



## Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Office of the People's Speaker  
Vicente (Ben) C. Pangelinan

Felix Perez Camacho  
Governor

Kaleo Scott Moylan  
Lieutenant Governor

AUG 08 2003

TIME: 10:34 (AM) (PM)  
RECEIVED BY:

07 AUG 2003

The Honorable Vicente C. Pangelinan  
Speaker  
*Mina'Bente Siete Na Liheslaturan Guåhan*  
Twenty-Seventh Guam Legislature  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

Transmitted herewith is Bill No. 18 (LS), "AN ACT TO ENABLE THE GUAM FISHERMEN'S COOPERTIVE ASSOCIATION TO EXPAND ITS CURRENT FACILITIES BY *AMENDING* THE LEASE AUTHORIZED BY PUBLIC LAW 14-149 AND BY CLARIFYING THE *PASEO DE SUSANA* PLANNED DEVELOPMENT DISTRICT BY *ADDING* NEW §§61215, 61215.1, AND 61635(h) TO TITLE 21, GUAM CODE ANNOTATED," which I signed into law on July 18, 2003, as Public Law 27-24.

Bill No. 18 reaffirms the Planned Development Zone of *Paseo de Susana* and integrates the various uses of the property to be compliant with the restrictions of United States Public Law 86-664. United States Public Law 86-664 established a covenant restricting the use of *Paseo de Susana* solely for civic, park, and recreational purposes.

Bill No. 18 also enables the Guam Fishermen's Cooperative Association to expand its current facilities and permits the construction of a facility that would compliment the overall development plan of the *Paseo de Susana* Planned Development District. Guam Fishermen's Cooperative Association will be able to meet its daily operative needs as well as support the recreational and commercial activities of the Gregorio D. Perez Marina. The legislation allows retail and restaurant businesses consistent with the purposes of the *Paseo de Susana* to conduct business in a central location for the people of Guam.

The legislation requires the Department of Public Works, the Department of Land Management, the Department of Parks and Creation, and the Guam Economic Development and Commerce Authority to prepare a Master Plan for the *Paseo de Susana*. Unfortunately, the government of Guam lacks appropriate resources to accomplish the development of the Master Plan for the *Paseo de Susana*. Since the *Paseo de Susana* Master Plan will incorporate uses and activities of the Guam Fisherman's Cooperative Association, it is only reasonable that they also share the responsibility in the development of the Master Plan. Furthermore, because of their extensive

experience with the area, their input would be very valuable in the development of a functional Master Plan. I humbly request that *I Liheslaturan Guåhan* pass legislation to include the Guam Fishermen's Cooperative Association in the preparation of the Master Plan.

In closing, I would like to commend the author of Bill No. 18, Senator John M. Quinata. This legislation is an effort towards revitalizing the village of Hagåtña. Through Bill No. 18, the *Paseo de Susana* will become even more attractive for families, friends and visitors to enjoy.

Sincerely,



FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*  
Governor of Guam

Attachment:      copy attached of signed bill

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

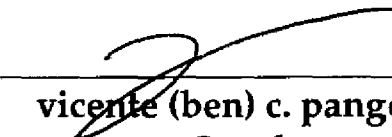
**I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN**  
**2003 (FIRST) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

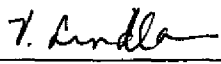
This is to certify that Bill No. 18 (LS), "AN ACT TO ENABLE THE GUAM FISHERMEN'S COOPERATIVE ASSOCIATION TO EXPAND ITS CURRENT FACILITIES BY AMENDING THE LEASE AUTHORIZED BY PUBLIC LAW 14-149 AND BY CLARIFYING THE PASEO DE SUSANA PLANNED DEVELOPMENT DISTRICT BY ADDING NEW §§61215, 61215.1, AND 61635(h) TO TITLE 21, GUAM CODE ANNOTATED," was on the 7<sup>th</sup> day of July, 2003, duly and regularly passed.

Attested:


  
\_\_\_\_\_  
**Tina Rose Muña-Barnes**  
Senator and Legislative Secretary

  
\_\_\_\_\_  
**vicente (ben) c. pangelinan**  
Speaker

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This Act was received by *I Maga'lahen Guåhan* this 8<sup>th</sup> day of July, 2003, at  
3:17 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
\_\_\_\_\_  
**FELIX P. CAMACHO**  
*I Maga'lahen Guåhan*

Date: 7/18/03

Public Law No. 27-24

**I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN**  
**2003 (FIRST) Regular Session**

**Bill No. 18 (LS)**

As amended by the  
Committee on Utilities and Land  
and as further amended on the Floor.

