


Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor


336


The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 393 (LS), "AN ACT TO ZONE LOT NO. 5049-2-R1, MUNICIPALITY OF TAMUNING," now designated as **Public Law 27-160**.

Sinseru yan Magåhet,



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

Attachment: copy attached of signed bill

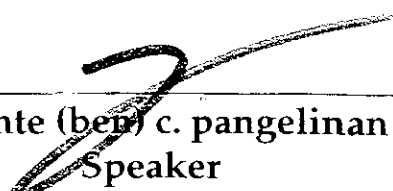
cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary

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

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


This is to certify that Bill No. 393 (LS), "AN ACT TO ZONE LOT NO. 5049-2-R1, MUNICIPALITY OF TAMUNING," was on the 20th day of December, 2004, duly and regularly passed.

Attested:



vicente (ben) c. pangelinan
Speaker


Tina Rose Muña Barnes
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guāhan* this 20 day of December, 2004,
at 5:50 o'clock P.M.


Assistant Staff Officer
Maga'laha'i's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guāhan

Date: December 30, 2004

Public Law No. 27-160

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

Bill No. 393 (LS)

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

Introduced by:

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

**AN ACT TO ZONE LOT NO. 5049-2-R1, MUNICIPALITY OF
TAMUNING.**

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

2 **Section 1. Legislative Statement.** The owner of Lot No. 5049-2-R1,
3 located in the Municipality of Tamuning, containing an area of 24,832 square
4 meters, has requested the assistance of *I Liheslaturan Guåhan* to zone the lot, as
5 its zoning is currently undesignated.

6 Because the property is located on Route 1, Marine Corps Drive,
7 surrounded by commercial development, zoning the property to Commercial

1 and Limited Industrial will *not* adversely affect the surrounding
2 neighborhood, posing little to no impact on the existing environment.

3 Rather, it will be favorable to the maximum utilization of property and
4 will yield the government additional revenues in the form of increased real
5 estate taxes, commercial and other fees upon development of the lot.

6 It is therefore the intent of *I Liheslaturan Guðhan* to zone said property to
7 Commercial and Limited Industrial.

8 **Section 2.** Lot No. 5049-2-R1, Municipality of Tamuning, containing
9 an area of 24,832 square meters as shown on Land Management Drawing No.
10 167 Fiscal Year 2004, is hereby zoned as follows:

11 (a) The first four hundred (400) feet from the property line off
12 Route 1 shall be zoned as "C", Commercial Zone.

13 (b) The remainder of the lot shall be zoned as "M1", Limited
14 Industrial Zone.

15 **Section 3. Severability.** *If* any provision of this Law or its application
16 to any person or circumstance is found to be invalid or contrary to law, such
17 invalidity shall *not* affect other provisions or applications of this Law which
18 can be given effect without the invalid provisions or application, and to this
19 end the provisions of this Law are severable.



Office of
Mina' Bente Siete Na Liheslaturan Guahan

vicente (ben) c. pangelinan
Speaker

Committee on Utilities and Land
Chairman

DEC 15 20

The 27th Guam Legislature
I Mina' Bente Siete Na Liheslaturan Guahan
155 Hesler Street
Hagatna, GU 96910

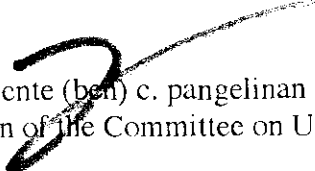
The Committee on Utilities and Land, to which was referred **Bill 393, "AN ACT TO ZONE LOT NO. 5049-2-R1, MUNICIPALITY OF TAMUNING,"** has had the same under consideration, and now wishes to report back an amended version with the recommendation to do pass.

