



Office of the Governor of Guam

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Office of the People's Speaker
vicente (ben) c. pangelinan

FEB 11 2004

TIME: 11:09 (AM) (PM)
RECEIVED BY: [Signature]

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

10 FEB 2004

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

Dear Speaker Pangelinan:

Transmitted herewith is Bill No. 71 (LS), "AN ACT TO AMEND §40113(b) (3) OF CHAPTER 40, TITLE 5 OF THE GUAM CODE ANNOTATED, AND TO REQUIRE THAT A MEMORANDUM OF UNDERSTANDING BE ENTERED INTO BETWEEN THE GUAM WATERWORKS AUTHORITY (GWA) AND THE GOVERNMENT OF GUAM TO LIMIT GWA'S USE OF A SPECIFIC PARCELS OF LAND TO A SPECIFIC USE AND PURPOSE," which I signed into law on February 10, 2004 as Public Law 27-73.

Sincerely yours,

[Handwritten signature of Felix P. Camacho]

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

Attachment: copy attached of signed bill

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

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

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

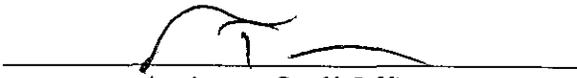
This is to certify that Substitute Bill No. 71 (LS), "AN ACT TO AMEND §40113(b)(3) OF CHAPTER 40, TITLE 5 OF THE GUAM CODE ANNOTATED, AND TO REQUIRE THAT A MEMORANDUM OF UNDERSTANDING BE ENTERED INTO BETWEEN THE GUAM WATERWORKS AUTHORITY (GWA) AND THE GOVERNMENT OF GUAM TO LIMIT GWA'S USE OF A SPECIFIC PARCEL OF LAND TO A SPECIFIC USE AND PURPOSE," was on the 4<sup>th</sup> day of February, 2004, duly and regularly passed.

Attested:

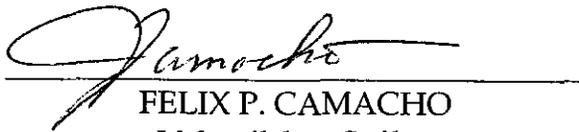
  
Tina Rose Muña Barnes  
Senator and Legislative Secretary

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

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This Act was received by *I Maga'lahaen Guåhan* this 5 day of February, 2004,  
at 4:30 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: 2/10/04

Public Law No. 27-73

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

**Bill No. 71 (LS)**

As substituted by the Author and  
as amended on the Floor.

Introduced by:

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

**AN ACT TO AMEND §40113(b)(3) OF CHAPTER 40, TITLE 5 OF THE GUAM CODE ANNOTATED, AND TO REQUIRE THAT A MEMORANDUM OF UNDERSTANDING BE ENTERED INTO BETWEEN THE GUAM WATERWORKS AUTHORITY (GWA) AND THE GOVERNMENT OF GUAM TO LIMIT GWA'S USE OF A SPECIFIC PARCEL OF LAND TO A SPECIFIC USE AND PURPOSE.**

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

2           **Section 1. Legislative Findings, Determination and Intent. I**  
3           *Lihselaturan Guåhan* finds that on June 20, 1983, the United States Department  
4           of the Interior acting by and through the Director of the National Park Service

1 issued a Quitclaim Deed to the government of Guam for the specific purpose  
2 of establishment of public parks and public recreation areas, as indicated by  
3 Department of Land Management (DLM) Document No. 340078. On July 23,  
4 1997, the government of Guam recorded a Grant Deed for Lot No. 64-3, a  
5 parcel identified in DLM Document No. 340078 and DLM Instrument No.  
6 MA11092, to the Guam Waterworks Authority (GWA), specifically Deep Well  
7 A-32, for the purpose of protection, development and production of ground  
8 water for the use or resale by GWA, in the interests of the public health and  
9 welfare of the people of Guam.