Introduced by:

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

**AN ACT TO ENABLE THE GUAM FISHERMEN'S  
COOPERATIVE ASSOCIATION TO EXPAND ITS  
CURRENT FACILITIES BY AMENDING THE LEASE  
AUTHORIZED BY PUBLIC LAW 14-149 AND BY  
CLARIFYING THE PASEO DE SUSANA PLANNED  
DEVELOPMENT DISTRICT BY ADDING NEW §§61215,  
61215.1, AND 61635(h) TO TITLE 21, GUAM CODE  
ANNOTATED.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3        finds and recognizes that there is a need to allow the Guam Fishermen's

1 Cooperative Association to expand its current facilities, as part of the *Paseo*  
2 *de Susana* Planned Development District. *Paseo de Susana* has historically  
3 been Guam's social center for culture, fishing, baseball, and other active  
4 and passive recreational opportunities. Most residents and tourists realize  
5 that it is a destination-oriented facility for those activities.

6 *Paseo de Susana* was transferred to the government of Guam in 1960  
7 from the Naval Government by United States Public Law 86-664. The Law  
8 establishes an inclusionary covenant providing that the property is used  
9 solely for civic, park, and recreational purposes. Two (2) aspiring projects  
10 have designated this lot for development. In 1978, Governor Ricardo J.  
11 Bordallo proposed the Agana Deep Draft Harbor project. Subsequently, the  
12 Jose D. Leon Guerrero Port Authority of Guam (PAG), in 1989, with  
13 International Design Consortium (IDC), proposed the Agana Marina Project  
14 with a synthesized marina facility with hotel, commercial, three hundred  
15 (300) boat slip marina and fishery support facilities. Both projects  
16 attempted to revitalize the *Hagåtña* proper by luring development from  
17 Tumon. The projects did not materialize; however, IDC's zone change  
18 request was approved by the Guam Land Use Commission (GLUC) and  
19 Governor Joseph F. Ada prior to forwarding a lease request to *I Liheslaturan*  
20 *Guåhan* for approval. Through the advice of counsel and their project  
21 planners, the Planned Development District rezoning of the *Paseo de Susana*  
22 was determined by GLUC to be the best zoning designation to meet the  
23 highest and best use of the parcel while complying with the inclusionary  
24 covenances mandated by United States Public Law 86-664.

25 Subsequently, the Department of Commerce in 1992 received GLUC  
26 approval to build the *I Sengsong Chamorro* (*Chamorro Village*). Approved

1 was a conditional use and zone variance permit to build within an "A" rural  
2 zone. Commerce's application did not consider amending IDC's master  
3 plan. The approval did not match the existing zone designation. The  
4 GLUC could not down zone the parcel back to an agricultural zone as it is  
5 prohibited pursuant to §61637 of Title 21, Guam Code Annotated.

6 The Act reaffirms the Planned Development Zone (PD) of *Paseo de*  
7 *Susana* by integrating the combination of uses compliant with the  
8 restrictions of United States Public Law 86-664. Any facility or activity  
9 which may be considered a primary use under the zone will now be  
10 considered an accessory facility or use if the facility or activity is secondary  
11 to a civic, park, or recreational use. The Act also attempts to streamline the  
12 process in which a master plan for the area is created and approved. The  
13 Act also adds a provision to the Zoning Law clarifying the spatial  
14 relationship between what is considered an open area and a structure  
15 within a Planned Development District. Currently, the Planned  
16 Development District allows for thirty percent (30%) of the development to  
17 be occupied by structures. Recreational facilities, roads, walks, parking  
18 areas are considered structures within the Zoning Law. *Paseo de Susana*,  
19 despite its visual appearance of openness does not meet the open area  
20 criterion required by law. A clear and decisive definition differentiating  
21 open spaces and structures has been a detriment for many years for  
22 developers seeking to integrate a Planned Development District project.  
23 The Act clarifies this spatial relationship.

24 The Act finally extends the lease agreement of the Guam Fishermen's  
25 Cooperative Association, and approves an additional acre lease, to expand  
26 its facilities and services which are demanded by the fishermen of Guam

1 and the users of the Gregorio D. Perez Marina.

