twenty-fourth Guam Legislature **TO DO PASS BILL NO. 383** "An act to add Article 12 to Chapter 68, Title 21, Guam Code Annotated, to establish the Tiyan Trust for the benefit of the former owners and their descendants of that property now in the possession of the government of Guam consisting of the former U.S. Naval Air Station Agana known as Brewer Field now under the control of the Tiyan Reuse Authority and the Guam Economic Development Authority."

24th Guam Legislature
Committee on Rules, Government
Reform and Federal Affairs
Senator Mark Forbes, Chairman



FILE COPY

SEP 23 1997

[Handwritten signature and date 9-23]

MEMORANDUM

TO: Chairman
Committee on Rules, Government Reform and Federal Affairs

FROM: Chairman
Committee on Rules, Government Reform and Federal Affairs

SUBJECT: Referral- Bill No. 383

The above Bill is referred to your Committee as the principal committee. It is recommended you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

TESTIMONY ON BILL NO. 383

By BEVERLY TENORIO LAGUANA BORJA

March 11, 1998

Good Morning Mr. Chairman and Members of this Committee:

My name is Beverly Tenorio Laguana Borja, and I am, the great-grand-daughter of Jose Aguon Laguana ; the grand-daughter of the late Jose Padilla Laguana, and the daughter of the late Carlos Cruz Laguana (dec.1991). I am here to tell you a short but true story told to me by my late father Carlos, and by his younger brother Jose Cruz Laguana who is unable to be here with us today. I do this because this story is a very "touching " one . One that I hope may even touch you and others in this room.... one that my 9 brothers and sisters and I feel "should be told".

Once upon a time, there was a Chamoru named Jose Padilla Laguana. He farmed for a living, on more than 7 hectares of land he had inherited from his father, Jose Aguon Laguana. This land, known as Lot No. 2156 was at a place called "Tujan" (Tijan). He and his wife Rita Dela Torre Cruz Laguana and his 8 children worked diligently to survive by growing rows of all kinds of vegetables and fruit trees which included corn, beans, taro, bananas, avocados, mangoes that would bear fruit almost year-round, and even coconuts. He would either sell his produce to the market, share and trade them with neighbors and relatives, and with the coconuts.... he and his sons would open, dry and sell the copra for a very good price. You see, Jose needed US\$66.00 to buy some fencing. He wanted to raise some pigs and cows....Jose was going "big time". And he did! He raised so many pigs and cows that his sons would always talk about how hard it was to do this kind of work....."Just to survive!", they would say.

When the Japanese came though, work became even harder. Jose would send his two sons faraway to Machanahanao, now known as Machanao (the U.S. Government-pronounced way), where his sister " Naniyang" (Juana Laguana Manibusan, now deceased) lived. There, Jose's sons, Carlos and Jose would hide the cows and the pigs because they said , that "the Japanese would kill for meat". When the animals were slaughtered, Naniyang's two sons, Jose L. Manibusan and Antonio L. Manibusan would have to

hang the meats on trees to keep the litai (iguana) and other scavengers from getting to the them. This was a funny sight for Jose and Carlos.

Then, the Americans came, Guam was so-called "liberated" and Jose Padilla Laguana was called to work as a carpenter for Dillingham, a company contracted to build for the U.S. military. Young Carlos and young Jose would then be left with all the work at the farm. One day, Jose was called to work, again as a carpenter but this time, for the Naval Hospital. A few years later Jose was approached by a somewhat distinguished man in uniform. He told Jose that his land at Tiyan was needed by the U.S. Government and that he would be compensated by receiving land in exchange for it.

He went home and told his family what happened. Carlos asked his father, " why do we have to move from here, Tata?". Jose responded tearfully, "the Captain, (his superior) was right there, so I had no choice." "They promised us land somewhere else," he said sadly. Jose's wife cried.