10 *I Liheslaturan Guåhan* further finds that *I Mina'Bente Kuåttro Na*  
11 *Liheslaturan Guåhan* passed Bill No. 351 which became Public Law 24-133 on  
12 February 16, 1998, designating Lot No. 64-3 as a community park and  
13 transferring the control of the Lot to the Mayor of Agana Heights. The village  
14 Mayor desires to develop Lot No. 64-3, the site of the former United States  
15 Naval Hospital incinerator, into a multi-use public area.

16 It is therefore the intent of *I Liheslaturan Guåhan* to transfer the care and  
17 administration of Lot No. 64-3 to the Mayor of Agana Heights for public use  
18 with the condition that a Memorandum of Understanding be developed  
19 between the government of Guam and GWA which shall operate upon, have  
20 access and provide appropriate maintenance to only that area of Lot No. 64-3,  
21 specifically Deep Well A-32, required for the purpose of protection,  
22 development and production of ground water for the use or resale by GWA,  
23 in the interests of the public health and welfare of the people of Guam.

24 **Section 2.** Section 40113(b)(3) of Chapter 40, Division 4, Part 1 of Title 5  
25 of the Guam Code Annotated is *amended* to read:

1                   “(3) The Mayor of Agana Heights shall be responsible for the  
2                   Agana Heights Recreation Area and the care and administration of Lot  
3                   No. 64-3, Agana Heights, Guam, containing an area of 5,120.23± square  
4                   meters, as shown in Instrument No. MA11092, Department of Land  
5                   Management, and Document No. 340078, Department of Land  
6                   Management, the former site of the United States Naval Hospital  
7                   incinerator, which shall be utilized for public recreation purposes;”

8                   **Section 3.** Any interest of the Guam Waterworks Authority (GWA) in  
9                   the lot identified as Lot No. 64-3, Agana Heights, containing an area of  
10                  5,120.23± square meters, as shown in Instrument No. MA11092, Department  
11                  of Land Management, and Document No. 340078, Department of Land  
12                  Management, with the exception of that area required by GWA for the  
13                  purpose of protection, development and production of ground water for the  
14                  use or resale by GWA, specifically Deep Well A-32, shall be conveyed from  
15                  the Guam Waterworks Authority to the government of Guam for public  
16                  recreation purposes, subject to the government of Guam entering into a  
17                  Memorandum of Understanding with the Guam Waterworks Authority  
18                  permitting the GWA to operate upon, have access and provide appropriate  
19                  maintenance to only that area of Lot No. 64-3 required for the purpose of  
20                  protection, development and production of ground water for the use or resale  
21                  by GWA, specifically Deep Well A-32, in the interests of the public health and  
22                  welfare of the people of Guam.

23                  **Section 4.** The Guam Environmental Protection Agency shall conduct a  
24                  study of the old Naval incinerator site located on the property detailed in the  
25                  measure for two (2) purposes, the first being to determine if the federal

- 1 government retains residual responsibility to fund any necessary clean up or
- 2 mitigation of environmental hazards, as well as to review any potential
- 3 environmental hazards.



The People

Mina Bente Siete Na Liheslaturan Guahan

vicente (ben) c. pangelinan  
Speaker

Committee on Utilities and Land  
Chairman

5-22-03

The 27<sup>th</sup> Guam Legislature  
I MINA BENTE SIETE NA LIHESLATURAN GUAHAN  
155 Hesler Street  
Hagatna, GU 96910

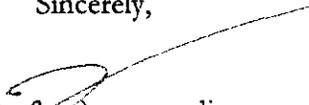
The Committee on Utilities and Land, to which was referred Bill No. 71 (LS), "AN ACT TO REPEAL AND REENACT §40113(b)(3) OF CHAPTER 40, TITLE 5 OF THE GUAM CODE ANNOTATED, TO PROVIDE PROPERTY IN THE VILLAGE OF AGANA HEIGHTS FOR A SENIOR CITIZENS' CENTER AND OTHER PUBLIC PURPOSES SUBJECT TO APPROVAL BY THE UNITED STATES DEPARTMENT OF THE INTERIOR," has had the same under consideration, and now wishes to report back the same with the recommendation to PASS.

