



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
T. PISINAN I MAGA LAMI
AGANA, GUAM 96910 U.S.A.

AUG 22 1990

Received
9/10/90

The Honorable Joe T. San Agustin
Speaker, Twentieth Guam Legislature
155 Herman Cortez Street
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 1175, which I have signed
into law this date as Public Law 20-217.

Sincerely,

Joseph F. Ada
JOSEPH F. ADA
Governor

Attachment

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 1175 (COR), "AN ACT TO GRANT AUTHORITY OVER GOVERNMENT LOTS NOS. 519 AND 520 IN MERIZO TO THE MERIZO MUNICIPAL PLANNING COUNCIL; TO AMEND §61617, AND TO ADD NEW §§61623 AND 61638 TO TITLE 21, GUAM CODE ANNOTATED, TO REQUIRE TERRITORIAL LAND USE COMMISSION VARIANCE HEARINGS TO BE HELD IN THE AFFECTED MUNICIPALITIES AND TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL FOR VARIANCES AND ZONE CHANGES; TO ADD A NEW §60115 TO SAID TITLE TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL OF GOVERNMENT SALE OR LEASES OF MUNICIPAL LAND; AND TO ADD A NEW SUBSECTION (f) TO §40128 OF TITLE 5, GUAM CODE ANNOTATED, TO INCREASE THE DUTIES AND RESPONSIBILITIES OF MUNICIPAL PLANNING COUNCILS; TO WAIVE THE REQUIREMENTS OF THE SUBDIVISION LAW FOR THE LAND FOR THE LANDLESS SUBDIVISION PROJECTS; TO REZONE SUCH LAND AS R-1; TO MAKE TECHNICAL AMENDMENTS TO PUBLIC LAWS 19-52 AND 18-48; AND TO APPROPRIATE FUNDS FOR THE ASTUMBO INFRASTRUCTURE CONSTRUCTION," was on the 1st day of August, 1990, duly and regularly passed.


JOE T. SAN AGUSTIN
Speaker

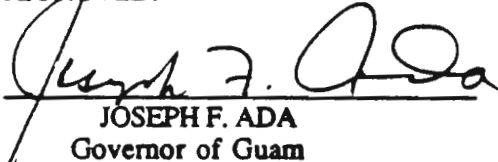
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 10th day of August, 1990, at
8:20 o'clock A.m.


Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: August 22, 1990

Public Law No. 20-217

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

Bill No. 1175 (COR)
Substituted by the Committee on
General Governmental Operations
and the Committee on Housing and
Community Development 3/15/90
and further substituted by the
Committee on Rules

Introduced by:

T. S. Nelson
C. T. C. Gutierrez
J. T. San Agustin
H. D. Dierking
G. Mailloux
D. Parkinson
P. C. Lujan
M. Z. Bordallo
E. P. Arriola
E. D. Reyes
J. P. Aguon
F. J. A. Quitugua
F. R. Santos
J. G. Bamba
E. R. Duenas
D. F. Brooks
M. D. A. Manibusan
E. M. Espaldon

AN ACT TO GRANT AUTHORITY OVER GOVERNMENT LOTS
NOS. 519 AND 520 IN MERIZO TO THE MERIZO MUNICIPAL
PLANNING COUNCIL; TO AMEND §61617, AND TO ADD NEW
§§61623 AND 61638 TO TITLE 21, GUAM CODE ANNOTATED,
TO REQUIRE TERRITORIAL LAND USE COMMISSION
VARIANCE HEARINGS TO BE HELD IN THE AFFECTED
MUNICIPALITIES AND TO REQUIRE MUNICIPAL PLANNING
COUNCIL APPROVAL FOR VARIANCES AND ZONE CHANGES;

TO ADD A NEW §60115 TO SAID TITLE TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL OF GOVERNMENT SALE OR LEASES OF MUNICIPAL LAND; AND TO ADD A NEW SUBSECTION (f) TO §40128 OF TITLE 5, GUAM CODE ANNOTATED, TO INCREASE THE DUTIES AND RESPONSIBILITIES OF MUNICIPAL PLANNING COUNCILS; TO WAIVE THE REQUIREMENTS OF THE SUBDIVISION LAW FOR THE LAND FOR THE LANDLESS SUBDIVISION PROJECTS; TO REZONE SUCH LAND AS R-1; TO MAKE TECHNICAL AMENDMENTS TO PUBLIC LAWS 19-52 AND 18-48; AND TO APPROPRIATE FUNDS FOR THE ASTUMBO INFRASTRUCTURE CONSTRUCTION.

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

2 Section 1. STATEMENT OF LEGISLATIVE FINDINGS. The Legislature
3 finds that community development in Merizo should be directed toward
4 preservation and protection of the entire shoreline and its valuable resources,
5 as not only has the village's natural beauty made it one of the favorite areas
6 for island residents and visitors wishing to escape from the pressures of
7 urban living, but also as a coastal and more importantly as a fishing village,
8 Merizo has a strong identification with the sea, with most of its recreational
9 activities being centered along that shoreline.

10 Section 2. Transfer of boat basin to Municipal Planning Council.
11 Authority over Lots Nos. 519 and 520, municipality of Merizo, containing
12 areas of 220 and 812 square meters, respectively, including the submerged
13 lands adjacent thereto, designated as the boat basin and boat channel, is
14 hereby transferred to the Merizo Municipal Planning Council, such property to
15 be used for the establishment and maintenance of a playground or other
16 recreational facilities for the use and benefit of the people of Guam, as the
17 Planning Council shall deem appropriate. Such property may not be leased,
18 sold, mortgaged, or otherwise alienated from its use by the people of Guam,
19 and public access to the ocean and seashore may not be restricted.

20 Section 3. §61619 of Title 21, Guam Code Annotated, is hereby
21 amended to read:

22 "§61619. Hearing date-notice. Upon the filing of variance
23 application the Commission shall fix a reasonable time for hearing the

1 same and shall give notice thereof to the applicant and may give notice
2 to any other parties in interest. All hearings shall be conducted in the
3 affected municipality and shall be in accordance with the rules
4 established by the Commission, but any party in interest may appear in
5 person, or by designated attorney or agent. At least one such hearing
6 shall be conducted after six o'clock p.m."

7 Section 4. A new §61623 is hereby added to Title 21, Guam Code
8 Annotated, to read:

9 "§61623. Review by Municipal Planning Council. The Municipal
10 Planning Council of each municipal district to be affected by a proposed
11 variance shall review the request and express its opinion thereon by
12 resolution adopted by a majority of its members, and submit such
13 resolution to the Commission within twenty (20) days from the date of
14 its public hearing thereon for the Commission's consideration thereof
15 pursuant to §61620."

16 Section 5. A new §61638 is hereby added to Title 21, Guam Code
17 Annotated, to read:

18 "§61638. Review by Municipal Planning Council. The Municipal
19 Planning Council of each municipal district to be affected by a proposed
20 zone change shall within forty (40) days from the date of a public
21 hearing held thereon by such council express its opinion thereon by
22 resolution adopted by the majority of its members. Such resolution
23 shall be forwarded to the Governor for his consideration thereof
24 pursuant to §61634 within twenty (20) days from the date of its
25 adoption."

26 Section 6. A new §60115 is hereby added to Title 21, Guam Code
27 Annotated, to read:

28 "§60115. Review by Municipal Planning Councils.
29 Notwithstanding any other law, rule or regulation, all sale or leases of
30 real property owned by the government of Guam for a term of ten (10)
31 years or longer shall be reviewed by the Municipal Planning Council of
32 the municipal district in which are located the premises to be sold or
33 leased, and its opinion thereon expressed by resolution adopted by a
34 majority of the members of council after a public hearing thereon, such

1 resolution to be forwarded to the Governor and to the Legislature prior
2 to their respective consideration of the proposed sale or lease."

3 Section 7. A new subsection (f) is hereby added to §40128 of Title 5,
4 Guam Code Annotated, to read:

5 "(f) Review and express a view on all variance applications, zone
6 changes, and government leases involving land within their districts,
7 pursuant to §§61623, 61638, and 60115 of Title 21, Guam Code
8 Annotated."

9 Section 8. Notwithstanding any other provision of law, all
10 requirements of Article 5 of Chapter 62, Title 21, Guam Code Annotated (the
11 Subdivision Law), are hereby waived and are declared not applicable to the
12 "Land for the Landless" Subdivision Projects, including the projects
13 established in the Municipalities of Talofofo (Public Law 16-18), Inarajan
14 (Public Law 16-97), Merizo (Public Law 20-72), Chalan Pago (Public Law 15-
15 127), Umatac (Public Law No. 20-133) and Dededo (Public Law 14-138). Such
16 projects are exempted from review and consideration by the Territorial Land
17 Use Commission or by the Territorial Planning Council. Subdivision maps for
18 these projects shall only require the approval of the Department of Land
19 Management. The Director of Land Management, upon completion of each of
20 such projects shall submit to the Legislature the total cost required to develop
21 the infrastructure thereof for appropriation by the Legislature.

22 Section 9. Notwithstanding any other provision of law, lands identified
23 for the "Land for the Landless" Subdivision Projects described in Section 8 of
24 this Act are hereby zoned Single Family Residential, R-1.

25 Section 10. Item 1 of Section 4 of Public Law 19-52 is hereby amended
26 to read:

27 "1. Heirs of Joseph T. Cruz, deceased, who died August 3,
28 1988, Lot No. 6, Block 1, Tract 170 West Acres, Area: 1007.12 ±
29 square meters, Municipality of Dededo."

30 Section 11. Section 10 of Public Law 18-48 is hereby amended to read:

31 "The Governor of Guam is authorized to exchange government
32 of Guam real property known as the Vasquez Trail, situated between
33 Lotg Nos. 21-2 New and 22-6-R1, Talofofo, Guam, containing an area
34 of 112.5 ± square meters, for a portion of Lot No. 22-6-Ra, Talofofo,

1 Guam, containing an area of 77.87 \pm square meters, recorded under
2 Instrument No. 109690, and owned by William Taijeron."

3 Section 12. Five Million Seven Hundred Thirty-Four Thousand
4 Dollars (\$5,734,000) are appropriated from the General Fund to the Guam
5 Housing and Urban Renewal Authority to supplement the appropriation of
6 Three Million Five Hundred Thousand Dollars (\$3,500,000) for the
7 Astumbo Infrastructure Construction set out in Section 3(i)(4) of Public
8 Law 20-14.

ROLL CALL SHEET

Date: _____

QUESTION: _____

	<u>AYE</u>	<u>NAY</u>	<u>NOT VOTING</u>	<u>ABSENT</u>
J. P. Aguon	✓			
E. P. Arriola	✓			
J. G. Bamba	✓			
M. Z. Bordallo	✓			
D. F. Brooks	✓			
H. D. Dierking	✓			
E. R. Duenas	✓			
E. M. Espaldon				✓
C. T. C. Gutierrez	✓			
P. C. Lujan	✓			
G. Mailloux	✓			
M. D. A. Manibusan	✓			
T. S. Nelson	✓			
D. Parkinson	✓			
F. J. A. Quitugua	✓			
E. D. Reyes	✓			
M. C. Ruth		✓		
J. T. San Agustin	✓			
F. R. Santos	✓			
T. V. C. Tanaka		✓		
A. R. Unpingco		✓		

17

3



Twentieth Guam Legislature

163 Chalan Santo Papa Street
Agana, Guam 96910

April 24, 1990

Honorable Joe T. San Agustin
Speaker
Twentieth Guam Legislature
163 Chalan Santo Papa
Agana, Guam 96910

VIA: Chairperson, Committee on Rules

Dear Mr. Speaker:

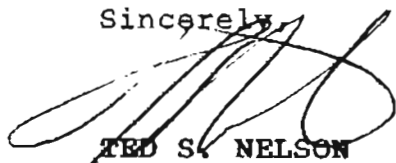
The Committee on General Governmental Operations, and the Committee on Housing and Community Development, to which was referred Bill No. 1175, "An act to grant authority over Lots 519 and 520 in Merizo to the Merizo Municipal Planning Council; to amend §61617, and to add new §§61623 and 61638 to Title 21, Guam Code Annotated, to require Territorial Planning Commission variance hearings to be held in the affected municipalities and to require Municipal Planning Council approval for variances and zone changes; to add a new §60115 to said Title to require Municipal Planning Council approval of government leases of municipal land; and to add a new Subsection (f) to §40128 of Title 5, Guam Code Annotated, to increase the duties and responsibilities of Municipal Planning Councils," has had the same under consideration, and now wishes to report back the same with the recommendation to do pass as substituted.

The Committee votes are as follows:

COMMITTEE:	TO DO PASS	NOT TO PASS	INACTIVE FILE	ABSTAIN
General Governmental Operations	<u>12</u>	<u>0</u>	<u>0</u>	<u>0</u>
Housing and Community Development	<u>9</u>	<u>0</u>	<u>0</u>	<u>0</u>

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

Sincerely,


TED S. NELSON


GORDON MAILLOUX

Enclosure:

TWENTIETH GUAM LEGISLATURE
COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
VOTE SHEET ON SUBSTITUTE BILL 1175

AN ACT TO GRANT AUTHORITY OVER LOTS 519 AND 520 IN MERIZO TO THE MERIZO MUNICIPAL PLANNING COUNCIL; TO AMEND §61617, AND TO ADD NEW §§61623 AND 61638 TO TITLE 21, GUAM CODE ANNOTATED, TO REQUIRE TERRITORIAL LAND USE PLANNING COMMISSION VARIANCE HEARINGS TO BE HELD IN THE AFFECTED MUNICIPALITIES AND TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL FOR VARIANCES AND ZONE CHANGES; TO ADD A NEW §60115 TO SAID TITLE TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL OF GOVERNMENT LEASES OF MUNICIPAL LAND; AND TO ADD A NEW SUBSECTION (f) TO §40128 OF TITLE 5, GUAM CODE ANNOTATED, TO INCREASE THE DUTIES AND RESPONSIBILITIES OF MUNICIPAL PLANNING COUNCILS.

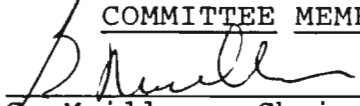
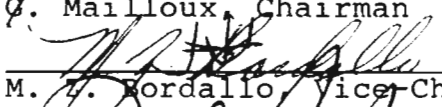
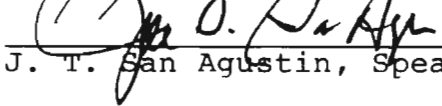

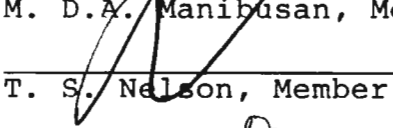


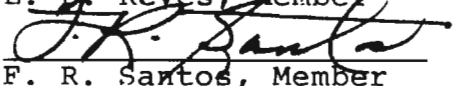
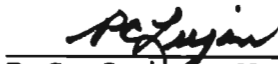
RECOMMENDATION TO DO PASS

<u>COMMITTEE MEMBERS:</u>	<u>TO DO PASS:</u>	<u>NOT TO PASS:</u>	<u>INACTIVE FILE:</u>	<u>ABSTAIN:</u>
<i>T. S. Nelson</i> T. S. Nelson, Chairperson	✓			
<i>H. D. Dierking</i> H. D. Dierking, Vice-Chairperson	✓			
<i>J. T. San Agustin</i> J. T. San Agustin, Speaker, & Ex-officio	✓			
<i>E. P. Arriola</i> E. P. Arriola, Member	✓			
<i>M. Z. Bordallo</i> M. Z. Bordallo, Member	✓			
<i>C. T. C. Gutierrez</i> C. T. C. Gutierrez, Member	✓			
<i>P. C. Lujan</i> P. C. Lujan, Member	✓			
<i>G. Mailloux</i> G. Mailloux, Member	✓			
<i>D. Parkinson</i> D. Parkinson, Member	✓			
<i>E. D. Reyes</i> E. D. Reyes, Member	✓			
<i>F. R. Santos</i> F. R. Santos, Member	✓			
<i>J. B. Bamba</i> J. B. Bamba, Member	✓			
E. R. Duenas, Member				
T. V.C. Tanaka, Member				

TWENTIETH GUAM LEGISLATURE
COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
VOTE SHEET ON SUBSTITUTE BILL 1175

AN ACT TO GRANT AUTHORITY OVER LOTS 519 AND 520 IN MERIZO TO THE MERIZO MUNICIPAL PLANNING COUNCIL; TO AMEND §61617, AND TO ADD A NEW §§61623 AND 61638 TO TITLE 21, GUAM CODE ANNOTATED, TO REQUIRE TERRITORIAL PLANNING COMMISSION VARIANCE HEARINGS TO BE HELD IN THE AFFECTED MUNICIPALITIES AND TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL FOR VARIANCES AND ZONE CHANGES; TO ADD A NEW §60115 TO SAID TITLE TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL OF GOVERNMENT LEASES OF MUNICIPAL LAND; AND TO ADD A NEW SUBSECTION (f) TO §40128 OF TITLE 5, GUAM CODE ANNOTATED, TO INCREASE THE DUTIES AND RESPONSIBILITIES OF MUNICIPAL PLANNING COUNCILS.