2       The Guam Fishermen's Cooperative Association (GFCA) is a twenty-  
3 five (25) year old non-profit organization established in December of 1977.  
4 The Association owns and operates a fish market and restaurant and  
5 handles seventy percent (70%) of the island's recorded catch. Ninety  
6 percent (90%) of the Gregorio D. Perez Marina fuel needs are handled by  
7 the Association. GFCA also provides support for local aqua-culture  
8 industries and is known to have a good reputation. GFCA proposes to  
9 expand its services through the development of a new facility in *Paseo*. The  
10 proposal includes a seafood restaurant, fish market, gift shop, pro-shop,  
11 offices, mini-ice plant, smoked fish processing plant, unloading and  
12 loading pier, and a docking facility for passengers. The expansion is also  
13 necessary to enable GFCA to obtain USDA/FDA sanctioning as a fish  
14 processing facility for export. The proposal is a signal to *Hagåtña's*  
15 revitalization and will provide facilities that are continually demanded by  
16 Guam's fishing industry. GFCA's proposed facility will undoubtedly  
17 become a tourist destination-oriented facility. At present, GFCA is the only  
18 organization that caters to Guam's fishermen for those services. *I*  
19 *Liheslaturan Guåhan* promotes GFCA's proposal to expand its facilities  
20 through restructuring its lease tenure and providing additional land area to  
21 expand its facilities. GFCA's continued mission in supporting and  
22 promoting Guam's fishing and aqua-culture industry is a viable alternative  
23 in strengthening Guam's economic infrastructure utilizing Guam's ocean  
24 resources.

25       **Section 2. Short Title.** This Act shall be known as the "*Paseo de*  
26 *Susana Planned Development District Act*."

Section 3. A new §61215 is hereby *added* to Article 2 of Chapter 61,  
Subpart E, of Title 21, Guam Code Annotated, to read:

**"§61215. *Paseo de Susana* Planned Development District.** (a) Real estate conveyed to the government of Guam pursuant to United States Public Law 86-664, recorded as Department of Land Management Document No. 44682, inclusive of Lot Number A-4, Municipality of *Hagåtña*, containing an area of 36.75 acres, rezoned Planned Development District by the Guam Land Use Commission on July 27, 1989, is, upon the adoption of the Master Plan, as authorized within this Section, known as the '*Paseo de Susana* Planned Development District'. The nomenclature of this zoning amendment shall be the '*Paseo de Susana* Planned Development District.'

(b) All existing uses and activities inclusive of the proposed Guam Fishermen's Cooperative Association facility expansion shall be made a part of the *Paseo de Susana* Planned Development District Master Plan.

(c) The Directors of Public Works, Land Management, Parks and Recreation, and the Administrator of the Guam Economic Development and Commerce Authority shall, within sixty (60) days, prepare a master plan following the drawing requirements outlined in §62402(a)(1), Title 21 of the Guam Code Annotated. The master plan shall reflect the as-built locations of all fixed structures including the combination of uses that constitutes a Planned Development District required



by §61635, Title 21 of the Guam Code Annotated. The Guam Land Use Commission and the Guam Seashore Protection Commission shall review and act on, within ninety (90) days, the submitted Master Plan."

**Section 4.** The Director of Land Management shall update the official Guam Zoning Map with the correct zoning designation of Lot Number A-4, Municipality of *Hagåtña*.

**Section 5.** A new §61215.1 is hereby *added* to Article 2 of Chapter 61, Subpart E, of Title 21, Guam Code Annotated, to read:

**"§61215.1. Compliance to United States Public Law 86-664.** The *Paseo de Susana* Planned Development District shall enable the unified development of the property conveyed by United States Public Law 86-664, to the government of Guam and recorded at the Department of Land Management as Document Number 44682, inclusive of any fraction of public land therein consolidated. The Planned Development District shall exhibit a combination of uses appropriate to an integrated plan solely for civic, park, and recreational purposes. All facilities, uses or activities not put to use for civic, park or recreational purposes but appurtenant, subsidiary, complimentary, supportive or secondary towards the unified Planned Development District shall be made to be an accessory use or accessory structure as provided within Chapter 61 of Title 21, Guam Code Annotated."

**Section 6.** Section 1 of Public Law 14-149 is hereby *repealed* and *reenacted* to read:

1           **"Section 1.** The government of Guam shall continue to  
2 lease to the Guam Fishermen's Cooperative Association for the  
3 sum of One Dollar (\$1.00) per annum, an area containing one  
4 (1) acre currently leased and occupied located adjacent to the  
5 Gregorio D. Perez Marina. The government of Guam shall  
6 additionally lease an area containing up to one (1) acre for the  
7 sum of One Dollar (\$1.00) per annum, contiguously located  
8 under the purview of the Department of Parks and Recreation.  
9 The total land area in this lease shall not exceed two (2) acres.  
10 The Guam Fishermen's Cooperative Association in  
11 coordination with the Department of Land Management, Jose  
12 D. Leon Guerrero Port Authority of Guam, and the Department  
13 of Parks and Recreation shall within six (6) months survey the  
14 designated areas and provide the government with the proper  
15 legal description for the lease."