The Committee votes are as follows:

<u>7</u>	To Do Pass
<u>0</u>	Not to Pass
<u>0</u>	To Report Out
<u>0</u>	Abstain
<u>0</u>	Inactive File

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

Sincerely,

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

**Committee on Utilities and Land**

*I Mina Bente Siete Na Liheslaturan Guahan*

**VOTING SHEET ON:**

**Bill No. 71 (LS)**

**“AN ACT TO REPEAL AND REENACT §40113(b)(3) OF CHAPTER 40, TITLE 5 OF THE GUAM CODE ANNOTATED, TO PROVIDE PROPERTY IN THE VILLAGE OF AGANA HEIGHTS FOR A SENIOR CITIZENS’ CENTER AND OTHER PUBLIC PURPOSES SUBJECT TO APPROVAL BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.”**

<b>COMMITTEE MEMBER</b>	<b>INITIAL</b>	<b>TO PASS</b>	<b>NOT TO PASS</b>	<b>REPORT OUT ONLY</b>	<b>ABSTAIN</b>	<b>INACTIVE FILE</b>
vicente c. pangelinan Chairman	<i>VP</i>	✓				
Carmen Fernandez Vice Chairwoman	<i>CF</i>	✓				
Frank Aguon, Jr. Member	<i>FA</i>	✓				
Randy Cunliffe Member	<i>RC</i>	✓				
Lou Leon Guerrero Member	<i>LLG</i>	✓				
Rory Respicio Member	<i>RR</i>	✓				
Toni Sanford Member	<i>TS</i>	✓				
Joanne Brown Member	<del><i>JB</i></del>					
Mark Forbes Member						
Ray Tenorio Member						

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

Report on

Bill 71 (LS)

**“AN ACT TO REPEAL AND REENACT §40113(b)(3) OF CHAPTER 40, TITLE 5 OF THE GUAM CODE ANNOTATED, TO PROVIDE PROPERTY IN THE VILLAGE OF AGANA HEIGHTS FOR A SENIOR CITIZENS' CENTER AND OTHER PUBLIC PURPOSES SUBJECT TO APPROVAL BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.”**

**Public Hearing**

The Committee on Utilities and Land, to which was referred Bill 71 (LS), “AN ACT TO REPEAL AND REENACT §40113(b)(3) OF CHAPTER 40, TITLE 5 OF THE GUAM CODE ANNOTATED, TO PROVIDE PROPERTY IN THE VILLAGE OF AGANA HEIGHTS FOR A SENIOR CITIZENS' CENTER AND OTHER PUBLIC PURPOSES SUBJECT TO APPROVAL BY THE UNITED STATES DEPARTMENT OF THE INTERIOR,” conducted a public hearing on Tuesday, May 6, 2003, at the Guam Legislature Public Hearing Room. Speaker vicente (ben) c. pangelinan conducted the legislative hearing as Chairman on Utilities and Land. Also in attendance were Vice Chairperson Carmen Fernandez, Sen. Frank B. Aguon, Jr., Sen. Tina Muna-Barnes, Sen. Randall Cunliffe, and Sen. Larry Kasperbauer.

*(Note: Bill 71's public hearing was concurrently held with Bill 64's public hearing)*

**Summary of Testimonies**

Speaker: We're now finished with the nominees to the various boards and commissions and we have now the hearing on Bill Number 64 and Bill Number 71. Those signing up are Mr. Ed Chanco and Mr. Ron DeGuzman--is he still here? Oh, there's Ron. OK. Please come forward.