RECOMMENDATION TO DO PASS

COMMITTEE MEMBERS:	TO DO PASS:	NOT TO PASS:	INACTIVE FILE:	ABSTAIN:
 G. Mailloux, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 M. T. Bordallo, Vice-Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 J. T. San Agustin, Speaker & Ex-Officio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. P. Aquon, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 E. P. Arriola, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
M. D.A. Manibusan, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 T. S. Nelson, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 D. Parkinson, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 E. D. Reyes, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 F. R. Santos, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 P.C. Lujan, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

TWENTYFIFTH GUAM LEGISLATURE
COMMITTEE ON GENERAL GOVERNMENTAL OPERATIONS
and
COMMITTEE HOUSING AND COMMUNITY DEVELOPMENT

REPORT ON SUBSTITUTE BILL NO. 1175

AN ACT TO GRANT AUTHORITY OVER LOTS 519 AND 520 IN MERIZO TO THE MERIZO MUNICIPAL PLANNING COUNCIL; TO AMEND §61617, AND TO ADD NEW §§61623 AND 61638 TO TITLE 21, GUAM CODE ANNOTATED, TO REQUIRE TERRITORIAL LAND USE PLANNING COMMISSION VARIANCE HEARINGS TO BE HELD IN THE AFFECTED MUNICIPALITIES AND TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL FOR VARIANCES AND ZONE CHANGES; TO ADD A NEW §60115 TO SAID TITLE TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL OF GOVERNMENT LEASES OF MUNICIPAL LAND; AND TO ADD A NEW SUBSECTION (f) TO §40128 OF TITLE 5, GUAM CODE ANNOTATED, TO INCREASE THE DUTIES AND RESPONSIBILITIES OF MUNICIPAL PLANNING COUNCILS.

Introduced by Senators

Ted S. Nelson, Carl T.C. Gutierrez, Joe T. San Agustin
Gordon Mailloux, Don Parkinson, Herminia D. Dierking,
Pilar C. Lujan, Madeleine Z. Bordallo, Elizabeth P. Arriola,
and Eddie D. Reyes.

PREFACE:

The Committee on General Governmental Operations, together with the Committee on Housing and Community Development, conducted a public hearing on Bill No. 1175, "An act to grant authority over Lots 519 and 520 in Merizo to the Merizo Municipal Planning Council; to amend §61617, and to add new §§61623 and 61638 to Title 21, Guam Code Annotated, to require Territorial Land Use Planning Commission variance hearings to be held in the affected municipalities and to require Municipal Planning Council approval for variances and zone changes; to add a new §60115 to said Title to require Municipal Planning Council approval of government leases of municipal land; and to add a new Subsection (f) to §40128 of Title 5, Guam Code Annotated, to increase the duties and responsibilities of Municipal Planning Councils," on Tuesday, March 13, 1990 at 7:00 p.m. at the Merizo Community Center.

Committee members present were Senators Ted S. Nelson and Gordon Mailloux, Chairmen of the respective Committees, Speaker Joe T. San Agustin, and Senators Elizabeth P. Arriola, Pilar C. Lujan, John P. Aguon, Herminia D. Dierking, Madeleine Z. Bordallo, Eddie D. Reyes, Ernesto Espaldon, and Eddie R. Duenas.

NOTIFICATION:

Letters of notification were sent to: the Governor; Mayor Ignacio S. Cruz; the residents of Merizo; the Director, Department of Land Management; the Director, Department of Public Works; the Committee members; the general public, and the news-media.

TESTIMONY:

At this time, the Chairman called on Mayor Ignacio Cruz to explain the purpose of the hearing. Mayor Cruz went on to say that the intent of Bill 1175 is to convey Lots 519 and 520 to the Merizo Mayor and Municipal Planning Council, and the development of Lots 519 and 520 will be determined by the Mayor and Council members. The Mayor emphasized that Achang Bay is the only remaining harbor rich in sea-life and resources and its value to the people of Merizo is immeasurable. In closing, the Mayor urged the Committee members to act favorably on Bill 1175.

At this time, the Chairman called on Mr. Vicente M. Acfalle. Mr. Acfalle informed the Committee that he and his family are in full support of Bill 1175 and oppose leasing any and all portions of Achang Bay to private interests.

The Chairman then called on Mr. Mark Charfauros, Chairperson, Protehi I Tano'ta. Mr. Charfauros testified that the Territorial Planning Commission (TPC) did not follow proper procedures in approving the zone change for Achang Marina.

According to Mr. Charfauros the zone change approved by the TPC was for the construction of chalet style cottages to accommodate tourists and guests. However, the lease transmitted to the Legislature by the Governor was for the construction of a boat ramp and floating docks. This, said Mr. Charfauros, is not consistent with the proposal of Achang Marina's application to develop Lots 519 and 520.

At this juncture, Mr. Charfauros presented the Committee with a copy of the Suruhanu's findings which outlined numerous violations committed by Achang Marina.

Mr. Charfauros concluded his testimony saying, because of the numerous violations committed, he urged the Committee to disapprove the lease agreement for Achang Marina, and transfer the jurisdiction of Lots 519 and 520 to the Mayor and Municipal Planning Council of Merizo.

Next, the Chairman called on Mr. Frank Mafnas, Ms. Viqui Gayer, and Mr. Joe Nangauta to present testimony.

Mr. Frank Mafnas testified that individuals in responsible positions should be concerned about protecting the valuable resources of the people of Guam, rather than allow outside investors inclusive use of government land. Next, Ms. Viqui Gayer informed the Committee that government officials must be diligent in their work especially when it comes to leasing public property. She went on to say that the Achang Bay fiasco should not have happened if officials were truly protecting the interest of the people of Guam. Ms. Gayer also stated that we must remember our culture and more importantly, she emphasized that we are people of the land.

Next to present testimony was Mr. Joe Nanguata. Mr. Nanguata informed the Committee that he supports the passage and enactment of Bill 1175. He also recounted his growing days and the time he spent in and around Achang Bay.

All three witnesses supported the passage and enactment of Bill 1175 with amendments.

At this time, the Chairman called on Mr. Ignacio Iriarte, Mr. Thomas S.N. Barcinas, and Ms. Lydia Cruz.

At the outset, Mr. Iriarte informed the Committee that Senator Don Parkinson supports the intent of Bill 1175, and that he (Senator Parkinson) will vote in favor of Bill 1175. As a resident of Yona, Mr. Iriarte testified that the ocean and its beaches have always been an important part of the Chamorro culture and heritage. He went on to say that the voices of the past echoing the words, "NIHI TAFAN MALAG I TASI" can still be heard today.

Concluding his testimony, Mr. Iriarte recommended that Bill 1175 be amended to incorporate the various amendments being proposed by the residents of Merizo.

The next witness Mr. Thomas S.N. Barcinas testified that in the absence of a Master Plan for the South, the Legislature should reject the Achang Marina lease and in lieu thereof enact Bill 1175.

Ms. Lydia Cruz appealed to the Committee urging them to enact Bill 1175. She also testified that Achang Bay has played an important part in the lives of nearly every Merizo resident, and the abrupt denial of entering or using any portion of Achang Bay will not be tolerated. In conclusion, Ms. Cruz asked the Committee to act favorably on Bill 1175.

The position of the Merizo Municipal Planning Council was presented by Mr. Jose S.N. Barcinas. Mr. Barcinas stated that the rationale for the Municipal Planning Council wanting jurisdiction of Lots 519 and 520 is simple. The people of Merizo, said Mr. Barcinas, just want to guarantee public access to the

Manell Channel. The channel and adjacent areas are traditional fishing and crabbing grounds. It is one of the few places where mangrove crabs can be found and is a wetland area which fish use as a breeding ground.

The Chairman then called on Mr. Art Barcinas, Mr. Fred Fortin, and Steve Spencer to present testimony.

Mr. Art Barcinas thanked the Chairman for bringing this important issue to the people and for convening the hearing in Merizo. Mr. Barcinas also testified that Achang Marina's construction of the so-called "Berlin Wall" is in violation of the Territorial Seashore Protection Act. He went on to say that the owner of Achang Marina has not treated the people of Merizo fairly and on several occasions have barred residents from entering Achang Bay.

Mr. Fred Folton said that Mr. Wilke (owner of Achang Mariana) betrayed the people of Merizo when he constructed the wall. He also added that in addition to the wall Mr. Wilke has placed a sign saying "all entry by appointment only." This, said Mr. Folton, is another indication that Achang Marina does not want to do business or have any part or involvement with the residents of Merizo.

In his opening remarks Mr. Steve Spencer said, remember the Cocos Island development project. Remember what was promised the residents of Merizo. What happened to the promises offered by the developers of Cocos Island? Now we have to contend with the developer of Achang Bay. This should not be the case, said Mr. Spencer, and urged the Committee to act and pass Bill 1175.

Again, all three witnesses testified in support of Bill 1175.

At this time, the Chairman called on Mr. Joseph Cruz Barcinas and Mr. Jose M. Torres. Mr. Barcinas testified that the construction of the "Berlin Wall" was not built to protect the marina's equipment and facilities, but, rather, is designed to keep unwanted customers from entering and using Achang Bay. He elaborated saying why would the Achang Marina's policy require persons to call for approval or disapproval to enter and use the land which the people of Merizo have always used. If we do not enact legislation protecting our people especially our land resources, the land will no longer belong to the people of Guam.

Jose M. Torres was next to present testimony. Mr. Torres informed the Committee that he his supporting the passage and enactment of Bill 1175. According to Mr. Torres, the growth in other villages cannot be compared to the growth in Malessso. Mr. Torres went on to say that government lands are needed to expand public facilities in order to accommodate the Merizo's growing population.

He continued saying, nobody in Merizo builds a wall around his property unless he wants to convey the message that he does not want to be member of the community.

Both Mr. Barcinas and Mr. Torres urged the Committee to act favorably on Bill 1175.

At this time, the Chairman called on the attorney representing Achang Marina, Mr. Jose I. Leon Guerrero. Attorney Leon Guerrero testified that he has written letters on behalf of his client, Achang Marine, Inc., to each member of the Twentieth Guam Legislature informing them of his client's intent to lease and develop the government property. According to Mr. Leon Guerrero Achang Marine, Inc., has offered to construct a park, boat ramp, and upon completion, dedicate it to the people of Merizo.

At this point, Mr. Leon Guerrero took the opportunity to apologize to the people of Merizo for any misunderstanding and mistakes on the part of Achang Marine, Inc.

The people of Merizo, said Mr. Leon Guerrero, must look at the real issue. Bill 1175 according to Mr. Leon Guerrero would take the same property sought by Achang Marine and turn it over to the municipality of Merizo. Such a transfer would not only have the effect of diminishing the value of Achang Marine property, but it would frustrate five years of work by Achang Marine, and various government agencies who have reviewed and approved the lease transfer.

The two small parcels of land requested by the the Mayor, said Mr. Leon Guerrero, are too small and poorly situated to be used in any meaningful fashion by the village, notwithstanding the Mayor's comments. Acquisition of these properties would not help to further the recreational benefits afforded the people of Merizo.

Mr. Leon Guerrero also took the opportunity to explain and provide the members with the clearer understanding of the background of Achang Marine and the history and development of Achang Bay Marina. Mr. Leon Guerrero stated that there are solutions to the concerns of the Merizo residents. The owners of Achang Marine want the people of Merizo to be proud of the marina development and for them to have access to the facilities (Mannell Channel and Achang Bay).

In conclusion, Mr. Leon Guerrero said Achang Marine envisions a marina development that will enhance the Merizo community and provide facilities to the public not now available. Achang Marine will abide by the requirements in the proposed lease to provide public access at a reasonable price. Mr. Leon Guerrero also stated that residents in the immediate area of the marina has signed a petition supporting the land lease.

The owners of Achang Marine, said Mr. Leon Guerrero, stand ready to address other legitimate concerns of the public and take such actions that assure that the marina will be a facility the residents of Merizo will be proud to have.

At this time, the Chairman called on Mr. Francisco S.N. Flores, Ms. Vivian Dames, Mr. Pete Siguenza and Mr. Jesus Cruz.

At the outset, Mr. Francisco Flores informed the Committee that he is representing Senator Antonio Unpingco. According to Mr. Flores, Senator Unpingco fully supports the passage and enactment of Bill No. 1175.

Ms. Vivian Dames informed the Committee that all the people of Merizo are asking for them to be afforded justice in the disposition of public lands.

Next the Chairman called on Mr. Pete Siguenza. Mr. Siguenza stated that he was submitting testimony on behalf of the Young Men's League of Guam (YMLG). He went on to say that YMLG believes in the spirit of justice and fair play and that consultation are of paramount importance. He concluded his testimony saying that granting jurisdiction of the lots in question to the Mayor and Municipal Planning Council appropriately fits the first two lines of the Guam Hymn: "Fanoghe Chamorro Pot I Tanota!"

Ayuda I taotao tano, were the remarks of Mr. Jesus Cruz. He urged the Committee to expeditiously act and support the passage of Bill 1175.

The following witnesses were then called by the Chairman. Mr. Antonio B. Cruz, Mr. Rudy Sablan, Dr. Jeff Barcinas, and Raymond Messer.

According to Mr. Cruz, the hearing won't be necessary if all the rules and regulations were adhered to from the beginning. Bill 1175, said Mr. Cruz, is good for the people of Merizo and urged its passage.

Mr. Rudy Sablan supported the enactment of Bill 1175 and called on the Legislature to start protecting the sale and/or lease of government lands.

Testifying in support of Bill No. 1175 was Dr. Jeff Barcinas. Dr. Barcinas also stressed that Guam's land resources should be protected by the enactment of a strict land use policy.

The Chairman at this time, recognized Mr. Raymond Messer. Mr. Messer a resident of Tamuning testified in support of Bill No. 1175.

Testifying in support of Bill 1175 was Mr. Frederick Quinene. According to him, it is necessary to begin identifying government lands that can be used to benefit the people. The land, said

Mr. Quinene, belongs to the people and transferring said lands will not only benefit the residents of Merizo, but more importantly, the people of Guam.

At this time, the Chairman called on the last two witnesses, Mr. Vicente T. Champaco and Mr. Ken Renio. Mr. Champaco informed the Committee that if Achang Marina Inc., was allowed to proceed they will eliminate the breeding ground of our land and mangrove crabs, fish and most importantly the precious reef and mangrove trees.