The Committee votes are as follows:

<u>8</u>	To Do Pass
<u>0</u>	Not to Pass
<u>0</u>	Abstain
<u>0</u>	Inactive File

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

Sincerely,







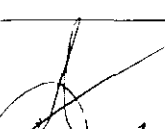
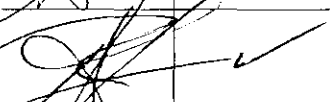

vicente (ben) c. pangelinan
Speaker & Chairman of the Committee on Utilities and Land

enclosure

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

VOTING SHEET ON

Bill No. 393 (COR): *As amended by the Committee on Utilities and Land: "AN ACT TO ZONE LOT NO. 5049-2-R1, MUNICIPALITY OF TAMUNING."*

<i>COMMITTEE MEMBER</i>	<i>INITIAL</i>	<i>TO PASS</i>	<i>NOT TO PASS</i>	<i>ABSTAIN</i>	<i>INACTIVE FILE</i>
vicente (ben) c. pangelinan Chairman		<input checked="" type="checkbox"/>			
Carmen Fernandez Vice Chairperson		<input checked="" type="checkbox"/>			
Frank Aguon, Jr. Member					
Randy Cunliffe Member		<input checked="" type="checkbox"/>			
Lou Leon Guerrero Member		<input checked="" type="checkbox"/>			
Rory Respicio Member		<input checked="" type="checkbox"/>			
Toni Sanford Member		<input checked="" type="checkbox"/>			
Joanne Brown Member					
Mark Forbes Member		<input checked="" type="checkbox"/>			
Ray Tenorio Member		<input checked="" type="checkbox"/>			

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

Bill 393 (LS)

AN ACT TO ZONE LOT NO. 5049-2-R1, MUNICIPALITY OF TAMUNING.

The Committee on Utilities and Land, to which was referred Bill 393 (LS), "AN ACT TO ZONE LOT NO. 5049-2-R1, MUNICIPALITY OF TAMUNING," conducted a public hearing on Tuesday, December 7, 2004, at the Guam Legislature Public Hearing Room. Speaker vicente (ben) c. pangelinan conducted the legislative hearing as Chairman on Utilities and Land. Also in attendance were Senators Toni Sanford, and Robert Klitzkie.

Summary

Prior to the presentation of testimonics from the public, Chairman and Speaker ben pangelinan stated for the record that Bill 393 is not a rezoning bill. The property being discussed in the bill currently does not have a zone and therefore, it is being zoned, but not rezoned.

Mr. Fred Castro of the Guam Environmental Protection Agency said that he does not object to the intent and purpose of this bill, although he has some concerns. He believes that the owners may be able to use the lot for commercial use. But rather than strip zoning the front for commercial use and having two different zones on the same property, the M-1 zoning should be removed from the proposal. This apparently prime development area for tourism related uses would be harmed by the location of uses allowed in an M-1 zone, such as manufacturing, processing, laundries, machine shops, warehouses and auto repair shops.

Mr. Joe Borja of the Department of Land Management said that normally, DLM would oppose a rezoning bill. But in this case, the property is not zoned and he does not believe DLM has the power to zone a property that has not been zoned. Consequently, he supports the zoning. He believes that M1 is compatible with the surrounding area.

Sen. Bob Klitzkie inquired as to how the property escaped zoning. Mr. Joe Borja informed him that in the 1950s there were no zoning laws. One of the lots condemned during that period was the property being discussed in the bill. When the lot was no longer condemned, it was returned to the government, and through the Guam Land Use Commission, returned it back to the Lujan Family. The Lujan Family's situation is not a unique case. There are still about 600-800 lots that are currently not zoned.

Sen. Bob Klitzkie pointed out that if this were the case, then the bill should not just single zone one property, but rather, allow the Land Use Commission to zone properties. Mr. Fred Castro believes Sen. Bob Klitzkie's suggestion is a fair one.

Mr. Joe Garrido, testifying as a citizen, said that he has no position on the bill. He is neither for nor against it. The only reason he decided to go before the Committee is that his family has a lot in the area that is being zoned and he is concerned that any action by the legislature on this may affect his family's property lot. He inquired as to whether there is a procedure to ask the surrounding neighbors about the lot being zoned, before the Legislature approves this bill.