Oh I'm sorry, Mayor McDonald. Why don't we go ahead and have the mayor proceed, Mr. Chanco, if you don't mind.

working out of, there has been research in reference to how this lot came about. Originally, the findings and the determination was in 1983 the Department of Interior had released land to the Government of Guam for the establishments of public parks and recreation areas which was said Lot 64-3, which was one of the parcels that were released.

In 1997, a grant deed was given on this exact same lot to the Guam Waterworks Authority for the production of ground water. Control but not the deed of the property was given to the custody and control of the Agana Heights Mayor via your efforts again in Public Law 24-133 in the 24<sup>th</sup> Guam Legislature for a community park. The mayor of Agana Heights had since then wanted to develop the senior citizens [center], was working closely with the GHURA folks. Apparently, in previous findings, preliminary findings, it was a get-go with the funding and all that, everything was in order. Asbestos abatements were clear; the demolition of the site wasn't a pressing issue.

For those who don't know, it's the site right across naval hospital where the old incinerator site is. And then there was also a finding by the GHURA folks that there was a need by the assessors that a retaining wall needed to be built, which may have cost another \$150,000.

Altogether having, and I know that the director of GHURA is here to testify on also those findings. But we did a further investigation in wanting to make sure that the village of Agana Heights got the needed facility for the senior citizens center. We wanted to make sure that the request from the department of interior that came down with the first grant deed was followed so at the working closely with the governor's office and with the legal, with their legal office, with GHURA, and the Mayor's office, we did all our investigations.

Unfortunately, just last night, the findings came into GHURA. GHURA had given me a call after 4:00 in the evening yesterday to tell us that there were findings that may be beyond our control and that we were hoping to find an alternate site because there also was a grant funding issue that if the property wasn't transferred to the Agana Heights Mayor, the full custody and control and the transfer, then they would lose the grant. So the timeline was really important. We needed to get on. But because of this new findings ... I'm hoping that there would be a solution that we can find to help our senior citizens in Agana Heights but also more importantly, Mr. Speaker, it's important that we continue this transfer because if the site is not utilized for the senior citizen's building in Agana Heights, it can still be utilized for other purposes. I know that there are some programs that they want to work with. Other senior citizens

activities that they want to deal with. And it's really important that this transfer still be facilitated.

Mayor: I just like to also mention that the senior citizens center in Agana Heights does not only facilitate the senior citizens of Agana Heights. We got Piti, Asan-Maina, MTM, Hagatna, and Ordot-Chalan Pago. So you see, a number of people here from all over.

Speaker: OK. Mr. Chanco?

Kasperbauer: Mr. Speaker, before he goes on, I'm still not sure what happened after 4 o'clock. That there's an additional cost for a retaining wall, is that what we're talking about?

Barnes: The abatement, demolition and retaining wall. ...??...

Chanco: My name is Ed Chanco, I am the present president of the Agana Heights Senior Center Council. Now, in light of this development as late as last night, I would rather wait for GHURA to say their piece first before I continue.

DeGuzman: Mr. Speaker, Mr. Vice Speaker, senators. We did have some discussions last night with Senator Barnes and also with the mayor. Just to give you an update and just a little bit of background with regards to the project.

GHURA secured funding from the Department of HUD in the amount of \$423,151 to build a new senior citizens center in Agana Heights. Those funds have already been secured pending site control. This was the original proposed site. However, after the initial site was determined, we did some feasibility studies, and an environmental report was completed by Duenas and Associates. We discovered just in the last few days that there are some asbestos remediation work that needs to be completed on the former incinerator. Prior to the Navy handing the property over, they did do some remediation but just enough so that they can turn it over to the Government of Guam. The major portion of the asbestos contamination still exists in the incinerator itself, and in the furnace stack. So we're looking at an additional unanticipated cost of \$100,000 for remediation on that asbestos. We would actually have to cover up the whole area during the remediation process.