Mr. Ken Renio asked why are government officials allowing an outsider to destroy fish and sealife habitat. After citing his experience in Hawaii with developments similar to Achang Bay Mr. Renio strongly recommended that Bill 1175 be passed by the Legislature.

There being no further witnesses, the Chairman then allowed the Committee members to express their views on Bill 1175. Speaker Joe T. San Agustin suggested that the Legislature request the Governor to withdraw the Achang Bay Marina lease transmitted to the Legislature on May 22, 1989.

According to the Speaker the testimonies presented at the hearing coupled with the findings of the Suruhanu's Office warrants the Committee's favorable action on Bill 1175.

There being no further questions, the Chairman adjourned the Committee hearing on Bill No. 1175.

SECTION ANALYSIS:

Please to refer to page entitled "Profile on Substitute Bill 1175.

COMMITTEE RECOMMENDATION:

The Committee on General Governmental Operations, together with the Committee on Housing and Community Development, to which was referred Substitute Bill No. 1175, "An act to grant authority over Lots 519 and 520 in Merizo to the Merizo Municipal Planning Council; to amend §61617, and to add new §§61623 and 61638 to Title 21, Guam Code Annotated, to require Territorial Planning Commission variance hearings to be held in the affected municipalities and to require Municipal Planning Council approval for variances and zone changes; to add a new §60115 to said Title to require Municipal Planning Council approval of government leases of municipal land; and to add a new Subsection (f) to §40125 of Title 5, Guam Code Annotated, to increase the duties and responsibilities of Municipal Planning Councils," has had the same under consideration and now wishes to report back the same, with the recommendation to do pass as substituted.

PROFILE ON SUBSTITUTE BILL NO. 1175

Brief Title: "Transfer Lots 519 and 520 to the Jurisdiction of the Mayor and Merizo Municipal Planning Council."

Main Sponsors: Senators Ted S. Nelson, Carl T.C. Gutierrez, and Joe T. San Agustin.

Date Introduced: Thursday, February 8, 1990.

Assigned Committee: Referred to the Committee on General Governmental Operations and the Committee on Housing and Community Development on Thursday, February 8, 1990.

Committee Hearing: Tuesday, March 13, 1990.

Official Title: "An act to grant authority over Lots 519 and 520 in Merizo to the Merizo Municipal Planning Council; to amend §61617, and to add new §§61623 and 61638 to Title 21, Guam Code Annotated, to require Territorial Planning Commission variance hearings to be held in the affected municipalities and to require Municipal Planning Council approval for variances and zone changes; to add a new §60115 to said Title to require Municipal Planning Council approval of government leases of municipal land; and to add a new Subsection (f) to §40128 of Title 5, Guam Code Annotated, to increase the duties and responsibilities of Municipal Planning Councils."

Co-Sponsors: Senators Herminia D. Dierking, Gordon Mailloux, Don Parkinson, Pilar C. Lujan, Madeleine Z. Bordallo, Elizabeth P. Arriola, and Edward D. Reyes.

Recommendation: To do pass as substituted by Committee.

BACKGROUND

On February 27, 1990, Protehi I Tano'ta filed a complaint with the Office of the Suruhanu against the Territorial Planning Commission (TPC). The complaint was the failure of the Territorial Planning Commission to comply with Zone Variance Laws.

As a result of the hearing, the Speaker, in a letter to the Governor, requested that the Achang Bay Marina Lease transmitted to the Legislature on May 22, 1989, be withdrawn. According to the Speaker, the report submitted by the Suruhano's Office revealed numerous discrepancies which should have been resolved before the lease was transmitted to the Legislature for consideration.

In response to the Speaker's request, the Governor withdrew his support of the Achang Bay Marina Lease.

As a result of the public hearing conducted in Merizo, the Committee finds that development in Merizo should be directed toward preservation and protection of the entire shoreline and its valuable resources. Furthermore, not only has Merizo's natural beauty made it one of the favorite areas for island residents and visitors but, as a coastal, and more importantly as a fishing village, Merizo has a strong identification with the sea, with most of its recreational activities centered along the shoreline.

In lieu of the discrepancies and findings submitted at the Merizo public hearing, the Committee respectfully request that the Legislature act favorably on Substitute Bill 1175.

TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

Bill No. 1175

Substituted by the Committee on
General Governmental Operations
and the Committee on Housing and
Community Development 3/15/90

Introduced by:

T. S. Nelson
C. T. C. Gutierrez
J. T. San Agustin
H. D. Dierking
G. Mailloux
D. Parkinson
P. C. Lujan
M. Z. Bordallo
E. P. Arriola
E. D. Reyes

AN ACT TO GRANT AUTHORITY OVER LOTS NOS. 519 AND 520 IN MERIZO TO THE MERIZO MUNICIPAL PLANNING COUNCIL; TO AMEND §61617, AND TO ADD NEW §§61623 AND 61638 TO TITLE 21, GUAM CODE ANNOTATED, TO REQUIRE TERRITORIAL PLANNING COMMISSION VARIANCE HEARINGS TO BE HELD IN THE AFFECTED MUNICIPALITIES AND TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL FOR VARIANCES AND ZONE CHANGES; TO ADD A NEW §60115 TO SAID TITLE TO REQUIRE MUNICIPAL PLANNING COUNCIL APPROVAL OF GOVERNMENT LEASES OF MUNICIPAL LAND; AND TO ADD A NEW SUBSECTION (f) TO §40128 OF TITLE 5, GUAM CODE ANNOTATED, TO INCREASE THE DUTIES AND RESPONSIBILITIES OF MUNICIPAL PLANNING COUNCILS.

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

2 **Section 1. STATEMENT OF LEGISLATIVE FINDINGS.** The Legislature
3 finds that community development in Merizo should be directed toward
4 preservation and protection of the entire shoreline and its valuable
5 resources, as not only has the village's natural beauty made it one of the
6 favorite areas for island residents and visitors wishing to escape from the
7 pressures of urban living, but also as a coastal and more importantly as a

1 fishing village, Merizo has a strong identification with the sea, with most of
2 its recreational activities being centered along that shoreline.

3 Section 2. Transfer of boat basin to Municipal Planning Council.
4 Authority over Lot Nos. 519 and 520, Estate Nos. _____ and _____,
5 municipality of Merizo, containing areas of 220 and 812 square meters,
6 respectively, including the submerged lands adjacent thereto, designated as
7 the boat basin and boat channel, is hereby transferred to the Merizo Municipal
8 Planning Council for the establishment and maintenance of a playground or
9 other recreational facilities for the use and benefit of the people of Merizo,
10 as the Planning Council shall deem appropriate. Such property may not be
11 leased, sold, mortgaged, or otherwise alienated from its use by the people of
12 Merizo, and public access to the ocean and seashore may not be restricted.

13 Section 3. §61619 of Title 21, Guam Code Annotated, is hereby
14 amended to read:

15 "§61619. Hearing date-notice. Upon the filing of variance
16 application the Commission shall fix a reasonable time for hearing the
17 same and shall give notice thereof to the applicant and may give notice
18 to any other parties in interest. All hearings shall be conducted in the
19 affected municipality and shall be in accordance with [according to] the
20 rules established by the Commission, but any party in interest may
21 appear in person, or by designated attorney or agent."

22 Section 4. A new §61623 is hereby added to Title 21, Guam Code
23 Annotated, to read:

24 "§61623. Review by Municipal Planning Council. The Municipal
25 Planning Council of each district to be affected by a proposed variance
26 shall approve or disapprove by resolution adopted by a majority of its
27 members the request, and submit such resolution to the Commission
28 within twenty (20) days from the date of its hearing thereon for the
29 Commission's consideration thereof pursuant to §61620."

30 Section 5. A new §61638 is hereby added to Title 21, Guam Code
31 Annotated, to read:

32 "§61638. Review by Municipal Planning Council. Each Municipal
33 Planning Council of a municipal district which would be affected by the
34 proposed zone change shall within forty (40) days from the date of a
35 hearing held thereon by such council approve or disapprove the same
36 either in whole or in part by resolution adopted by the majority of its

1 members. Such resolution shall be forwarded to the Governor for his
2 consideration thereof pursuant to §61634 within twenty (20) days
3 from the date of its adoption."

4 Section 6. A new §60115 is hereby added to Title 21, Guam Code
5 Annotated, to read:

6 "§60115. Review of Municipal Planning Councils.
7 Notwithstanding any other law, rule or regulation, all leases of real
8 property owned by the government of Guam for a term of ten (10) years
9 or longer shall be approved or disapproved either in whole or in part by
10 resolution adopted by a majority of the members of the Municipal
11 Planning Council of the municipal district affected by the lease, such
12 resolution to be forwarded to the Governor and to the Legislature prior
13 to their respective consideration of the proposed lease."

14 Section 7. A new subsection (f) is hereby added to §40128 of Title 5,
15 Guam Code Annotated, to read:

16 "(f) Approve or disapprove all variance applications, zone
17 changes, and government leases involving land within their districts,
18 pursuant to §§61623, 61638, and 60115 of Title 21, Guam Code
19 Annotated."

*file
acknowledged
marked*

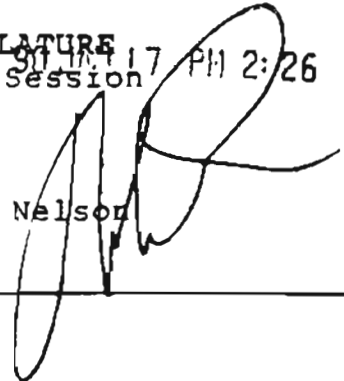
TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

91 MAY 17 PM 2:26

Bill No. 1175

Introduced by:

T. S. Nelson



AN ACT TO TRANSFER GOVERNMENT OWNED REAL
PROPERTY DESCRIBED AS LOT NOS. 519 AND 520,
LOCATED IN THE MUNICIPALITY OF MERIZO TO
THE MAYOR FOR USE AS A COMMUNITY PLAYGROUND
AND OTHER RECREATIONAL FACILITIES.

- 1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
- 2 Section 1. Government owned real property described
- 3 Lot Nos. 519 and 520 located in the Municipality of Mer
- 4 are hereby transferred to the jurisdiction of the Mayor
- 5 use as a community playground, recreational facilities,
- 6 other purposes as the Mayor and the Municipal Planning Cou
- 7 deem appropriate.

*File
acknowledged
marked*

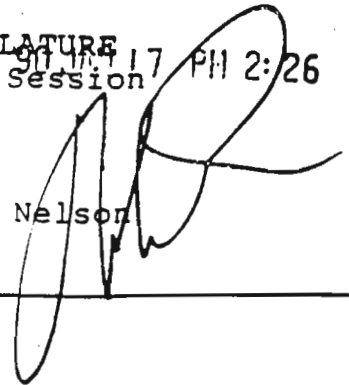
TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session 9/17/90 PM 2:26

Bill No.

1175

Introduced by:

T. S. Nelson



AN ACT TO TRANSFER GOVERNMENT OWNED REAL
PROPERTY DESCRIBED AS LOT NOS. 519 AND 520,
LOCATED IN THE MUNICIPALITY OF MERIZO TO
THE MAYOR FOR USE AS A COMMUNITY PLAYGROUND
AND OTHER RECREATIONAL FACILITIES.

- 1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:
- 2 Section 1. Government owned real property described
- 3 Lot Nos. 519 and 520 located in the Municipality of Mer.
- 4 are hereby transferred to the jurisdiction of the Mayor
- 5 use as a community playground, recreational facilities,
- 6 other purposes as the Mayor and the Municipal Planning Council
- 7 deem appropriate.



JOE T. SAN AGUSTIN
SPEAKER

Office of the Speaker

TWENTIETH GUAM LEGISLATURE

163 Chalan Santo Papa

Agana, Guam U.S.A. 96910

Tel: (671) 477-8527/9120 • Fax: (671) 477-5570

March 15, 1990

RECEIVED MAR 16 1990
9:46 AM

Honorable Joseph F. Ada
Governor of Guam
Office of the Governor
P.O. Box 2950
Agana, Guam 96910

Dear Governor Ada:

I would like to respectfully request that you withdraw the Achang Bay Marina Lease which you transmitted to the Legislature in your letter dated May 22, 1989. A review of your transmittal by the Suruhanu's Office has revealed a number of discrepancies which should be resolved before the Legislature proceeds in any consideration of this matter. A copy of the report has, of course, been forwarded to your office.

Of particular concern to me are the conflicts noted in the report between your proposed legislation to approve the lease and existing Executive Orders and Public Laws. It would appear from the Suruhanu's findings that the lease agreement calls for the lease of, not one, but two distinct lots referred to as Parcel A and Parcel B. Furthermore, the rental payment provided for in the transmitted lease is based only on the fair market value of Parcel B even though both Parcel A and Parcel B are being leased. Both the rental payment arrangements and the leasing of the two lots appear to be in conflict with Executive Order 85-6. On this same subject, there does not appear to be any provision in the lease for rental payments for the submerged lands to be leased.

It also seems that the Territorial Planning Commission's approval of the zone change was not properly handled inasmuch as the their recommendations were not submitted to the Central Planning Commission as provided for in such cases by P.L. 13-89. It should also be noted that the TPC approval was granted for the construction of six cottages but your proposed bill calls for the approval of the construction of a boat ramp and floating docks.

I am also concerned that construction on this government property by Achang Marine Inc. has already been initiated with the construction of a wall that extends several yards on to

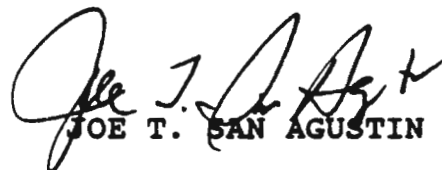
these lots. Frankly, I find it difficult to understand how Public Works could issue a building permit for this structure. This matter, as well as the dredging operations that have already taken place in this bay, should be reviewed.

I also believe the environmental impact of this project should be given more consideration than has apparently been the case. The Legislature is in receipt of a statement by Dr. Robert H. Richmond, the Director of the UOG Marine Lab, indicating his opposition to any dredging in Achang Bay. He further states that dredging would substantially damage the live coral colonies and fishing grounds in that bay. Dr. Richmond also notes that there would be outright destruction of precious Mangroves by the planned dredging and the environment for other Mangroves in the vicinity would be undermined.

I also wish to urge your Administration to give more consideration to the question of public access to both the beach and the proposed boat slips for this site. There seems to be only minimal references to such matters in your transmittal. I find this question of particular concern inasmuch as there already exists a wall restricting public access even before the lease is approved.

For all the aforementioned considerations, as well as the concerns of the citizens of Merizo, I earnestly urge you to withdraw and reconsider your Administration's proposal to approve this lease.

Sincerely yours



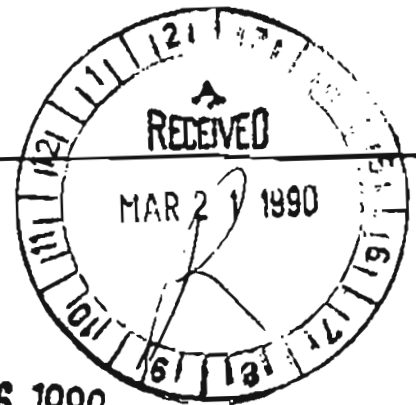
JOE T. SAN AGUSTIN

cc: Mayor of Merizo
Merizo Municipal
Planning Council



Territory of Guam
Federated States of Micronesia

OFFICE OF THE GOVERNOR
UPPERMAN I MAGA LANE
AGANA, GUAM 96910 U.S.A.



MAR 16 1990

The Honorable Joe T. San Agustin
Speaker, 20th Guam Legislature
163 Chalan Santo Papa
Agana, GU 96910

Dear Mr. Speaker:

I am writing to you to respectfully request that the Twentieth Guam Legislature withdraw a lease agreement between the Government of Guam and Achang Marine, Inc.