Chairman and Speaker ben pangelinan explained that as a Committee, he requires from the landowners to go through the same process of asking their mayors and neighbors about the zoning or rezoning.

In regards to giving the authority to the Department of Land Management in zoning a property that currently is not zoned, Chairman and Speaker ben pangelinan said that according to Mr. Ralph Lujan, the owner of the property, it would take several years to accomplish this. In Mr. Ralph Lujan's written testimony, he wrote that in meeting with DLM and other government agencies, he has been informed that they want to do a master plan to all the properties being returned and that this will take up to five years or possibly, even longer.

Mr. Joe Borja made a suggestion to improve the bill. On line 6 of page 2, replace the "remaining lot" to "remainder of the lot".

Findings and Recommendations

The Committee on Utilities and Land, to which was referred Bill 393 (LS), "AN ACT TO ZONE LOT NO. 5049-2-R1, MUNICIPALITY OF TAMUNING," recommends that the legislation be _____.



Realty Management Company Inc.
P.O. Box 7988 Tamuning, Guam 96931
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E-mail: remco@ite.net

RECEIVED
DEC 13 2004

DEC 13 2004

10:05

Facsimile Coversheet

To: Speaker Ben Pangelinan
Firm: Office of Speaker Ben Pangelinan

Date: 12/13/04
Fax: (671)472-3556

From: Lyn Pelena for: Mr. Christopher Felix
Fax: (671) 646-6604

Re: Bill 393

Total Pages: 2 pages

Speaker Pangelinan,

Please review the attached letter.. Should you have any questions, please feel free to contact our office. Thank you and have a nice day.

Sincerely,

Lyn Pelena
For: Mr. Christopher Felix
Century 21 Realty Management

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Realty Management Company, Inc.

701 S. Marine Drive

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Email: remco@ite.net

Business: (671) 647-5003

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Senator Vicente Ben Pangelinan
Speaker- 27th Guam Legislature
Hagatna, Guam

December 13, 2004

Ref: Bill 393, response to your letter of 12/9/.2004.

Dear Speaker,

Thank you for your above referenced letter. I appreciate your letting me know the input to the public hearing. I do ask you consider keeping the bill as written. Zoning the lot to entirely commercial zone will negatively affect the use and value of the property. As we discussed in your office the frontage use should be commercial but the back lot highest and best use is light industrial. There is very little use, demand and value in off road commercial zoned property. Also the past user (the military) used this property as fuel supply lines and other light industrial related uses. It seems only fair that the land owners have the same uses allowed. Because of this I ask you to reconsider amending the Bill and keeping it as written.

I do thank you for taking on this advocacy role and trying to help the land owners in getting their properties fairly zoned. In reading the newspapers over the past week there was a lot of "finger pointing" and "passing the buck" going on. I thank you for standing firm and stating that in these (new zoning cases) cases the legislature is the proper (and probably the only legal) authority to zone property.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Felix".

Christopher Felix CPM, CIPS
President CCIM



GUAM ENVIRONMENTAL PROTECTION AGENCY



AHENSIAŃ PRUTEKSION LINA'LA GUAHAN

P.O. Box 22489 GMF • BARRIGADA, GUAM 96921 • TEL: 475-165800 • FAX: 477-9402

DEC 06 2004

Honorable ben c. pangelinan
Speaker, Guam Legislature
Chairman, Committee on Utilities and Land
155 Hesler St.
Hagatna, GU 96910

Dear Mr. Speaker:

Buenas Yan Saluda.

Please find enclosed my testimonics for the Guam Environmental Protection Agency on Bills 338, 393, and 397.

Thank you and the Committee on Utilities and Land for this opportunity to present our comments on these bills related to individual lot zoning.