The other problem that we've run into. The staff has done some site evaluations, physical site evaluations. If you're familiar with the area, it slopes down towards the bottom of the valley. The topography requires that we put a retaining wall. We're looking at about \$150,000 for that retaining wall. There's a large amount of water that drains on the side of the road there. And also of course the

demolition cost is going to cost around \$150,000 to demolish the existing incinerator site.

So at present, we're looking at a cost of \$300,000 just to bring the site to where we can actually build on it. Based on the budget of \$423,000 that leaves us only \$123,000 left for construction, which means we're only going to have a footprint to build for about only 50 senior citizens, when the original footprint was for 120. We have been in discussion with the mayor. We are going to work diligently with him to try to secure an alternate site. The \$423,000—part of that can be used to secure another site that is buildable. I'm sure we can find something for much less than the \$300,000 price tag we have right now.

So we do stand in support of the bill in transferring the property. I believe that there are some alternate uses that are not as complicated as the senior citizens [center]. So we're going to work very closely with him. Our major concern at this point is the grant cycle. We need to establish site control fairly quickly. We're going to work some internal things out, so that we can extend that period of time.

Speaker: Alright. Thank you very much. Mr Chanco, why don't you give your testimony?

Chanco: It looks like my written testimony got preempted. But anyhow, basically what I said in my testimony was we support the transfer of Lot 64-3, but with this new development, I'm willing to wait. But still, there is that need for a multi-senior center. That's the way the federal described it. There's only one center that I know of that was mentioned to me for the senior citizen's exclusive use. The rest of the centers are all under this jurisdiction of the mayors. And in Agana Heights we don't have one. That's why I say our council supports the transfer. But because of this development, we'll just have to wait. But we know that it has been brought to your attention, the critical need for this center for the manamko. Thank you.

I want to add one thing. I want to thank Senator Kasperbauer and Senator Sanford for authoring Bill 64.

Speaker: And of course Senator Muna-Barnes.

Chanco: And Senator Pangelinan, I mean Speaker Pangelinan, for calling this hearing. Thank you.

Speaker: And again I know Senator Barnes had been working on the bill also.

I think what you have before you is definitely a commitment on the

part of the legislative body to try and provide the necessary resources to the Agana Heights community for the construction of a seniors' center; working with GHURA in terms of the federal funding side; trying to find a site that's suitable for that work. We're going to continue to try and look and see if we can find alternate sites, or the procurement of alternate sites. But I think there is definitely merit with proceeding with the clarification of the control of the property for some future development. Mr. Craddick's here and I think that we'd like to get his assurance also that the way that the bill is currently structured would provide also the necessary clarification for control of the resource there that Guam Waterworks needs in order to continue to meet its mission in providing water and so forth. We thank all of you and again, it's a matter of finding additional funding or finding additional sites, but we remain committed to moving this process forward, to clarify the control of that piece of property and make sure that we're able to assist and provide for the community of Agana Heights and its manamko a suitable center for their use and for the use of the community.

Any other questions from [the committee]? Senator Aguon?

- Aguon: Thank you very much, Mr. Speaker, Mr. Chairman. Mayor, I certainly appreciate your comments this morning, and Mr. DeGuzman for the efforts of GHURA to continue to at least keep this as a strong consideration in terms of the application of the \$420,000 because certainly moving in the direction of taking care of our senior citizens is also just as critical and it's in line with many of the activities that the agency had pursued. The question I have is, I got a sense from your comment that if you're not able to work with the mayor and work with land management or the appropriate entities to secure property, that there could be a possibility or need to redirect the funds elsewhere, so is there a particular timeline that you're looking at, in terms of being able to identify a particular parcel?
- DeGuzman: Well, the timeline is pretty close at hand, but again we're going to—
- Aguon: What are you looking at in terms of timeline? Is it 30 days? 60 days?
- DeGuzman: I'm sorry, 30 days, right.
- Aguon: So within 30 days, you need to secure property so that in fact you can apply the use of those funds?
- DeGuzman: That's correct. Now, that timeline is static right now because again, we can do things internally to fund other projects that will keep us at a certain percentage of funding levels so that we can keep this application going. I think we can buy enough time to ... we may be

looking at 90 days if we stretch this. At some point in time, we will have to have site control in order for us to continue on with the funding. If not, then that will be de-obligated by department of hud.