The Administration makes this request due to numerous problems with and questions about the further development of the area, among them:

The Department of Agriculture is concerned that the Guam Public Land Use Plan designates this for conservation usage, which is not consistent with the planned development; further, that the details for accomplishing the proposed work should have been included in the request, to include (but not be limited to) the methods of dredging and equipment expected to be used during the project, a heavy equipment listing including tonnage, area of use and purpose of operation, and a description of the dewatering process for the use of the dredged material.

The Guam Environmental Protection Agency is concerned that while the erosion and siltation appear at this point to be minimal, off-shore corals will be impacted by siltation and other corals would have to be removed. Neither of these concerns have been addressed by the applicant. Additionally, a detailed Master Plan for the Marina has not been provided.

The Bureau of Planning has several concerns as well; foremost among them is that none of the sixteen development goals and resource policies of the Guam Coastal Management Program have been addressed.

The Honorable Joe T. San Agustin
Page Two

We also have concerns regarding shoreline accessibility and have noted several probable violations which must be corrected; among them, shoreline accessibility is being adversely affected by the current operation in which a fee is being charged. This is a violation of P.L. 19-05, Sections 13473 and 13474(a).

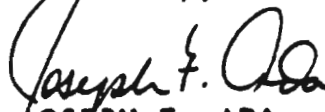
Moreover, the wall around the property appears to encroach severely into a defined Right-of-Way, and is contrary to the same citation as above. The encroachment of the concrete wall into the 80' R/W as per the 1966 Master Plan requires TPC approval, of which no record of such approval or application can be found, nor can this R/W be deleted without legislative approval.

These problems have come to light as the result of an agency review of this project, which was mandated as a result of the project's request for approval of an Army Corps of Engineers permit to conduct dredging. As almost a year has passed since this project was first submitted, we have uncovered these facts, many of which did not exist almost a year ago.

For these reasons, the Administration respectfully requests the Twentieth Guam Legislature to withdraw the lease agreement between the Government of Guam and Achang Marine, Inc.

Thank you and Si Yu'os Ma'ase.

Sincerely,


JOSEPH F. ADA
Governor

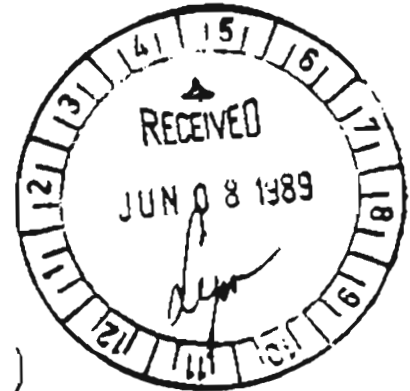


Territory of Guam

Territorial Guam

OFFICE OF THE GOVERNOR
LUPENAN I MASA LAHE
AGANA, GUAM 96910 U.S.A.

Rec'd *Secy*
MAY 22 1989



The Honorable Joe T. San Agustin
Speaker
Twentieth Guam Legislature
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith for the Legislature's consideration is a measure approving a lease agreement between the Government of Guam and Achang Marine, Inc.

Achang Marine Inc. has applied to lease this portion of government property adjacent to its property to complete its improvements on the marina at Achang Bay in the Municipality of Merizo. The proposed lessee has obtained from the Territorial Planning Commission/Territorial Seashore Protection Commission conditional approval for further development of the marina. One of the conditions imposed by the Commission was that the corporation obtain a lease from the government for the submerged land and government property used for the marina.

The property is part of Guam's Territorial Seashore Park and may be improved at the discretion of the Director of the Department of Parks & Recreation. The Director of Parks and Recreation has approved the proposed improvements in the area. Achang Bay serves the small boat owners by providing a harbor of refuge in southern Guam and providing mooring facilities.

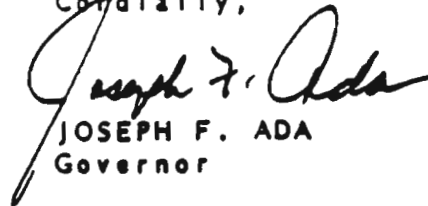
Section 13457 of the Government Code mandates that the property within the Seashore Park never be alienated from the public domain. Therefore, the Lessee has agreed that the public will never be denied access to use of the facilities or improvements undertaken on the property. The lessee may charge moderate use fees in keeping with the investment in the development and maintenance.

The lease of this area to Achang Marine Inc. will be beneficial to the recreational use of public lands. Achang

Page Two

Marine Inc. has agreed to undertake all maintenance costs of the marina. In consideration of its annual rental payments and improvements to be constructed on the property, I seek legislative approval of the agreement.

Cordially,


JOSEPH F. ADA
Governor

200287

GOOD EVENING SENATOR TED S. NELSON, AND MEMBERS OF THE COMMITTEE
ON GENERAL GOVERNMENTAL OPERATIONS.

MY NAME IS VICENTE M. ACFALLE, A RESIDENT OF MERIZO AND
I AM HERE REPRESENTING MY FAMILY "Y FAMILIAN CARABAO" TO REN-
DER SUPPORT FOR BILL 1175.

MERIZO SINCE BEFORE THE INVASION OF THE JAPANESE IN 1941
HAD ALWAYS BEEN AN AGRICULTURAL SOCIETY. PEOPLE PRIDE THEM-
SELVES WITH THEIR ABILITY TO LIVE OFF THE LAND. TODAY THERE
ARE STILL FAMILIES IN MERIZO THAT RELY ON THE EXCELLENT FISH-
ING GROUNDS OF ACHANG BAY FOR THEIR SURVIVAL. SHOULD ACHANG
BAY MARINA GETS ITS WAY, THEN THE VERY SAME FISHING GROUNDS
WILL BE VIRTUALLY USELESS FOR THE PEOPLE'S LIVELYHOOD, SUB-
SISTENCE & SUPPLEMENT. THIS WILL BE SO BECAUSE ACHANG BAY
PLANS TO DREDGE APPROXIMATELY 40,000 CUBIC YARDS OF OUR BAY.
THIS IS A PART OF OUR INHERITED LEGACY & CULTURAL STRONGHOLD.

WHEN ACHANG BAY MARINA STARTED, ONE OF THE FIRST THEY BUILT
WAS A CONCRETE WALL THAT DENIED THE PEOPLE OF MERIZO ACCESS
TO GOVERNMENT LAND WITHOUT ANY LEGAL GROUNDS. YET, THIS WAS
ENDORSED BY THIS ADMINISTRATION. NEXT THE ACHANG BAY MARINA
BEGAN TO CHARGE THE PEOPLE OF MERIZO TO PASS THROUGH THE GOVERN-
MENT LAND IT ENCLOSED, AND ALSO TO CHARGE THE PEOPLE FOR FISHING
IN THE PUBLIC WATER.

IN 1978, THE LATE GOVERNOR RICARDO J. BORDALLO CAME UP
WITH A MASTER PLAN CALLED "KABALES NA PLANO PARA GUAHAN". THIS
MASTER PLAN COST OVER HALF A MILLION DOLLARS AND TOOK THREE
YEARS TO COMPLETE KABALES NA PLANO PARA GUAHAN RECEIVED PUBLIC
SUPPORT AND INPUT THROUGH PUBLIC HEARINGS THROUGH OUT THE ISLAND
PRIOR TO IT'S COMPLETION. IF KABALES NA PLANO PARA GUAHAN WAS
ENACTED INTO LAW, ACHANG BAY MARINA WOULD HAVE BEEN PREVENTED
FROM CHEATING AND RAM RODDING THE PEOPLE OF MERIZO, THE PEOPLE
OF GUAM. GOVERNOR BORDALLO HAD A VISION AND WAS RIGHT ON TARGET.
TWELVE YEARS AGO HE FORESAW THAT DEVELOPMENT CAN BE HAZARDOUS
TO THE PEOPLE SO HE CREATED THE MASTER PLAN TO PROTECT HIS PEOPLE.
I ASK YOU MR. CHAIRMAN, WHERE ARE OUR SO CALLED LEADERS WHO
SUPPOSED TO BE LOOKING OUT FOR THE PEOPLE'S WELFARE. WHY DOES
IT TAKE THE PEOPLE TO BE FIRST SUBJECTED TO HARASSMENT AND THREATEN
OF THEIR EXISTENCE BEFORE ANY ELECTED OFFICIAL COMES FORWARD.

RATHER THAN COME TO THE AID OF THE PEOPLE OF GUAM, ENDORCEMENT
LETTERS FROM GOVERNOR ADA, LT. GOV. BLAS, DIRECTOR OF PARKS
& RECREATION. THE DIRECTOR OF LAND MANAGEMENT, AND TPC WERE
SENT TO THE LEGISLATURE CITING WITH THE DEVELOPMENT RATHER THAN
CITING WITH THE PEOPLE OF GUAM.

MR. CHAIRMAN, THIS TYPE OF LEADERSHIP IS NOT IN THE BEST
INTEREST OF GUAM AND ITS PEOPLE. THE QUESTION HERE MR. CHAIRMAN
IS WHERE DOES THE LEGISLATORS STAND?

MR. CHAIRMAN THE FAMILIAN ACFALLE CLAN STAND READY AND
WILLING TO MUSTER ANY ASSISTANCE IN RECTIFYING THESE INJUSTICES
AGAINST OUR PEOPLE.

YUOS M. ACFALLE



March 12, 1990

Mr. Mark C. Charfauros
Chairperson, Protehi I
Tano'ta
P.O. Box 1790
Agana, Guam 96910

Re: Protehi I Tano'ta, Case No: OS-3550-90

Dear Mr. Charfauros:

This is in reference to the complaint filed by Protehi I Tano'ta at the Office of the Suruhanu dated February 27, 1990 against the Territorial Planning Commission. The complaint was failure by the Territorial Planning Commission to comply with Zone Variance Law.

Our findings are as follows:

1. The Territorial Planning Commission (TPC) didn't follow proper procedure in approving zone change, on Lot No. 273-2-R1, Merizo, from "R-1" (Single Family Dwelling to "C" (Commercial) zone despite objections at the public hearing. Since this action would amend the Territorial Master plan, the Territorial Planning Commission failed to submit its recommendations and findings to the Central Planning Council. Please see Attorney General's Opinion dated February 07, 1990, and Public Law 12-200 as amended and Public Law 13-89.
2. The zone change approved by the TPC and concurred by the Governor and Lt. Governor on the date indicated was to build six chalet style cottages for tourist accommodations, yet the proposed Bill for the lease of Lots 519 & 520 at the request of the Governor to the Speaker, was for the construction of a boat ramp and floating docks. These two reasons are not in consonant.
3. Executive Order No. 85-6 dated February 13, 1985, Section 12 "Rent" states. "The amount of rent due shall be

Mr. Mark C. Charfauros
Chairperson, Protehi I Tano'ta
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determined by the fair market rental value of the property at the time of the initial execution of the lease" and furthermore, "The rental amount shall be redetermined at least every ten years to conform with the current market rental value of the property leased or at least every five years at a fixed amount stated in the contract not to exceed 10% of the immediate prior lease agreement." The proposed annual rent is based only on Parcel B of \$18,300 rather than the combination of Parcels A & B. When these two parcels are combined the Government should net \$26,760 annually.

4. Executive Order No. 85-6, No. 4, "Eligibility" states, "no such person, partnership or corporate shall be eligible to lease more than one tract, lot or parcel". The proposed lease agreement involves two distinct 2 separate lots, mainly lots 519 and 520. Furthermore, the Department of Land Management and Department of Park & Recreation failed to produce the application form from Achang Marina, Inc. showing the proposed use as well as its financial statement.

5. The construction of the concrete cement wall is in violation of the approved Master Plan in terms of allowed set-backs according to Land Management officials contrary to the Public Works Director. In addition, the Plan Review Record, permit number 5862 from Public Works notes "for construction of a concrete fence along Lot 273-2-R1 only". The actual Building Permit issued by Public Works on June 13, 1989 showed two lots, 273-2-R1 and 273-2-1. The Plan Review Record should have been followed and be the basis in which the Building Permit be approved. Title XVIII, Chapter XII, Section 17452 of the Government Code states "no building permit or certificate of occupancy shall be issued by the Building Official for the erection, alteration, enlargement, or use of any land, which is not in accordance with all provisions of this law. Any building permit or certificate of Occupancy issued in conflict with the provisions of this Title, shall be null and void".

6. The cassette tapes of the TPC minutes of December 19, 1989 are forwarded for your review. These minutes have not been transcribed, and until they are reproduced in written form, there would be continued violation of the Freedom of Information Act by the Department of Land Management.

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7. Recommendations:


- a. That the Director of Land Management hire its own Attorney as soon as possible to ensure compliance to future zone variances requests.
- b. That the Territorial Planning Commission follow the recommendations of the Subdivision and Development Review Committee (SDRC), and that the recommendations by SDRC be in a proper written form.
- c. That the proposed Lease agreement be held in abeyance until all application requirements are met by the applicant and adequate public hearing is conducted.
- d. That the Central Planning Council be given the opportunity to review any amendments and deletions to the approved master plan before any final approval is given.
- e. That tape transcripts be transcribed as expeditiously as possible.
- f. That further investigation be conducted on the Department of Public Works as to the legality of the existing concrete wall.
- g. That the proposed Lease agreement for Lots 519 and 520 be thoroughly reviewed for compliance of existing laws and Executive Order, mainly Executive Order 85-6.

8. The Office of the Suruhanu is forwarding the following documents:

- a. Executive Order No. 85-6
- b. Letter form Governor Ada to Speaker Joe T. San Agustin dated May 22, 1989
- c. Certificate of Valuation, Parcel A, Lot 519
- d. Certificate of Valuation, Parcel B, Lot 520
- e. By-laws of Achang Marina, Inc.
- f. Articles of Incorporation of Achang Marina, Inc. with amendment
- g. Building Permit of Achang Bay Marina wall
- h. Construction Plan of Achang Bay Marina wall

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- i. Inspectors Daily Progress Report on Lot No. 273-2-1 and Lot 273-2-R1
- j. Letter to Sen. Frank Santos from F.L.G. Castro dated August 10, 1987 requesting zone change amendment
- k. Public Law 12-61, Section 3
- l. Public Law 15-6, Section 4
- m. Chapter XII of the Government Code of Guam, changes of zones
- n. Land Registration Survey Map of Lots 519 and 520
- o. Cassette tapes transcripts of TPC meeting dated December 19, 1989 (5 of 5 tapes).


JESUS R. MAANAO
Acting Suruhanu

Attachments

cc: Governor of Guam
Speaker Joe T. San Agustin
Senator Gordon Mailloux
Senator Herminia D. Dierking
Director, Dept. of Land Management
Ms. Elizabeth Barrett-Anderson,
Attorney General
Director, Parks & Recreation
Director, Dept. of Public Works
Administrator, GEPA

TESTIMONY OF IGNACIO IRIARTE
ON
BILL NO. 1175 (COR)

MARCH 13, 1990

GOOD EVENING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT. THANK YOU FOR ALLOWING ME THE OPPORTUNITY TO APPEAR BEFORE YOUR COMMITTEE. I AM HERE TO TESTIFY, AS A PRIVATE CITIZEN, IN FAVOR OF BILL NO. 1175.

BILL NO. 1175, IF ENACTED INTO LAW WILL PROVIDE THE PEOPLE OF MERIZO A GUARANTEED PUBLIC ACCESS TO THE BEACH AND THE OCEAN WHICH WOULD OTHERWISE BE LOST IF THE LAND WAS SOLD OR LEASED TO A PRIVATE BUSINESS. YES, I HAVE HEARD TESTIMONIES IN THE PAST FROM BUSINESSES AND OTHERS, THAT, IF GRANTED A LEASE OR SALE OF BEACHFRONT PROPERTY, THEY WILL PROVIDE PUBLIC ACCESS TO THE BEACH. HOWEVER, THESE PROMISES WERE OFTEN BROKEN OR NEVER CARRIED OUT.