16       **Section 7.** Section 2 of Public Law 14-149 is hereby *repealed* and  
17 *reenacted* to read:

18           **"Section 2.** The Guam Fishermen's Cooperative  
19 Association shall be allowed to construct a facility that is  
20 complimentary and accessory to the overall development plan  
21 of the *Paseo de Susana* Planned Development District. The  
22 facility shall not impede public access along the shoreline  
23 except where needed for dockage space and where public  
24 safety and security concerns dictate otherwise. Such facility  
25 shall meet the day-to-day needs of the Association as well as  
26 support the recreational and commercial activities of the

Gregorio D. Perez Marina. The Guam Fishermen's Cooperative Association has been established as the only fueling station for the Gregorio D. Perez Marina and shall continue to be the designated fueling station. No other private or commercial fueling for any boat, vessel, or mechanized water contrivance may be conducted within the Gregorio D. Perez Marina."

**Section 8.** Section 3 of Public Law 14-149 is hereby *amended* to read:

"**Section 3.** The land leased to the Guam Fishermen's Cooperative Association shall be for a total period of sixty-five (65) years. Upon expiration of the said sixty-five (65) years, the lease shall be subject to renegotiation between the government of Guam and the Guam Fishermen's Cooperative Association, and subject to legislative approval. The Guam Fishermen's Cooperative Association shall be authorized to borrow against the leasehold interest of the property subject to the terms of the lease agreement, provided that as a condition of any mortgage securing such loan, the mortgage shall contain a clause restricting any purchaser of the leasehold upon default of the mortgage to use the leasehold only for the purposes authorized in the *Paseo de Susana* Planned Development District Master Plan. *I Maga'lahi* and the Speaker of *I Liheslaturan Guåhan* shall be given notice by the Guam Fishermen's Cooperative Association prior to any default, and as a condition of the borrowing authorized herein it shall be an express provision of the borrowing agreement that the government of Guam be given a copy of all notices by either party pursuant to the

1 borrowing agreement. In addition, any borrowing against the  
2 leasehold interest shall allow for a curing of the default by  
3 government of Guam prior to the sale of the property by  
4 mortgagor pursuant to a power of sale.

5 The Guam Fishermen's Cooperative Association shall not  
6 sublease the property or assign the leasehold; provided,  
7 however, that the Guam Fishermen's Cooperative Association  
8 may enter into subleases for tenancies no greater than five (5)  
9 years for spaces or rooms within the buildings located on the  
10 leasehold property where the tenants may operate retail and  
11 restaurant businesses consistent with the purposes of the *Paseo*  
12 *de Susana* Planned Development District Master Plan.

13 **Section 9.** Subsection (h) is hereby *added* to §61635 of Part 3 of  
14 Article 6, Chapter 61, Subpart E, of Title 21, Guam Code Annotated, to  
15 read:

16 “(h) All impermeable surfaces considered as a structure  
17 constituting gardens, sidewalks, fences, barrier walls,  
18 retaining walls, open air recreational facilities exposed to  
19 sunlight, swimming pools, and all subterranean  
20 structures located beneath grade and covered by earth  
21 shall be considered as an open area.”

22 **Section 10.** Nothing contained in this Act shall prevent the Guam  
23 Fishermen's Cooperative Association from proceeding with construction of  
24 its facility as described in Section 2 of this Act. The Guam Land Use  
25 Commission, if it finds that the structural coverage to open space ratio  
26 exceeds the limits of the provisions of 21 GCA §61635, may waive such

1 requirements for the Guam Fishermen's Cooperative Association on the  
2 *Paseo de Susana* Planned Development District.

3       **Section 11. Effective Date.** The provisions of this Act shall  
4 become effective immediately upon enactment.

5       **Section 12. Severability.** *If* any provision of this Law or its  
6 application to any person or circumstance is found to be invalid or contrary  
7 to law, such invalidity shall *not* affect other provisions or applications of  
8 this Law which can be given effect without the invalid provisions or  
9 application, and to this end the provisions of this Law are severable.