Aguon: Would it be de-obligated or redirected elsewhere internally?

Deguzman: We can try to reprogram first, if there's another project that's closely in line with this.

Aguon: That's what I'm kind of concerned about, whether your backs are going to be up against the wall and then you're going to have to either lose the funds, de-obligate it, or redirect it elsewhere because I think the initial concern is to proceed with the senior citizens center.

Deguzman: the most likely scenario would be to reprogram. There are other projects pending right now that are ready to go. Worst case scenario is the de-obligation of funds. But in discussion with the mayor yesterday, we are looking at 3 or 4 options that we can actually jump into fairly quickly.

Aguon: If by any chance you need immediate legislative support, please, the speaker is certainly here and he understands the entire situation, and also the sponsors of the legislation. So let us know if you need immediate relief from the policy perspective, because we'd like to see this realized.

Thank you, Ron. Thank you, Mayor.

Speaker: Senator Muna-Barnes?

Barnes: Again Mr. Speaker, as noted in our efforts to proceed over on the official transfer to the Agana Heights mayor and hoping that if there's noted that the director of GHURA works closely with the mayor to identify those other options, but that it's real important to know that we're here committed to make this transfer feasible and knowing that the conditions on bill 71 as noted working closely with Guam waterworks and dept of land management and together with the governor's office that this transfer will be made to the aspects of dept of interior that's included that may need additional permission to have the land officially transferred over. So I continue to stand in support of this effort and see what I can do to facilitate it forward.

Speaker: Thank you very much. Senator kasperbauer?

Kasperbauer: Si Yu'us ma'ase, Mr. Seaker, and good morning to all my manamko friends from Agana Heights, mayor, M. Chanco, Mr. DeGuzman. I of course responded very quickly and along with Senator Sanford to try to remedy the situation when it came to our attention, and was

not aware that another senator, Senator Barnes was also looking at the matter. But that's alright. We're both interested in seeing that the manamko get a center that they deserve and I'm not quite clear from what we're talking about here whether that center will happen, will it happen in Agana Heights, or are we talking about it for somewhere else? But I think the crucial thing is that this money was intended, and I know that our manamko have had their heartaches over the years. Some are a little bit older than I am and I am sure that we'll get through this one but it's unfortunate that they've come down here to support this, only to hear that maybe it won't happen. I know there's been discussion about needing clearance from the department of interior to go forward, and I suppose I would want to ask Mr. Craddick: Do they have the clearance from interior to go ahead and build a water well on the land, next to an incinerator that we're hearing today is so dangerous that we can't go forward and put anything here. It sounds like that we've accepted a white elephant from the federal government, or they did a quick one on us by giving us land that is so contaminated, that we can't have a senior citizens center there, but we can have a water well right next door. I've been to that land, i've lived in Agana Heights and—

- Speaker: I think the contamination is within the facility itself, and not in the ground water.
- Kasperbauer: Yes, but the facility is right next to the water well.
- Speaker: Yes, I understand—
- Kasperbauer: It's like from here to the outside of this building.
- Speaker: And I think that's one of the problems with regards to the return of excess properties prior to Circula, which is the requirement for federal returns of properties to be environmentally remediated prior to turning them over to ... because this was turned over back—
- Kasperbauer: In 1985.
- Speaker: Yes, right, almost 20 years ago. And it was not pursuant to these new environmental requirements.
- Kasperbauer: Then, Mr. Speaker, I'm wondering if we want to be real anxious to turn over something that's going to cost us so much to clean up, when it seems to me the federal obligation should have that obligation to clean it up.
- Speaker: Well, you can write a letter to them and we'll certainly ask them. But I agree with you, and they only provided remedial remediation, because they did clean up parts of the facility just enough to turn it

over, and I guess upon further review there's additional remediation to be done.