Mr. Chairman, I tag this story today, by telling you and the members of this committee that that land exchange never , ever took place. Jose, my grand-father was given government land to farm on, but the government never gave him title to any land. He died in 1968. He was a proud man who believed that being liberated meant not dumping 5-gallon cans of sewage/defecated waste in the ocean for the Japanese anymore. It meant the end of hostile life under Japanese rule. It meant freedom and peace again...it meant rights and opportunities...a bright future for his family...I think he was talking about what they call " the American Dream" but for us, me and siblings....we only want the Guamanian dream, the dream to touch the soil of our birthright....to stand on itto live on it....to pass it on so that one day, my family's children and their children will know where they came from... and know what they are truly made of. Jose Padilla Laguana, was never fairly compensated for the land that was taken away from him and his family. This land, my birthright, my brothers' and sisters' birthright, my 25 other cousins' birthright, Jose's great-grandchildren's birthright.....was taken away and never returned! Sad thing is....I still see this property every time I pass by Tiyan. I can even see the banana trees, the mango trees, even the

coconut trees. And that's just it.....I can only see it. I can't even touch it! Because there's ironically a fence around it. Not the kind that fences the pigs and cows in, but the kind that keeps me and my family away from it. I always ask why and think....."so close...yet so far away"?

I now ask you Mr. Chairman , on behalf of the all the descendants of Jose Padilla Laguanato please fix this injustice. It is too late for Tata.....too late for "Daddy".... but not too late for me....because I am still breathing.....I am aliveI and my brothers and sisters will continue to follow through because this issue is still unresolved. So please Mr. Chairman, urge your colleagues in the Legislature to "do the right thing". Do it so we can move on. Do it so we can close this chapter in my family's history and the histories of other Tiyan landowners who have their own true stories to tell as well... Stories that I am sure are similar to my Tata's story. The futures and lives of Tiyan landowners and their descendants lie in your hands and the hands of this Legislature. I pray that you do not allow this injustice to continue.

Thank you for holding this public hearing....and I and my family thank you for this opportunity to come before you today.

Si Yu'os Ma'ase!!!

**I famaguon defunto Carlos Cruz Laguana,
lahin Jose Padilla Laguana, dec., landowner,
Lot No. 2156, Tiyan, Guam**

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BBMR-F7

Bill Number: 383 (cor) Date Received: September 25, 1997
 Amendatory Bill: No Date Reviewed: October 09, 1997

Department/Agency Affected: Guam Economic Development Authority
 Department/Agency Head: Ed Untalan, Administrator
 Total FY Appropriation to Date: Autonomous

Bill Title (preamble): *AN ACT TO ADD ARTICLE 12 TO CHAPTER 88, TITLE 21, GUAM CODE ANNOTATED, TO ESTABLISH THE TIYAN TRUST FOR THE BENEFIT OF THE FORMER OWNERS AND THEIR DESCENDANTS OF THAT PROPERTY NOW IN THE POSSESSION OF THE GOVERNMENT OF GUAM CONSISTING OF THE FORMER U.S. NAVAL AIR STATION AGANA KNOWN AS BREWER FIELD NOW UNDER THE CONTROL OF THE TIYAN REUSE AUTHORITY AND THE GUAM ECONOMIC DEVELOPMENT AUTHORITY.*

Change in Law: N/A

Bill's Impact on Present Program Funding:
 Increase 11 Decrease _____ Reallocation _____ No Change _____

Bill is for:
 Operations _____ Capital Improvement _____ Other X

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
<i>Autonomous</i>	<u>11</u>		

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL	<u>11</u>					
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? Yes - IF NO, ADD'L AMOUNT REQUIRED \$ _____
 AGENCY/PERSON/DATE CONTACTED: _____

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	<u>11</u>					
OTHER						
TOTAL						

ANALYST Md. DATE 10/22/97 DIRECTOR Joseph Rivera DATE NOV 5 1997
 M. Dizon Joseph E. Rivera Acting

FOOTNOTES: See attached.

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Bill 383 proposes to establish the Tiyan Trust for the benefit of the former owners and their descendants of the former Naval Air Station. This trust is to be created from all money derived from Tiyan via leases, purchases or any other method where funds are delivered to the Tiyan Reuse Authority or the Guam Economic Development Authority (GEDA).

In P.L. 24-59 the Komitea Para Tiyan received \$2,700,000 from the General Fund. Currently the revenue generated from Tiyan is a result of rental income from Guam Housing Corporation (GHC) which is \$135,000 to date and in turn goes into the Tiyan Revolving Fund that has been placed in reserve. If these funds are placed into a trust the Komitea may require additional funds from the General Fund to subsidize its utility obligations.