ALTHOUGH I AM NOT A RESIDENT OF MERIZO, I ENDORSE THE PASSAGE OF BILL NO. 1175 BECAUSE THE PEOPLE OF MERIZO DESERVE NO LESS.

HOWEVER, I AM REQUESTING THAT THIS COMMITTEE AND THE LEGISLATURE AS A WHOLE GO FURTHER AND THAT THE QUESTION OF ACCESS TO THE BEACHES AND THE SEA BE ADDRESSED AND BE FOREVER MORE SETTLED SO THAT THERE WILL BE NO MORE QUESTION REGARDING THE PEOPLE OF GUAM'S RIGHT OF ACCESS TO THEIR BEACHES AND SHORELINES.

AS A RESIDENT OF YONA, WE THE RESIDENTS OF YONA DO NOT, AS OF NOW, HAVE ANY MAJOR PROBLEMS ACCESSING THE BEACHES ADJACENT TO THE MUNICIPALITY OF YONA. BUT I FORESEE SOME PROBLEMS IN THE FUTURE ESPECIALLY WITH REGARDS TO THE TURTLE COVE AREA, YLIG BAY, THE SOUTH SIDE OF PAGO BAY AND TOGCHA.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THE OCEAN AND ITS BEACHES HAVE ALWAYS BEEN AN IMPORTANT PART OF THE CHAMORRO HERITAGE AND CULTURE. THE VOICES OF THE PAST ECHOING THE WORDS, "NIHI TAFAN MALAG I TASI." IS STILL HEARD TODAY, BUT ALWAYS WITH THE QUALIFICATION "WHERE?". LET US NOT FORGET THAT BECAUSE OF THE SIZE OF GUAM, THE USEABLE BEACH AND SEASHORE AREAS ARE VERY LIMITED. SOME OF THE MOST BEAUTIFUL BEACH AREAS ARE UNDER THE CONTROL OF THE MILITARY AND ONLY PEOPLE WITH MILITARY IDENTIFICATION CARDS CAN GET TO USE THOSE BEACHES, OTHERS ARE BLOCKED OFF BY HOTELS AND OTHER BUSINESS AND STILL OTHERS ARE BLOCKED OFF BY MILITANT PROPERTY OWNERS, ALL SEEM TO THINK THAT THEY CAN KEEP PEOPLE FROM USING THE BEACH BECAUSE THEY OWN OR CONTROL PROPERTY FRONTING THE BEACHES. THE BOTTOM LINE IS THAT THE BEACH AREAS WHICH ARE ACCESSIBLE TO THE PEOPLE OF GUAM ARE QUICKLY DIMINISHING AND IF NO ACTION IS TAKEN NOW, NONE MAY BE ACCESSIBLE.

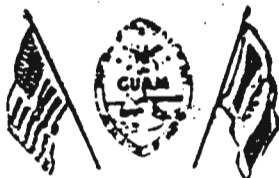
IT IS IRONIC THAT FOR THE MOST PART THOSE WHO WOULD DENY ACCESS TO OUR BEACHES ARE NOT FROM GUAM, BUT FROM OTHER PARTS OF THE WORLD WHO COME TO PARADISE AND WANT TO MAKE PARADISE THEIRS OR TO USE OUR VALUABLE NATURAL RESOURCE TO MAKE THEM WEALTHY SO THAT THEY CAN RETIRE AND MOVE BACK TO WHERE THEY CAME FROM AT THE EXPENSE OF THE "REAL" PEOPLE OF GUAM. IN THE MEANTIME OUR GOVERNMENT AND ELECTED OFFICIALS CONTINUE TO KEEP SILENT AND TAKE NO ACTION BECAUSE MANY OF THE VIOLATORS ARE VERY LOUD IN SAYING THAT IF THEY DO NOT GET WHAT THEY WANT THEIR BUSINESSES WOULD SHUT DOWN, THE TOURISTS WILL STOP COMING AND THE ECONOMY OF GUAM WILL CRUMBLE TO THE GROUND LIKE THE TOWER OF BABEL.

I SAY THERE IS ROOM FOR BOTH. BUT THE PEOPLE OF GUAM WANT THEIR BEACHES AND SHORELINES RETURNED TO THEM. THEY WANT TO ENJOY THE BEACHES AND THE WATER JUST AS THEIR ANCESTORS DID BEFORE THEM. I WOULD LIKE TO ADD ALSO THAT IN MAKING THE BEACHES ACCESSIBLE TO ALL OF THE PEOPLE, DO SO WITH THE THOUGHT THAT ONLY THE TOURISTS AND THOSE WHO COME HERE LOOKING FOR PARADISE WANT THE BEACHES AND WATER ADJACENT TO THE BEACHES "SCRUBBED" OR RAKED CLEAN SO THAT THE BEACH IS VOID OF ANY SEA OR ANIMAL LIFE. THOSE OF US WHO ARE FROM GUAM WANT OUR BEACHES AND OUR OCEAN TEEMING WITH LIFE IT WAS ONCE WAS. AS A SPEAR FISHERMAN, WHO HAVE FISHED IN ALL OF THE WATERS AROUND GUAM, MY OPINION IS THAT THE THREE UGLIEST BEACH AREAS ON GUAM ARE TUMON BAY, EAST AGANA BAY AND THE AREA BETWEEN MERIZO AND COCOS ISLAND. IN ALL OF THESE AREAS, THERE IS A SIGNIFICANT ABSENCE OF SEA LIFE AND IN MERIZO ESPECIALLY, CORAL LIFE BETWEEN MERIZO AND COCOS ISLAND IS PRACTICALLY GONE. WE THE REAL PEOPLE OF GUAM WANT TO GO TO THE BEACH AND FIND ANIMAL AND SEA LIFE AS IT IS SUPPOSED TO BE. IF WE WANT TO PRETEND WE ARE AT THE BEACH WE WILL GO TO YPAO AND TUMON BEACH OR IF WE REALLY WANT TO ISOLATED FROM THE "YUKKIE" THINGS SUCH AS THE GHOST CRABS, THE SEA WEEDS, THE SEA CUCUMBERS AND OTHER SEA LIFE LEFT AT LOW TIDE TO BE PICKED UP AGAIN AT HIGH TIDE, WE CAN ALL BUILD SANDBOXES IN OUR BACKYARDS.

IN CONCLUSION, I WOULD LIKE TO RECOMMEND THAT BILL NO. 1175 BE AMENDED TO INCLUDE THE FOLLOWING: 1. A SECTION WHICH WILL MAKE IT MANDATORY THAT PUBLIC ACCESS, WITHOUT ANY RESTRICTIONS, BE PROVIDED TO THE PEOPLE OF GUAM TO ALL OF THE BEACHES AND SEASHORES OF GUAM AND IF NECESSARY, THE GOVERNMENT SHALL CONDEMN THE RIGHTS-OF-WAY NEEDED. 2. MAKE IT ILLEGAL TO DESTROY SEA AND ANIMAL IN OR AROUND THE BEACH AND SEASHORE IF IT IS DONE SIMPLY TO MAKE THE BEACH OR SEASHORE ATTRACTIVE TO THE TOURISTS AND OFF-ISLAND VISITORS.

AGAIN THANK YOU FOR GIVING ME THE OPPORTUNITY TO TESTIFY BEFORE YOU TONIGHT.

20/37/BILL/II



Merizo Mayor's Office Government of Guam

HCR Box 16078
Merizo, Guam 96916

3/13/90

TESTIMONY RE BILL 1175

IGNACIO S. "BUCK" CRUZ
Mayor

RITA A. TAINATONGO
Administrative Assistant

MARIA B. REYES
Municipal Clerk

MERIZO MUNICIPAL PLANNING COUNCIL

IGNACIO S. "BUCK" CRUZ
Chairman

PATTY JO HOFF
Vice Chairperson/Secretary

LYDIA T. CRUZ
Treasurer

MEMBERS

Jose Q. Acfalle

Jose S.N. Barcinas

Antonio F. Cruz

Edwin T. Cruz

Vicente Q. Nangauta

Joaquin B. San Nicolas

Steve L. Spencer

Jose M. Tedpalago

TELEPHONES:
828-8312
828-8772

Senators Gordon Mailloux and Ted Nelson and Committee members. We the members of the Merizo Municipal Planning Council want to thank you for allowing this hearing to be held in Merizo where our local people will have an opportunity to express their views.

First, let us say that Merizo is a small but growing community which has little land available for community use. We feel very strongly that all government land within the village should be retained for public use. When parcels are sufficiently large, they should be kept for the landless or for public facilities or to preserve habitats. As you may be aware the Merizo Municipal Planning Council has been developing parks, playgrounds and other facilities in the village. We have built a playground at the pier and at Pigua. Now the parents of the children living on the eastern side of the village are asking us to build a playground for their children. While lots 519 and 520 are small lot 519 is large enough to build a small playground sufficient for children living in eastern side of the village.

Our second reason for wanting these lots is to assure public access to the Manell Channel. This channel and the adjacent coastline are traditional fishing and crabbing grounds for our local people. It is one of the few places where the mangrove crabs can be found and is a wetland area which allows fish to breed and the young fish to develop. It is also a feeding ground for many of the migratory fish. Lot 520 would be an excellent place for half a dozen of picnic tables so that families can have a peaceful spot to enjoy the day while the kids are fishing and swimming in the shallow water and adult fishermen are out in the deeper waters.

It is the position of the Merizo Municipal Planning Council that it is the duty of our Senators and others in our government to see that our interests are protected. In the case of lot 519 and 520, we ask that you protect the interests of the community by seeing that these two lots come under the jurisdiction of the community. At the present time we are denied access to this government land by a developer who insists that we pay if we want to fish and who closed the doors and gates on the property to see that we do not have access. We feel certain that it is not the

desire of the legislature to have residents denied access to public lands.

We therefore appeal to you to support Bill 1175 and see that our rights to this land are returned to us.

SI YUUS MAASE,

Patty Jo Hoff
PATTY JO HOFF, Ed. D.

Edwin T. Cruz
EDWIN T. CRUZ

Jose Q. Acfalle
JOSE Q. ACFALLE

Joaquin B. San Nicolas
JOAQUIN B. SAN NICOLAS

Josephine E. Cruz
JOSEPHINE E. CRUZ

Lydia T. Cruz
LYDIA T. CRUZ

Jose M. Tedpahogo
JOSE M. TEDPAHOGO

Jose S.N. Barcinas
JOSE S.N. BARCINAS

Vicente Q. Nangauda
VICENTE Q. NANGAUDA

Antonio S. Cruz
ANTONIO S. CRUZ

Steve L. Spencer
STEVE L. SPENCER, Ed.D.

Ignacio S. "Buck" Cruz
IGNACIO S. "BUCK" CRUZ
MAYOR

3/13/90
D

BILLS 1175/785
TESTIMONY
BY: MR. TOM BARCINAS

I appear before the Committee to state my objection of Bill 785 for the following reasons:

1. From a historical perspective, the Achang Bay had a rich history. Mr. Wilke referred to the bay as nothing more than a boonie mud flat. Little did he know that before the channel was dredged up and the mangrove trees destroyed, there were mangrove crabs and land crabs all over the place. The bay was a favorite spot for fishermen to catch i'i', aguas, and ti'ao. Once each year, the manahag (manahac) and atolai used to come in big schools. Now that the natural habitat for these resources are destroyed, they are no longer available to the people of Guam. I can't help but wonder how and why the Army Corp of Engineers granted approval for the bay to be dredged up. This should never have been allowed to happen.
2. The "Berlin Wall" should never ever encroach on the government property. Mr. Wilke should never have taken advantage of nor take the government and the people of Guam for granted by extending his wall over government land without legislative approval. The Government of Guam should never have allowed this to happen.

Without approval from the legislature, we can see what Mr. Wilke can do with government land. I can imagine and I fear what he can do if the legislature approves his request.

Not only did he block public access to the public beach, but according to Peter Arceo, as reported by the Guam Tribune on Friday, March 2, 1990, he and his friends were told that they could go fishing if they bought soft drinks first. The government should never allow the people of Guam to pay a fee to get to a public beach.

3. The Ocean Shore public Access Act of 1987, an amendment to Title XIV of the Government Code embodied in P.L. 19-05, effective August 21, 1987 guarantees the right of public access to ocean shore and to provide for the maintenance of traditional right-of-way and the acquisition of public rights-of-way to the ocean shore.

In conclusion, I recommend the following:

1. That in the absence of a Master Plan for the south, the legislature should defeat Bill 785.
2. To nullify or cease to exist any activity of the Achang Bay Marina that is not in compliance with local or federal law.
3. To further serve the public interest, the government should consider the acquisition by purchase of the Marina.

4. Where it is not in the public interest to pay an exorbitant price, the government should then consider condemnation.

Condemnation may be a very drastic step, but private properties around the island have been condemned in the interest of the general public. My family's property here in Maleeso, for instance, was condemned a few years back for a sewer ejector pump.

In light of the above, I support Bill 1175.

Thank you for the opportunity to express my views on the two bills.


TOM BARCINAS

My name is Jose M. Torres. I am a lifelong resident of this town and am here as a private citizen to testify in favor of Bill 1175, which is designed to convey two parcels of public land to the town's mayor for the public's recreational use.

For a good part of two decades now, Guam's population has been growing at a high rate. Demographic experts have estimated the island's natural birth rate at over ten percent. ^{per year} The life span of the island's residents continues to increase causing the elderly population to increase as well. Additionally, people from Asian countries of South Korea, Taiwan, Japan and especially the Philippines are coming here in ever increasing numbers to make the island their transplanted and permanent home.

All of these have put a strain on the facilities which have traditionally supported and sustained a relatively high standard of living for island residents. These public facilities include roads and highways, schools, health care centers, water and sewer systems, parks and recreational areas, electrical generating facilities, communications systems, public transportation and other utility systems.

It is estimated that, not including federally-owned land, less than a third of the island is owned by the local government. It is obvious, therefore, that even though the need for public utilities continues to expand, the amount of land that is available for that purpose is limited. It is for this reason that we should make judicious use of every bit of public land that we own. Publicly owned land shall be leased, sold or exchanged only if it can be fully demonstrated that such lease, sale or exchange is unequivocally for the common good.

The growth here in Malesso is not unlike that in the other areas of

Guam. Here, too, public land is needed to expand public facilities for an evergrowing population. A good example of this need here for public land is the recent acquisition, through legislative action, of a suitable piece of land for a public cemetery because the present facility is completely overfilled.

Bill 1175, if it becomes law, will meet the need for a specific recreational area for young people and adult residents of this village.

Not too long ago, I discussed with Mayor Buck Cruz the idea of a public Olympic-size swimming pool that can be built from proceeds from the Malesso Fiestan Tasi that is sponsored annually by the Municipal Planning Council. I believe that Lots 519 and 520 might just be adequate for the swimming pool complex.

The pool, which perhaps can be best maintained by the Department of Parks and Recreation after it has been built, can be used to develop and train swimmers who will represent Guam in the Olympic games. Malesso in the past has fielded championship teams in basketball, volleyball, hockey, baseball and other sports. I have no doubt that we have young athletes here with determination and whose swimming skills can be developed to successfully compete in the Olympic swimming events.

I have previously mentioned why it is generally undesirable for public lands to pass to private hands. Bill 1175, if it becomes law, will effectively preclude the leasing of the two aforementioned lots - and submerged land in the vicinity - to a marina development company.

About two years ago the Achang Bay Marina announced plans to build a world-class complex comprising of a marina, restaurant and hotel. There is now to be seen a few small to medium size boats moored to what appears to be docking facilities built on previously excavated

beach land. No hotel can be seen and the restaurant is a small nondescript eatery serving light meals.