Kasperbauer: Do we know what was done to clean up the ovens in it? I've been in that building recently, yesterday.

DeGuzman: Senator, basically there's a minimum requirement to clean up in order for it to be turned over, and that basically is the public areas within the facility. The major portion of the contaminants still remain in the incinerator itself and the smokestack, and that was not remediated. Upon demolition, that will all become airborne, which is why the area has to be contained, which is why it costs so much.

Kasperbauer: Well, I guess that was my next question. Sorry for interrupting. You know, the well and the incinerator is up on the top edge and there's tremendous amount of property beyond that, and I was wondering why it even has to be demolished in order to go forward with the project. If it's not the senior center, does this mean then that the other plans that had been there for recreational facilities, such as ballparks and so on, could not go forward? I mean, if nothing can go forward until that's remediated, then it seems that—

Speaker: I think the remediation's going to come if you're going to destroy and take down the incinerator building itself.

Kasperbauer: Right, so what I'm asking, is if that's really necessary, because that's on the fringe of the property, as the well is, when there's considerable land below the incinerator and the well, where I assume the building was going to be put.

Mayor: (hard to hear) I did ask that question, and the property that the property was up against still needs a retaining wall, but I did bring that up.

DeGuzman: For this particular use, on the senior center, the footprint of the property, there's a road that cuts right almost in the middle of this property, which is the access road to the pumps. We can't do anything on that. There is a sliver of property on the northern side of this lot, and then the rest of it is down towards the south. But again, because of the topography, we're not going to be able to build this particular structure unless a retaining wall is built, for safety.

Kasperbauer: That's what I'm wondering. Maybe the money that we seem to say is necessary to demolish the building—leave the building and use that money for the retaining wall.

Speaker: I understand your concern, Senator Kasperbauer, but I think the question here is, "Do we want to turn the property over, or not?"

not to design the building of it. I think whether or not we're going to build a senior center, for whatever future use is, the resolution has to be, of course, the site control by the mayor's office, and I think that's what your intention was with your bill.

Kasperbauer: Yes.

Speaker: So, whether or not we build at this time, I think the mayor and the community would still like to have control, so that any future development can proceed without the need to come back for legislation on it, and I thank you for introducing that, and of course Senator Barnes. But I don't know if we're going to resolve anything by continuing to discuss whether or not we should do a retaining wall, and so forth. Do we want to turn the property over to the Agana Heights community under the control of the mayor?

Kasperbauer: I guess that's part of my question. If it's so contaminated, are we giving away something that the federal government still should be responsible for in cleaning up?

Speaker: But I don't think, whether or not we turn it over, that question's not resolved by our action here. It still is a transfer to the government, it does not change hands in terms of ownership, it still remains with the government of Guam. So that question is a separate question from turning it over to the control of the mayor.

Kasperbauer: o, then, maybe one final question: Are there other sites in Agana Heights—Baasan or Apugan?

Mayor: (hard to hear) we do have several government properties in Agana Heights. For example, the government house parking lot. We have tutujan park. We have civil service commission. I think that belongs to parks and rec. So that could be another possibility. But again, is parks and rec willing to give that building up? But I think it is the best option now is to get that civil service commission building.

Speaker: And the money, ron, that's earmarked can be used to purchase property?

DeGuzman: Yes, that's correct. It can be used to acquire property and also to refurbish. And so if that building were acquired, then we could refurbish that building completely.

Kasperbauer: Is that the Limtiaco Building?

Speaker: It was.

Mayor: (hard to hear) And then of course we have the entrance to Fort Apugan, on the left side, that's still a good site—by Naval Hospital. So we have several sites that we can look into, but again, the procedure to get that property up there—

Barnes: Would that parcel belong to the govt of guam also, in general? The parcel next to Fort Apugan. It belongs to who?