Dangkulo na Si Yu'os Ma'ase

FRED M. CASTRO
Administrator

Enclosures

Testimony of Mr. Fred M. Castro, Administrator

Guam Environmental Protection Agency

Before

The Committee on Utilities and Land

**HEARING ON BILL 393: AN ACT TO ZONE LOT NO 5049-2-R1,
MUNICIPALITY OF TAMUNING**

December 7, 2004

Buenas yan Saluda, Mr. Chairman and Committee Members. I am pleased to have the opportunity this morning to provide for you some critical information in response to your invitation to testify on Bill 393.

This bill proposes to spot zone a single property in Tamuning, changing it from an assumed "A" zone equivalent, to M-1(Light Industrial) and C (Commercial).

The existing land zoning system on Guam was instituted in 1966, by Guam's first Land Use Plan. This legal control on uses of land was a valuable innovation to

improve the quality of our life, support development and protect our environment. But, as development, population and infrastructure grew since that time, the old zoning maps have become inappropriate and obsolete in most areas. Over the last thirty-eight years, various attempts have been made to update Guam's Land Use Plan and associated Zoning Code. The greatest effort, spurred by the Guam Comprehensive Planning Law, Public Law 20-147, resulted in the I Tano'-ta Land Use Plan and Zoning Code. This Island-wide comprehensive revision became Public Law 24-171 in 1998, but was only implemented for a month in 1999, when it was withdrawn by the Legislature for amendments, which were never made. Therefore, by the unfortunate continuation of the old zoning, developers and land owners remain disadvantaged and need to seek changes to their old zoning designations.

Mr. Chairman, you and I were active members of the Guam Planning Council which was responsible for the drafting and approval of I Tano'-ta. We learned and strongly supported the value of comprehensive land use planning as we adopted a plan and zoning code based on meeting the needs expressed by the public at the over one hundred public hearings we held on I Tano'-ta. We even designated and had approved a specific zone for this lot and adjacent properties that was

compatible with infrastructure, with surrounding use potentials and with the environment, while allowing gainful economic development.

Guam Planning Council also prioritized the need for water infrastructure master planning. The Guam Waterworks Authority is currently developing a Master Plan for water and sewer facilities that will address current problems and comprehensively meet needs for Guam's future. This Plan, costing over five million dollars, will be eroded and lose its value if spot zoning of properties occurs.

In lieu of a revised zoning code, a mechanism exists for owners to change zones of their properties. This involves applying for a zone change to the Guam Land Use Commission. Staff of the Department of Land Management assist applicants in obtaining requested zone changes and offer professional advice on best procedures to take. This zone change process allows for review and comments by technical staff of the Government, notification in writing to neighboring property owners who will be impacted by the zone change, and public hearings in the village where the property is located, as well as review by the Mayor and Planning Council of the village. Adequacy of infrastructure to support the uses allowed in the new zone, conformity with neighboring uses and with sectoral master plans, and concerns of

impacted neighbors are all addressed. Many of the safeguards of this process are absent when properties are spot zoned through the legislative process, actually leading to more problems for the owner and decrease in the quality of life for the surrounding community. Well known examples of such problems include decreases in public water pressure, contamination of our well water, traffic safety risks, inadequate parking, devaluation of neighboring properties, etc.

If one individual zone change is passed through this proposed spot zoning law, thousands of other owners should also expect to be able to change their zoning through this poorly controlled process. This would lead to increased deficiencies in infrastructure and public services, damage to natural resources, degradation of the environment and overall lowering of the quality of life and loss of potential economic development.

Therefore, we generally oppose the provision of zone changes for individual properties through this legislative process and recommend that this property be directed to the Guam Land Use Commission for rezoning.

We further recommend that the Guam Legislature support new efforts to develop an

updated and revised Land Use Plan and Zoning Code for the Island. At the least, you should promote a limited zoning plan that is urgently needed for the historically unzoned properties released in recent years by the Federal Government.