The marina owner, Steve Wilkes, wants a 50-yr. lease of Lots 519 and 520 as well as submerged land in the marina complex. He claims that the acquisition of those land parcels is absolutely essential to his development plans. But I don't think that leasing those public lands to Wilkes constitutes an action for the common good. Only a precious few locals are employed at Achang Bay Marina. Worse, it is widely reported that Malessos residents are refused service at the restaurant. A Chamorro girl told me that her group of five other Chamorro youths, all adequately attired and otherwise presentable, were refused service and even their request for future reservation for a meal was turned down. The restaurant operator would not explain the reason for the action, which the group considers to be discriminatory. Access to the rich fishing grounds of Achang Bay and Sagua Usao through the marina complex is permitted but only after a fee has been paid. I heard that one Malessos fisherman, laboring under a heavy load of manahag catch, was asked to pay two hundred dollars in order for him to pass through the complex to his home across the highway.

The thing that provoked the most enmity against the Achang Bay Marina owner is the six-foot, steel reinforced concrete wall (promptly dubbed the "Berlin Wall" by the villagers) that was erected on the highway side of the complex. With flagrant disregard to the offset regulation that other owners are compelled to conform with when constructing permanent structures adjacent to roads and highways, Wilkes built his wall virtually on the highway shoulder. Moreover, nobody in this village builds a wall around his property unless he wants to convey the message that he is not with us at least in spirit. It is our perception that

Wilkes and Achang Bay Marina are not part of this community.

I have already mentioned that Wilkes also wants to lease submerged land for the purpose of dredging to build berthing facilities for his marina. I do not wish to dwell further on this matter because I will strongly oppose the project at the proper time. Suffice to say now that irreversible damage will be inflicted to marine life and its environs at Achang Bay and Sagua Usao if Wilkes is permitted the extent of excavation that he intends to do for his marina.

In all my years I have yet to see a business concern as mistrusted, unsupported and unesteemed by the community as Achang Bay Marina. It is for this reason that many of us have serious doubts about the company's future viability. It would be unreasonable, therefore, to lease public land to a company which might not be around in the near future.

1. Recall

- a. Encroaches on joint property, Lots 20
- b. We question legality i.e. probably no proper permit
- c. only 3 openings, closed all the time.

TESTIMONY IN SUPPORT OF BILL 1175

Good evening SENator Mailloux, member Senators of the Housing and Community Development Committee, Mayor Cruz and fellow residents of Malesso. My name is Joseph Cruz Barcinas and I am a resident of Malesso. I would like to express my support of Bill 1175, a measure to designate government land for recreational use, and encourage other Malesso residents to come forth and voice their support. Senator Mailloux, I appear before you not only to right a wrong that I feel was done to me as a resident but also with the hope that the seed of injustice affecting all Malesso residents not be allowed to grow and take root in our village. I say injustice because up until a few days ago while reading through the daily newspaper did I know of Achang Bay's plan for expansion. The owners of Achang Bay would probably contend that the expansion of the Marina's facilities would lead to increased economic and social benefits. But, I ask you this Mr. Chairman, for whose benefit? The owners of Achang Bay or the residents of Malesso. Last year, for example, the owners of Achang Bay decided to build a wall around the Marina. The owners would probably contend that this wall would ensure the protection of the Marina's equipment and facilities. I say that this wall represents a physical barrier which prevents "unwanted" customers or business from entering the Marina and using the facilities. Why else would the Marina's policy require a person to call for approval or disapproval of a request to enter. My fellow Malesso residents, what are we waiting for? Are we waiting for the South to be the next Tumon? Are we waiting for Guam to be the next Hawaii? Last year, Hawaii's lawmakers enacted legislation blocking any further development fueled by foreign investments. As obvious as it seems, we are facing a similar problem. Will we make the same mistake and allow for uncontrolled, unlimited development in our island? If we do allow for uncontrolled development and when we are finally forced to enforce corrective measures, as a people what we have to say or do is a little too late. The land will no longer be ours. The natural resources will no longer be ours. Mr. Chairman, I am of the firm belief in the principle of opportunity cost as defined in the field of economics: In order to gain something, something else must first be given up. With Achang Bay and its expansive ideas, in order for the Marina to expand its facilities which in turn would lead to a corresponding increase in revenues, the surrounding government land and reef must first be cleared and dredged. Mangrove forests which provide a natural home or habitat for a multitude of other marine life would be destroyed. Coral formations of the surrounding reef which have formed over several centuries would be damaged and rendered irreparable. Would it take years, decades or even centuries for the mangrove forests and reef to recover? Perhaps, recovery will never occur. How can Achang Bay's representatives be so insensitive and uncaring as to say that there would only be minimal damage. It's the same as saying that it is okay for one to drive after one or two drinks because he or she is only a little drunk. It is either drunk or not and it is either irreparable damage to mangrove forests and reef or no damage at all. It is beyond my level of understanding and reasoning how Achang Bay can say that there will be only minimal damage. I feel that it is our duty as residents of Malesso to protect what is duly ours. It is our mangrove forest. It is our reef. If we do not protect our resources today, what is left over is not worth saving for tomorrow. I feel that it is our moral obligation to protect our natural resources for us and our children and all the generations of residents who will call Malesso home in the near future. Obviously, the impending destruction and depletion of our natural resources is knocking on our door. The only way for the owners of Achang Bay to enter our village and dictate what they should do and what is best for Malesso is if we open our doors and allow them to do so. I am here this evening to shut my door on this type of development and any other alternative proposal that Achang Bay has to offer for the simple reason that we are giving up too much.

Furthermore, I am of the firm belief that the opinions and feelings of Mayor Cruz and Malesso residents were indeed taken for granted and considered unimportant. If such is not the case, then why did Achang Bay obtain all the necessary government agency approvals for this type of development prior to obtaining approval from Malesso residents through their duly elected representative, Mayor Cruz. If such is not the case, then why are we here this evening if it is not to put an end to the injustice and the undermining of our rights as a people. This lack of courtesy and respect should not be tolerated or ever be allowed to take root in our village and grow beyond control. It is time for the owners of Achang Bay to realize that it is the residents of Malesso who possess the right to dictate what is best for Malesso and not them or their representatives. I feel that where there is little or no concern given to us for our opinion and feelings out of courtesy and respect for our right that no consideration should come from us to allow Achang Bay to expand at our expense. The owners of Achang Bay would probably contend that all expenses associated with the development of the Marina would be borne by them with benefits reverting back to the residents. But, is this really the case? Sure, a large sum of money would be spent to develop and expand. But, what is also true is that an even larger sum of money would be generated in the long run as profits gradually outweigh costs. As can be seen by the preceding arguments, all indicators point in and for Achang Bay's favor and benefit and not for Malesso and its residents. My fellow residents, let us not be blinded by false promises or assurances and illusions of grandeur or prosperity conjured up by those who will never know, understand, or appreciate the Chamorro or local way of life. Perhaps, my testimony this evening is not enough in itself, but our combined support of Bill 1175 and united efforts will be enough to do away with uncontrolled, unlimited development in our village and island. Mr. Chairman, I thank you for affording me this opportunity to voice my concern and humbly request your kind consideration and support of Bill 1175.


 JOSEPH C. BARCINAS
 MALESSO RESIDENT

LAW OFFICES OF
JOSE LEON GUERRERO, P.C.

Suite 101, 258 Martyr Street
P.O. Box DX, Agaña, Guam 96910
671/472-6348, 6849, 6848



March 12, 1990

Honorable Gordon Mailloux
Chairperson
Committee On Housing & Community Development
Twentieth Guam Legislature

HAND DELIVERED

Re: Bills 785 and 1175

Dear Senator Mailloux:

This office represents Achang Marine, Inc. ("Achang Marine"), owners of Achang Bay Marina in Merizo.

The two bills referenced above are presently pending before your committee. Bill 785 would grant to Achang Marine a lease for two (2) small parcels of land adjoining the marina property, amounting to just over one thousand square meters. It would also grant a lease to the submerged lands adjacent to the land owned by Achang Marine. The acquisition of the land by Achang Marine was a requirement of the Territorial Seashore Protection Commission when it approved a development permit for Achang Marine back in 1984, allowing the marina property to be developed into a useable marina and boat launching facility. Achang Marine has worked diligently for over the last five and a half (5 1/2) years to obtain the approvals of all the interested agencies who monitor such leases. Its application has been favorably reviewed by each. Governor Ada signed the proposed lease on May 22, 1989, leaving only legislative approval to clear the way to effect the lease agreement. Bill 785 was introduced for the purpose of approving the lease.

Bill 1175, on the other hand, hastily introduced at the request of the Mayor of Merizo, would take the same property sought by Achang Marine and turn it over to the Municipality of Merizo to be used for recreational purposes. Such a transfer would not only have the effect of substantially diminishing the value of the Achang Marine property, it would frustrate five years of hard work by Achang Marine and the various government of Guam agencies who have reviewed the proposed lease transfer and approved the same, and may well effectively act to put Achang Marine, an ongoing private

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concern of six years in Merizo, out of business. The passage of bill 1175 would amount to a denial of the legitimate expectations of Achang Marine encouraged by the government for over five and a half (5 1/2) years and would be tantamount to interference by the government in an ongoing, legitimate private concern. It would render useless the investment by Achang Marine over this period of several hundred thousand dollars in the development of the marina area.

What is most ironic about Bill 1175 is that the two small parcels of land desired by the Mayor of Merizo are too small and too poorly situated to be used in any meaningful fashion by the Village, notwithstanding the Mayor's comments to the contrary. Acquisition of these parcels would not help to further the recreational benefits afforded the people of Merizo.

It should also be pointed out that not only is the Mayor of Merizo opposing the lease of the two lots, he has also expressed opposition to the acquisition by Achang Marine of the submerged lands adjoining its property.

A Merizo village public hearing is scheduled for bill 1175 on Tuesday, March 13, 1990.

There has been much publicity lately regarding this matter; much of it has been uninformed and inaccurate, directed primarily through the efforts of the Mayor of Merizo. Frankly, it has become quite clear that the genesis of this "dispute" that has led to these two contradictory bills is simply a personal matter between the Mayor of Merizo and Achang Marine. For whatever reason, the Mayor of Merizo and Steve Wilke, the largest shareholder of Achang Marine, have never managed to establish a working relationship. In and of itself, this would be a non-event. It is an everyday occurrence in our society that individuals fail to "hit it off." But the Mayor has taken this matter to a outrageous extreme; he is attempting to use the resources of his office to pursue his personal feelings against Mr. Wilke and doing so in such a manner as to attempt to put Achang Marine out of business. The property sought by the Mayor is of marginal value to the village of Merizo. It is important for the Mayor to get the property only because he does not want Achang Marine to obtain it. What an interesting signal this will send to the Guam business community if he is successful.

I want to take the opportunity of this letter to give you a clearer understanding of the background of Achang Marine and the history and development of what is commonly known as Achang Bay Marina. I also wish to offer what I believe are clear solutions to the

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legitimate concerns of the Merizo citizens that will help further the interests of the people of the village of Merizo as well as Achang Marine. The owners of Achang Marine want the people of Merizo to be proud of the Marina development and to have access to the marina facilities, Mannell Channel and Achang Bay. They are willing to accept the lease of the government land with restrictions which would guarantee such access to the people of Merizo and the public at large.

Steven Wilke and his wife Kheng are the majority shareholders of Achang Marine, Inc. Steve and Kheng came to Guam in 1984 for the express purpose of opening a marina type facility. In July, 1984, Achang Marine purchased Lot 273-2-1 Merizo. The property adjoins Mannell Channel. At the time of the purchase by Achang Marine, the former owners, Mr. and Mrs. Hugh Fawcett, had been trying to sell the property for several years without success. Indeed, in light of the present fracas, it is both ironic and important to note that when Mr. Fawcett put the property on the market, he repeatedly suggested to Merizo residents that they join together and purchase the property and develop it as they wished, including a possible marina or fishing facility. There were no takers.

When Achang Marine purchased the property from the Fawcetts, it also purchased the Army Corp of Engineers permit for the dredging of the boat basin and development of the marina. Notably, it was Mr. Fawcett who did the initial dredging in the boat basin such that access to Mannell Channel and Achang Bay became a reality. Prior to Mr. Fawcett's investment, the area was Mangrove swamp and the channel was completely inaccessible.

In 1984, Achang Marine promptly went to work seeking approval to develop the marina. It applied for a development permit from the Territorial Seashore Protection Commission. The application was approved in October, 1984. The approval was conditioned upon three (3) prerequisites:

- (1) compliance with EPA and U.S. Army Corps of Engineers requirements;
- (2) obtaining a lease from the Government of Guam for the use of the submerged land and any government property within the area;
- (3) coordination with Public Works regarding highway expansion.

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The first and third prerequisites have been complied with since 1984 and continue to be complied with today.

Since 1984, Achang Marine has methodically gone about the process of complying with the second prerequisite, that is, obtaining a lease on the submerged lands and the adjoining government property, lots 519 and 520. Lot 519 is a scant 220 square meters, irregularly shaped, and is on the inland side of route 4. Lot 520 directly adjoins Achang Marine's lot and is required to complete the proposed marina development and allow for the construction of a boat launching ramp. Although of great importance to Achang Marine, the lot is only 812 square meters, less than a small house lot.

Achang Marine's request for the submerged land and the two ground lots made its way through the government agencies required to be consulted before government approval is given. All the agencies approved the proposed lease, most noting that lots 519 and 520 were too small to develop in any way. Indeed, when the first proposed lease was drafted by the Attorney General's Office in 1985, the government did not even seek monetary compensation for the property. Instead, the government only required in the proposed lease that:

the LESSEE will improve and maintain
the property in lieu of rent or any
other consideration.

Since the proposed lease cited above, Achang Marine has agreed to pay a monetary consideration in addition to maintaining the land and the new lease signed by governor Ada includes yearly compensation to the Territory.

Achang Marine began developing the property shortly after its purchase in 1984. The land area has been beautifully landscaped and has won several beautification awards. A bar and restaurant facility has been opened. The owners of Achang Marine relentlessly worked for five and a half (5 1/2) years developing the small boat harbor which is currently the only harbor of refuge in the southern part of Guam. The owners constructed the jetties now used by patrons and rehabilitated the jetties which existed at the time of purchase. Mooring facilities were constructed and several floating mooring docks have been installed. The dredging of the boat basin and channel has now been completed. Achang Marine has invested over \$150,000.00 in the submerged lands portion of the property alone. Only the construction of a boat launching ramp, contingent upon acquisition of the government lands, remains

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for completion of the marina facility. The boat ramp cannot be constructed until the approval of the lease.

At this late date, the Mayor of Merizo has tried to garner opposition to the transfer of these lands. The Mayor and village residents have known for years of Achang Marine's work to acquire the property. At the legislative public hearing, only two people attended to oppose the lease. One was the Mayor of Merizo. Another was an individual who came to express opposition to **any** lease of government land. She had no specific oppositior to the lease to Achang Marine.

Setting aside any personal reasons the Mayor may have for opposing the lease (and I submit his reasons are mostly personal), the only conceivable legitimate concern he has raised has been the inability of village residents to have easy access to Mannell channel and Achang Bay. Achang Marine is willing to address this problem and provide a solution which it feels is fair to the public.

The proposed lease makes it clear that access shall continue to be made available to the public. The lease states in pertinent part:

Section 13457 of the Government Code mandates that the property never be alienated from the public domain. Therefore, LESSEE does agree that the public never be denied access to use of the facilities and/or improvements undertaken on the property. LESSEE may charge moderate use fees, in keeping with the investment in the development and maintenance, and that public access may be denied in circumstances of inappropriate demand or conduct. LESSEE shall not unreasonably deny use. It is the purpose and intent of this lease provision to provide protection to the LESSEE for the improved property and to prevent unreasonable access and use of said improvements by the public which may impact negatively upon the entirety of LESSEE's interest in the facilities including adjacent facilities on property of LESSEE.