In the case of this particular lot, although we are not provided the information needed to advise the owner, which would be provided through the Guam Land Use Commission process, we believe the owner of Lot 5049-2-R1 may be able to use the lot for commercial use. But rather than strip zoning the front for commercial use and having two different zones on the same property, the M-1 zoning should be removed from the proposal. This apparently prime development area for tourism related uses would be harmed by the location of uses allowed in an M-1 zone, such as manufacturing, processing, laundries, machine shops, warehouses and auto repair shops.

Thank you for the opportunity to provide this testimony, which we hope will help you reach the best decision in acting on this bill.



FRED M. CASTRO



Realty Management Company Inc.
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Website: <http://www.guamproperties.com>
E-mail: remco@gte.net

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10:10 ✓
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Facsimile Coversheet

To: Speaker Ben Pangelinan
Firm: Speaker Ben Pangelinan's Office

Date: 12/01/04
Fax: (671)472-3556

Cc: Sen. Tina Muna Barnes

(671)472-3400

From: Lyn Pelena for: Mr. Christopher Felix
Fax: (671) 646-6604

Re: Bill 393

Total Pages: 2 pages

Speaker Pangelinan,

Please see attached letter from Mr. Christopher Felix. Should you have any questions, please feel free to contact our office. Thank you and have a nice day.

Sincerely,

Handwritten signature of Lyn Pelena
Lyn Pelena
Assistant to: Mr. Christopher Felix
Century 21 Realty Management

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Realty Management Company, Inc

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Senator Vicente Ben Pangelinan
Speaker- 27th Guam Legislature
Magatna, Guam

November 30, 2004

Ref: Testimony in favor of Bill 393.

Dear Speaker,

I am writing you on the above referenced Bill 393 because I will be off island during the public hearing. I am in favor of the Bill as written for a number of reasons. Primarily this lot has never been zoned and I believe the zones the bill selects are fair and reasonable. It is my understanding that the military used this in the past for industrial purposes and it seems only fair that the land owners get the same usage from their land. I agree that the frontage should be commercial use in order to keep similar frontage usages in the area.

I thank you for the opportunity to testify and urge all the senators to look favorably on this bill. Please feel free to call me if you have any questions.

Sincerely,

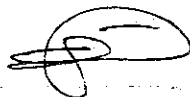
A handwritten signature in black ink, appearing to read "CFelix", written over a horizontal line.

Christopher Felix CPM,CIPS
President CCIM

CC Sen. Barnes

DEC 03 2004

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December 3, 2004

Senator Vicente Ben Pangelinan
Speaker, 27th Guam Legislature
Hagatna, Guam

Ref: Testimony in favor of Bill 393

Dear Mr. Speaker,

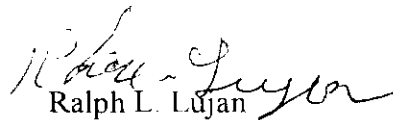
I am writing you on the above reference Bill 393. I am one of the descendants of the original landowners of Lot 5049-2-R1. My Family has been waiting for over 40 years for this land to be returned to us. Finally we are able to utilize our land and enjoy the rights of ownership. The last problem we face is the zoning.

In meeting with Land Management and other Government agencies, we have been told they want to do a master plan to all the properties being returned and that this will take up to five years or longer to do. I do not believe it is fair that we wait any longer to be able to use our land. I also believe that this Bill zones the property fairly and equitably. The front commercial zone is in line with the neighboring uses and is the highest and best use of the property. The zoning of the back portion to light industrial zone is also fair due to the military uses of the property for the past 40 years was primarily warehousing, storage and fuel piping. I believe it is only fair that the original landowners family and descendants be allowed to use the land in the same manner as the military did.

I deeply regret that I will not be attending the hearing but will greatly appreciate your favorable action.

I ask that you and your fellow senators vote to approve and pass Bill 393 as written in the next session.

Sincerely,



Ralph L. Lujan
P. O. Box 11222
Yigo, Guam 96929