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Thus, the public has an enforceable mandate making the boat launching ramp and related facilities available for the period of the lease at reasonable rates. Further, Achang Marine is required by the lease to develop the property, maintain the facilities and keep the channel dredged thus guaranteeing excellent conditions for use by the public, something that may well not occur if the land is turned over to Merizo.

In addition, Achang Marine has made efforts to make even more facilities available to the public at no charge. Achang Marine has applied to the Army Corps of Engineers for a permit to expand the existing marina facilities and to construct additional docking facilities. As a part of this plan, Achang Marine proposed to construct a small park area exclusively for the public together with an adjoining public boat launching ramp which would provide free access for the public to Mannell Channel and Achang Bay. Achang Marine owners felt this would be a very reasonable compromise to the existing complaints. Steve Wilke authorized me to approach Mayor Cruz with the plan.

I met with the Mayor along with John Duenas of the Duenas & Swavelly civil engineering firm. We explained the proposal, showing the Mayor the drawings depicting the proposed public development. The Mayor rejected the proposal out of hand. While the Mayor may not wish to consider this proposal, your committee should know that such an offer to the people of Merizo has been made and remains available as a viable resolution of their concerns over access to the channel and bay. What could offer greater access than a public park and public boat launch ramp? The refusal by the Mayor to even consider this proposal is a clear indication that it is his personal interests he is representing in this dispute and not necessarily those of the residents of Merizo.

Lastly, virtually every resident in the immediate neighborhood of the marina has signed a petition supporting the land lease. Copies of these petitions are available to the committee. Achang Marine has always been a good neighbor and it enjoys the full support of those in the village most affected by any development.

In sum, Achang Marine envisions a marina development that will enhance the Merizo community and provide facilities to the public not now available. Achang Marine will abide by the requirements in the proposed lease to provide public access at a reasonable price. And Achang Marine will go farther. It is willing, as a condition of the lease of the submerged lands and lots 519 and 520, subject, of course, to the approval of the Army Corp of Engineers, to make available a park and boat launching facility which will be public

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and free. The owners of Achang Marine stand willing to address other legitimate concerns of the public and take such action that will assure that the marina is a facility that the residents of Merizo are pleased to have as a part of their community.

Achang Marine looks forward to your favorable action on bill 785. It opposes the passage of bill 1175.

Please don't hesitate to contact me if you have any questions regarding this matter.

Very Truly Yours,

 Jose I. Leon Guerrero, Jr. *2/12/90*

cc: Members, Committee On Housing
and Community Development,
Twentieth Guam Legislature



Twentieth Guam Legislature

163 Chalan Santo Papa Street
Agana, Guam 96910

Antonio R. Urpington
Senator
472-3456/3457

March 12, 1990

Senator Gordon Mailloux
Chairman
Committee on Housing and Community Development
20th Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Dear Senator,

I am writing in support of Senator Ted S. Nelson's Bill, Bill No. 1175, which is an act to transfer government owned real property described as lot nos. 519 and 520, located in the Municipality of Merizo, to the Mayor of Merizo for use as a community playground and other recreational facilities.

I wish to unequivocally state that I stand in favor of providing community access to the beach and fishing areas for all the people to enjoy and resist any moves to deny access to the general public.

I am elated that Senator Nelson has seen the light and changed his mind to give this land back to the people who so deserves this property. Sen. Nelson's previous Bill, Bill No. 785, was intended to lease this property, lot nos. 519 & 520, to Achang Marine, Inc. for the construction of a boating ramp and mooring docks. Unfortunately, leasing the land to a private entity generally means that the people of Merizo will loose access to this valuable piece of land which has traditionally been a favorite recreational spot for the residents of Merizo.

I urge you to support giving this land back to the people of Merizo as I deem it more valuable to utilize this property for the benefit of the public than the commercial use of this property which will entail limiting access to the general public. I understand that the proprietors of this property have built a wall which prohibits local residents from entering or availing themselves of the use of the facility. The rampant development of our island is not good if it prohibits local residents from enjoying the facilities being built. Access to our public land and seashore must be a priority of every lawmaker to ensure that

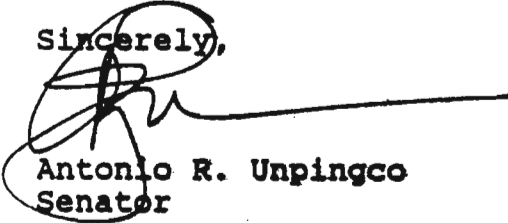
in our quest to derive revenues from the growth and development now occurring in our island, our own people maintain the use and enjoyment of their public facilities. I am against the construction of any barrier to deny access to public land and facilities and urge you to endorse the transfer of lot nos. 519 & 520 to the Mayor of Merizo.

Similarly, I also am quite concerned about the possible damage to the ecological balance of the area if we allow the present proprietor to build a ramp and mooring dock in this area. I understand that Achang Marine, Inc. is applying for a permit from the U.S. Army Corps of Engineers to dredge the submerged land in this area to accommodate their planned use for this facility. As you know the mangrove patches around our island are protected by law. Dredging of this area will result in the destruction of mangrove, coral and crab habitats which is essential to the ecological balance of this site. It takes hundreds of years to recover damaged coral growth and formations, I implore the committee to review and make recommendation to the U.S. Army Corps of Engineers in behalf of protecting and preserving the ecology of the area.

I regret that prior commitments will make it impossible for me to attend the scheduled public hearing on this matter. I have asked my representatives, Mr. Francisco S. N. Flores and Mr. Fred A. Gofigan, to attend the public hearing in my behalf to endorse the transfer of the land to the Mayor of Merizo.

I urge you to side with the people on this issue and support their request to transfer this land to the rightful owners of this public property.

Sincerely,



Antonio R. Unpingco
Senator

YOUNG MEN'S LEAGUE

YMLG
INCORPORATED

of GUAM

P. O. BOX 1295
AGANA, GUAM 9691

March 13, 1990

YMLG PUBLIC ISSUES COMMITTEE TESTIMONY ON BILL NO. 1175 BEFORE THE
JOINT COMMITTEES ON GENERAL GOVERNMENTAL OPERATION, AND HOUSING AND
COMMUNITY DEVELOPMENT, CHAIRED BY SENATOR TED NELSON AND SENATOR
GORDON MAILLOUX RESPECTIVELY IN MERIZO, GUAM

Honorable members of the joint committees before I begin my testimony, I would like to acquaint the committees with the YMLG organization. YMLG stands for Young Men's League of Guam. YMLG was founded in 1917 by a group of young Chamorro community leaders, the roster of YMLG includes such leaders as Mr. B. J. Bordallo, Mr. Frank T. Flores, Colonel Juan Muna of the Guam Militia, and many other prominent persons. Today's roster includes among others Governor Joe Ada and two of your leaders here in Malessso: Mr. Jose T. Barcinas and Dr. Jeff D. Barcinas.

We are here to present testimony in support of our organization's objectives and that is the YMLG'S interest in participation in matters that have to do with the welfare and betterment of the people of Guam.

We understand that a lease has been executed by the Administration granting Achang Bay Marina 50 years of land use of Lot 519, Malessso. We understand also that, the lease requires the approval of the Guam Legislature and that, the approval has not been granted. More importantly, we understand that while this lease was being negotiated, not one person in Malessso including the Mayor of Malessso had been consulted. This lack of prior consultation with the people is a major flaw in this matter.

We believe it is in the spirit of justice and fair play that consultations among the parties are of paramount importance. It is our hope that the 20th Guam Legislature see the need to consult with

the Mayor of Malesso and the people (tax payers) before acting on this lease.

Because Guam has such a limited land resource, our political leaders must consider carefully its public land use policies. We believe that our land use policies should consider environmental, ecological, and other related factors. Only in the balanced use of the land as in the days of our forefathers can we see results for the betterment of our island people and where modern business can flourish. Public land use policies however must never be at the expense of our Chamorro culture and heritage. We must retain whenever we can our traditions so that we can pass them on to our children. Our Chamorro culture, heritage, and traditions must not be forgotten.

While we support Bill 1175, we believe that careful study should be made prior to passage of this Bill. It is a precedent setting proposal in that it is granting the Mayor of Malesso and the Municipal Planning Council jurisdiction over property management in Malesso. This can be viewed as a positive aspect of our governmental development in that it will provide municipal level of government. This is an added bureaucratic level and considerations must be given before we find our island with 19 Mayors and 19 Municipal Councils serving as mini governors and mini legislatures.

This Bill therefore, must be amended to require the Mayor and the Municipal Planning Council to get the approval of the simple majority of the people in the actual use of the land.

We believe this is in keeping with our Chamorro people's desire to be given the opportunity to manage our own affairs. This fits with the first two lines of our Guam Hymn: "Fanohge Chamorro Pot I Tanota!"

Thank you for the opportunity to provide this testimony.

Peter C. Siguenza

Chairman, Public Issues Committee, YMLG

Testimony on Bill 1175
Committee on Community Development Legislative Hearing

Merizo Community Center

Senators on the committee on community development, I thank you for allowing this public hearing to be conducted in Merizo and for me to testify on Bill 1175. I am Dr. Jeff D. Barcinas, a proud son of Malesso and a son of parents born ~~and~~ in Malesso, a village rich in traditions and culture. A village where its people lived off the land and its rich lagoon.

I come before the committee to testify in support of Bill 1175, which places lot 519 and 520 under the jurisdiction of the Mayor of Merizo and the Municipal Planning Council. This bill is a very positive act which makes available the property for community development in Malesso. The community development projects would be for recreational and park facilities and for public access to the Achang area as proposed by Mayor Buck Cruz and his council.

This hearing on Bill 1175 provides an avenue to question the land use policies of the Island of Guam. Guam has very limited land resources and these land resources must be protected. These land resources should be protected by the land use policies of the Territory of Guam. I believe that our land use policies should take into consideration the ecological, environmental, and other related factors which may impact the future of this island. Also, something really close to me needs to be seriously protected, and

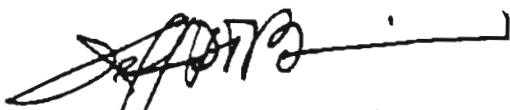
that is the protection of land for agricultural purpose.

This bill would not be needed if there was a land use policy which identifies the use of land and controls the misuse of public and also private lands on Guam. Zoning laws and variances need to be enforced and regulated. It seems lately with all the development taking place on Guam that zoning laws and variances are so easy to change that they are policies of some token but not policies which makes a difference for the future of Guam.

There is also a need to balance the land use policies between the private industry needs and public needs. The Chamorro culture, heritage, and traditions should also not be forgotten in these policies. There is a need for mutual benefits from the land use policies. I believe that Achang Bay Marina Development Company which also applied for the lease of the same property should be accommodated and some mutual agreement should be made between the Mayor of Merizo and the Development Company because the owners also have a very serious desire and intent to improve the area.

Another concern relates to Bill 1175 setting a precedents for other or similar action in other villages on Guam, and that is the management or jurisdiction of government property by a village governance council. This could have a very positive impact on the authority vested in the municipal governance unit and consistent with our chamorro ways or it could have a negative impact on the Government where so many bureaucratic governing unit are developed, amounting to 21 units throughout the island. The objectivity and intent of the bill needs to be clarified and worded so the legal ramifications are made clear.

Si yuus maase for the time and opportunity to express my
viewpoints on Bill 1175.



Jeff D. T. Barcinas, Ph.D.
P.O. Box 6081
Merizo, Guam
March 13, 1990

TESTIMONY ON BILL NO. 1175 - AN ACT TO
TRANSFER GOVERNMENT OWNED REAL
PROPERTY DESCRIBED AS LOT NOS. 519
AND 520, LOCATED IN THE MUNICIPALITY
OF MERIZO TO THE MAYOR, FOR USE
AS A COMMUNITY PLAYGROUND AND
OTHER RECREATIONAL FACILITIES.

Good evening Senators. I am Frederick Quins,
a citizen and life-long resident of Malabon.

First, permit me please, to thank you and
your staffs for giving the people, especially
who will primarily be concerned with your
bills, the opportunity to be heard. I then
appreciate the burden you place on yourself
to make it easier for us the people to be heard.

I appear this evening in favor of the passage
of Bill No. 1175, an act to transfer government
owned Real property described as Lots Nos. 519
520, located in the municipality of Merizo
to the Mayor for use as a community
playground and other recreational facilities.

It is indeed very proper, and in fact it is
necessary to begin to identify government
lands that can be used to benefit our people,
most especially our youths.

Turning lands, such as Lot nos. 519 and 520
into Recreation areas, and will help in the proper development
both physical and mental, of our youths and
everyone in general.

A well planned recreational area will positively
serve the psychological development, cognitive
and affective development of our youths.

Nowadays, the large number of youths with
no outdoor activities, and no recreational facilities, is a
serious problem.

Guinevere Road would often times prefer to stay in the present location than walk to the present location of the Retreat center located approximately 2 miles away, especially when they can not drive there & be transported there.

While some may say that 2 miles is not a big distance to traverse, even on foot, we must look at factors that deem such ~~though~~ as not right.

The roads in Merizo do not have walls, making it dangerous for our elementary to middle schoolers to walk on, especially today when many cars ~~are~~ ^{now} travel our narrow highways here in Merizo. While I think that it will never happen here, our kids can be molested also.

Mr. Chairman and Senators, the land belongs to the people, Bill No. 1175 if passed will not create a tremendous burden on our government, financially or otherwise — The plan is good for the people, especially the youths. I pray you will pass the bill.

Thank you.

TESTIMONY OF VICENTE T. CHAMPACO
ON BILL 1175
MARCH 13, 1990

GOOD EVENING, SENATOR NELSON, MAYOR BUCK CRUZ, AND ALL THE COMMITTEE ON BILL 1175, My name is BEN CHAMPACO, a disabled Vietnam Veteran and a resident of Merizo.

I would like to take this opportunity to address another facet of this issue. This issue about the Achang Marina Bay. It was mentioned by Mr. Wilke in the PDN that besides wanting to build a Chalet type hotel he is also attempting to gain the underwater rights in this Bay, which would have a negative ecological impact due to the dredging and construction in the bay.

Sirs, I have experienced negative government intervention like the one we had in the Vietnam era, conventional war; yet very politically motivated. I do not want to experience this type of negative intervention at a local level. Therefore, I am seeking your positive legislative support in addressing the issue.

Sirs, my very existence and culture is being threatened by this construction. My family have all devoted our entire lives to fishing in this area. It is the last unpolluted bay remaining in the area with an abundance of fish and rich coral. If you grant Achang Marina Bay Inc. a permit (and I pray you don't), they will eventually eliminate all natural habitat in the bay. I foresee tourism being promoted in the future with jet skis and numerous boats operating in this bay. I'm afraid this will result in the fish becoming scarce and eventually extinct in this area. I also foresee, gas, oil, litter and other pollutants spilling into the water.

Sirs, if Achang Marina Inc. is allowed to proceed, they will eliminate the breeding ground of our land crabs, mangrove crabs (king crabs), small fish (faja), and most of all, our precious reef and mangrove trees. Also know these are all vital to our continual cultural existence yet Achang Marina Bay, Inc., continues to totally ignore our feelings and protests. They have also shown insensitivity to this very important issue. The government land there is our only access to this fishing ground since all other accesses are privately owned.

I beg you to stop the dredging and backfilling in this bay. This construction will not only destroy my source of life and natural resources but it will also eliminate any chance for my children to experience the kind of fishing my ancestors and I have enjoyed through the years. I am aware that development in this area is probably inevitable sir, progress and development is a certainty, but when you have to destroy our natural resources in order to develop, I do not call that progress. I call that DESTRUCTION!!! We have to stop this destruction now because it is too late.

17 Sirs, In conclusion, I am in favor of Bill 1175, and I support it. Thank you.

Sincerely,



VICENTE (BEN) T. CHAMPACO

TESTIMONY ON BILL 11
MARCH 13, 1990
MERIZO, GUAM

MY NAME IS KEN RENIO, I AM A PERSON LOOKING IN FROM THE OUTSIDE. I AM NOT FROM GUAM, BUT FROM HAWAII, MARRIED TO A CHAMORRO, RESIDENT OF MERIZO. I GAVE UP MY RESIDENCE IN HAWAII FOR GUAM IN 1983. IN THOSE SIX YEARS I HAVE SEEN GUAM CHANGE IN MANY WAYS. THE DEVELOPMENT IN GUAM HAS BEEN GOOD FOR THE TOURIST TRADE AND HAS GIVEN JOBS TO MANY PEOPLE IN GUAM. IT ALSO HAS DESTROYED SOME OF THE BEAUTY OF GUAM AND ITS ENVIRONMENT. A LOT OF GUAM'S BEAUTY AND NATURAL ENVIRONMENT ARE STILL IN THE SOUTHERN PART OF GUAM. ACHANG BAY HAPPENS TO BE ONE OF THOSE AREAS. I FOUND OUT ABOUT ACHANG BAY WHILE LISTENING TO THE LOCAL NEWS IN JANUARY OF THIS YEAR. I FEEL THAT THIS DEVELOPMENT SHOULD BE STOPPED FOR THE FOLLOWING REASONS:

1. MR. WILKE EXTENDED HIS PROPERTY WITHOUT ACCLAMATION FROM THE PEOPLE OF MERIZO AND THE MAYOR'S OFFICE.
2. HE HAS BARRICADED HIS PROPERTY WHICH DOES NOT BELONG TO HIM WITH A WALL.
3. MR. WILKE HAS DENIED AND CHASED MANY LOCAL PEOPLE OUT OF ACHANG BAY. I WAS ONE OF THOSE PEOPLE.
5. HE NOW WANTS TO ENLARGE HIS PRIVATE BUSINESS BY DREDGING ACHANG BAY FOR HIS OWN PROFIT.

I ASK YOU IS THIS THE WAY TO TREAT THE PEOPLE OF MERIZO. WHY ARE YOU THE LEADERS OF THE PEOPLE LETTING AN OUTSIDER DESTROY A FISH AND SEALIFE HABITAT, ONE WHICH PROVIDES A LIFESTYLE HERE IN MERIZO. MR. WILKE CAN NOT EVEN ANSWER HOW MUCH ENVIRONMENT IMPACT IT WILL HAVE ON THE MANY TYPES OF FISH AND SEALIFE IN THIS AREA. HE CARES ONLY FOR HIS OWN SELF. I HAVE SEEN PEOPLE LIKE MR. WILKE COME TO HAWAII AND DESTROY ITS BEAUTY AND ENVIRONMENT, BY BUYING OUT THE LAND AND CHASING PEOPLE AWAY. HOW DO YOU KNOW WHAT WILL HAPPEN

IN FIFTY YEARS FROM NOW IF HIS BILL IS APPROVED. LET US NOT BE
LIKE THE PEOPLE OF HAWAII WHEN FISH AND SEALIFE WERE ABUNDANT, THEY
LET OUTSIDERS LIKE MR. WILKE DESTROY THEM. WHO IS MR. WILKE TO SAY
WHAT THE PEOPLE OF MERIZO WANT IN THEIR VILLAGE. WHY SELL OUT ON
THE PEOPLE OF THIS VILLAGE TO A PERSON LIKE MR. WILKE WHO WILL DO
EVERYTHING AND ANYTHING TO ENLARGE HIS BUSINESS WITHOUT REGARDS
TO HIS SURROUNDING. MR. WILKE IS NOT FROM HERE SO HE DOES NOT
UNDERSTAND THE LIFESTYLE HERE IN MERIZO OR GUAM.
IN CONCLUSION, I FAVOR AND SUPPORT BILL 1175.

SINCERELY,


KEN RENIO

March 13, 1990

The Honorable Ted Nelson
Chairperson
Committee on General Governmental Operations
Twentieth Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Re: Testimony on Bill Number 1175

Dear Senator Nelson:

A chamorro by birth I proudly represent the people of Merizo, and most importantly the land that my grandparents and ancestors have belabored themselves over the protection of our Sovereign possession - the Soil that now makes the village of Merizo and Community members prosper agriculturally and economically.

The people of Merizo may not be rich in terms of money but one thing is for sure - we are rich in spirit, rich in caring for one another, and rich in culture that cannot be compared to any society. It is a culture indigenous to the people of Merizo, one that cannot be eloquently explained in words but can only be described by those who were born in Merizo and by those who have carried and continue to carry the traditions.

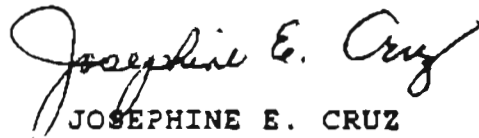
Our land, our most prized possession - we have a responsibility in maintaining control over it. Developing the Achang Marine Bay is for the benefit of those who have a personal vested interest in becoming richer. Maintaining control is a responsibility that we have in protecting the interests of our future generations. You and I will not be around to protect the interests of our future generation. They need us to speak up for them. They will, one day remember us and appreciate our efforts today. We will become a landmark in their historical chapters.

Guam is rapidly changing at an unbelievable rate. Take a look at the development impact of Tumon Bay and the Northern part of Guam. We have seen and heard of crimes in those parts of the

Ltr. to Chairperson, Committee on Housing & Community Development
Re: Testimony on Bill Number 1175
March 13, 1990
Page 2 of 2

island. We do not want to emulate what is happening. We want to protect the serenity; beauty, culture of Merizo. Developing Merizo is asking too much! We are contented with our way of life. Give us the liberty to decide the future destiny of our village. A statesman once said, "Give us liberty or give us death". The liberty to decide what is best for us rightly belongs to us!

Si Yu'os Ma'ase',



JOSEPHINE E. CRUZ

Member, Merizo Municipal Planning Council

cc: Mayor, Merizo Municipality
Members, Merizo Municipal Planning Council
Members, Committee on General Governmental Operations

March 13, 1990

Senator Ted S. Nelson
Chairman, Committee on General
Governmental Operations
Twentieth Guam Legislature
163 Chalan Santo Papa
Agana, Guam 96910

Re: Bill No. 1175

Dear Senator Nelson:

Thank you for the opportunity to provide testimony on Bill No. 1175, "An act to transfer government-owned real property described as Lot Nos. 519 and 520, located in the Municipality of Merizo, to the Mayor for use as a community playground and other recreational facilities."

As an active member of the Merizo Municipal Planning Council and a resident of Merizo, I support Bill 1175. Too often, elected public officials tend to look more at the financial gains to be made in the use of government land, instead of the simple needs of the people. The use of Lots 519 and 520 in Merizo as a community playground and recreational facility will indeed answer our people's pleas for public use of public lands.

Getting back to the basics appears to be the theme of the people of Guam for the 90's. The need for a recreational facility far outweighs the desire to expand a marina and fits well into this theme.

Our children are our leaders of tomorrow. By providing for their recreational as well as their educational needs, we are shaping a well-rounded and balanced future for them. It is for them that I am sure most of us are here today to testify in favor of this proposed legislation. It is for them that we inform you of our need for this land. It is for them that we will not waiver in our convictions that our needs far exceed any monetary benefits to be made otherwise.

Si Yu'os ma'ase',

Edwin T. Cruz
EDWIN T. CRUZ
Member
Merizo Municipal Planning Council

March 13. 1990

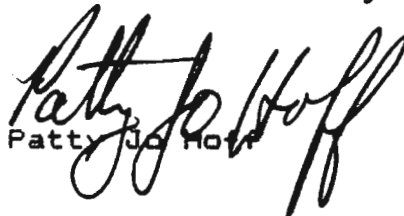
To: Senators of the Twentieth Guam Legislature
From: Patty Hoff. Resident of Merizo
Subject: Bill 1175

I want to thank you for giving me the opportunity to testify on Bill 1175. While this Bill may seem unimportant to many due to the fact that the land area involved is so small; it is, in fact, a very significant Bill due to the concepts involved. The residents of Merizo are taking a stand that Government property should remain available to the residents of the village. We are quickly reaching the point where there will be no land for the villages when they need to build parks, playgrounds or preserve habitats. Rich developers will soon control all of the land so that the ordinary citizen cannot have access to land that has through time been in the public domain. Merizo has little public land available to its residents and it is our desire to see that that land remains for the public benefit.

While the Merizo Municipal Planning Council would like to use these two lots for a playground and picnic area, it is even more vital that it be retained by the village as a public access route to the Mannell Channel. The fishermen and crabbers who have used this area since their youth must continue to have access and must be assured that their children will continue to have access. Without such assurances we will continue to see the local people lose out as developments encroach upon them.

You, our elected leaders, have it in your hands to see that this land is retained for public use. Please support Bill 1175 and allow the villagers to determine how this land may best be used.

Thank you for your consideration of this request.


Patty Jo Hoff



University of Guam

MARINE LABORATORY
UOG Station, Mangilao, Guam 96923

March 13, 1990

To Whom It May Concern,

I am writing this letter in response to the proposed dredging at Achang Bay Marina, Merizo, Guam. I recently visited the proposed site, and have several concerns regarding the project.

1. The channel from the present marina to the ocean has a thriving coral reef community, with some coral colonies in the genus Porites measuring over 2 meters in diameter. These corals represent hundreds of years of growth, and would be at risk should the project be approved. The land adjacent to the marina is hilly, with predominantly lateritic soils. These soils are rich in iron, and are easily eroded. The extensive mangroves and seagrass beds that would be destroyed are major filters, which slow water velocities sufficiently to allow deposition of fine silts and clays, hence, they protect the seaward corals and reefs from sediment damage. Our recent studies indicate that such sediments are not only responsible for coral mortality at high loads, but that lateritic soils in seawater can detrimentally affect reproductive processes in corals at greater distances from the source.
2. The proposed dredge site contains numerous live coral colonies, including at least 2 species of Porities, 1 species of Pocillopora, and a Galaxea. Any dredging would kill these corals, and many others nearby.
3. The sediment in the proposed dredge site is fine grained sand and silt, predominantly of terrigenous origin, which is anoxic and reducing several centimeters below the surface. Dredging this material and depositing the spoils nearby, will certainly result in localized mortality of the flora and fauna.
4. Mangroves would not only be destroyed outright by the mechanical removal planned, but additional mangroves would die due to restricted circulation if the spoils are deposited as planned. Mangroves are a precious resource to Guam, and particularly to the area of concern. It would be ecologically unwise to damage those surrounding Achang Bay.
5. The proposed dredge site is known as a valuable fishing ground for the people of Merizo and Guam. Large numbers of siganids (rabbitfish) and carrangids (jacks) are caught there

each year. The grassbeds (Enhalus) and mangroves are critical

habitats for juvenile fishes identified as valuable resources for the local population. Damaging this area would result in a loss of food and revenue for the local fisherman, as well as have a major negative impact on the culture, as Merizo is still one of the most traditional villages on Guam. As a marine biologist, I greatly respect the input and concerns of fishermen familiar with local conditions.

In summary, I would strongly advise against granting a dredging permit for the area in question, based on the need to protect the corals, mangroves, grassbeds, and fishing rights of the village. If I can be of further assistance in this matter, or if specific data are needed, please don't hesitate to contact me.

Sincerely yours,

Robert H. Richmond

Robert H. Richmond, Ph.D.
Director

February 13, 1990

District Engineer (PODCO-O)
U.S. Army Corps of Engineers
Building 230
Ft. Shafter, HI 96858

The Division of Aquatic and Wildlife Resources (DAWR) has reviewed file 2127, regarding Achang Bay Marina and has the following comments:

1. The proposed project requires use of leased land. According to the provisions of Executive Order 85-06 the land lots must be listed by the Department of Land Management to be eligible to be leased for a lease to be secured by the Government. The Government lease secured for this area is invalid until this area is listed as eligible to be leased.
2. The Guam Public Land-Use Plan also designates this area as a conservation area which is not consistent with the planned development.
3. Section 13410 et. seq. of the Guam Coastal Management Program defines the seashore preserve as an area that extends seaward to the ten fathom contour and extending inland 10 meters from the mean high water mark (as revised by P.L. 13-154). The proposed development must meet the guidelines established for the seashore preserve.
4. The proposed project proposes major dredging to create a marina on a reef flat. The proposed work does not identify any of the quantities or types of sessile marine fauna to be damaged by the proposed work. A survey indicating types of fauna and quantities needs to be conducted on the work site before proper assessment of this project can be completed. This survey should include but not limited to shoreline vegetation (especially mangrove), seagrass beds, mollusks, coral, sponges, and algae. Prior to implementation this project will require transplanting corals expected to be damaged or destroyed to an adjacent area. This activity will require a permit from the DAWR and must be coordinated with DAWR and the Guam Environmental Protection Agency (GEPA). Any intention to destroy seagrass will require transplanting to create an equal amount of seagrass outside and adjacent to the work area. Any mangroves which will be damaged by the proposed project will be replaced by three seedling in an adjacent area outside the proposed work site.
5. The methods of dredging and equipment expected to be used during the project were not adequately described. The work description should include a heavy equipment listing including tonnage, area of use and purpose of operation.
6. Due to the muddy substrate and extensive dredging planned, silt screens will be required to enclose the work area during all work. Work must not be conducted during periods of high wave activity (shore break of 2 ft. or more).
7. The plan indicates that 6,500 CY of dredge material will be used for the core of the breakwater. The plan to use dredge material does not describe the dewatering process. Because of the depth of dredging (-12 to -15 ft.) the anaerobic condition of the sediment could create sediment laden with ammonia. If the ammonia were flushed in the dewatering process directly back into the ocean it could be lethal to many of the organism. The DAWR recommends that the dewatering area have a catchment basin which will allow aeration before entering the marine system. None

of the dredge material should be used as landfill unless saline contamination is approved.

8. All fueling of equipment must be performed in a staging area which is located inland and meets GEPA standards. Fuel spill containment equipment should be kept on-site during all work.
9. The DAWR would like to see public access points on the breakwater for hook and line fishermen. Although the breakwater and marina area will be privately operated, the water and aquatic life is still a public resource. It would be good public relations to provide such a facility.

ANTONIO S. QUTTUGUA
Director
Department of Agriculture

GDAVIS
cc: File
Chrono
BOP
GEPA

Introduced

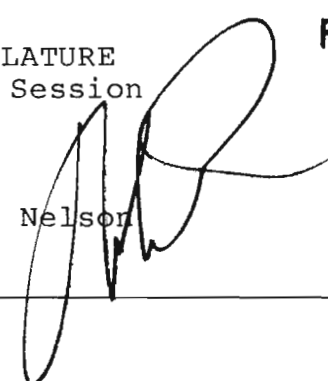
TWENTIETH GUAM LEGISLATURE
1990 (SECOND) Regular Session

FEB 08 '90

Bill No. 1175 (COR)

Introduced by:

T. S. Nelson



AN ACT TO TRANSFER GOVERNMENT OWNED REAL
PROPERTY DESCRIBED AS LOT NOS. 519 AND 520,
LOCATED IN THE MUNICIPALITY OF MERIZO TO
THE MAYOR FOR USE AS A COMMUNITY PLAYGROUND
AND OTHER RECREATIONAL FACILITIES.

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

2 Section 1. Government owned real property described as
3 Lot Nos. 519 and 520 located in the Municipality of Merizo,
4 are hereby transferred to the jurisdiction of the Mayor for
5 use as a community playground, recreational facilities, and
6 other puposes as the Mayor and the Municipal Planning Council
7 deem appropriate.