Mayor: Parks and Rec.

Barnes: Parks and Rec's also?

Mayor: Yes.

Barnes: So the Civil Service Commission building and the one across belongs to parks and recreation?

Mayor: Yes. Unless you want to sell your property in Agana Heights.

Kasperbauer: Well, maybe so. (laughter)

Speaker: Thank you very much. Senator cunliffe?

Cunliffe: Mayor and people supporting this bill, we will do what we can to accommodate you, and from the standpoint I notice in Bill 71 in the legislative findings, it says, "GHURA has determined that the senior citizens center may not be an appropriate use of the property." I think that the department of the interior would find that the senior citizens center is in fact recreation and nature. I don't think that they're going to say that you can't build a senior citizens [center] on a property that's been turned over for recreation. That's a very tight reading of that language. It would certainly be a public use and so in that respect, I think you could go forward.

(tape change)

... the medical housing and the doctors' housing up at old gmh and there's money available from FEMA to do the mitigation there. If something were to happen in a storm, even the size of the winds up there, in fact, potentially there's airborne asbestos. A typhoon's going to blow that airborne asbestos out of a smokestack, so it may be something that you can get FEMA money to pay for the cost of doing that and I wouldn't give that up. But obviously time is of the essence here, so I'm glad that you've been working with Senator Barnes and Senator Kasperbauer, and I urge you to continue to do so and we'll support whatever they come up with. Thank you.

Speaker: Senator Fernandez?

Fernandez: I just wanted to quickly say that our objective here is to find a way to build our center for our seniors. I think that's critically important and I just want to share with you that, as senator randy said and the others, that we will be here to support you, but we have to move swiftly to identify that alternative land, and we'll stand ready here to do whatever's necessary to allow for that land to be transferred. Thank you.

Speaker: Thank you. Just for the record, the federal government did provide additional money for the incinerator cleanup, and unfortunately through an emergency, that money was reprogrammed. So they did provide us with the money to do both the original cleanup and the additional mitigation. But that money was reprogrammed and used for emergencies, for other purposes. So it's not a total abandonment and turnover of that property without the proper mitigation.

Kasperbauer: If I might, Mr. Speaker, and perhaps the mayor. It seems that if that smokestack is so critical with the asbestos in it, something should be done to cap it off now while we're waiting, because if you go in there, that's a beautiful building, and that's an old building, but it's like brand new. The red brick in there, and the ovens, and the doors, and the metal stairway, everything is nice. The flew and the chimney is there, but if the storms are coming in and going through the furnace, it must be blowing that asbestos all the way down to the bridge with the white lady, and all the way down to maina.

Speaker(??): That's why we haven't seen her in a while. (laughter)

Kasperbauer: So if it's such a critical thing, something should be done for the safety of the people below.

Speaker: Alright. Ed, Mr. Chanco?

Chanco: I would just like to add something after hearing all this discussion about the alternative sites. It seems to me that the civil service commission could be the best of all because we're not talking about big amounts or astronomic amounts of money needed. We can just step right into it to make use of it. I think that's the cheapest one that I can see. Thank you.

Speaker: Thank you very much. Okay, si Yu'us ma'ase todos. There being no other business before the committee, having exhausted its agenda, the committee hearing is now adjourned. Thank you, si Yu'us ma'ase todos hamyo.

## Findings and Recommendation

The Committee on Utilities and Land, to which was referred Bill No. 71 (LS), "AN ACT TO REPEAL AND REENACT §40113(b)(3) OF CHAPTER 40, TITLE 5 OF THE GUAM CODE ANNOTATED, TO PROVIDE PROPERTY IN THE VILLAGE OF AGANA HEIGHTS FOR A SENIOR CITIZENS' CENTER AND OTHER PUBLIC PURPOSES SUBJECT TO APPROVAL BY THE UNITED STATES DEPARTMENT OF THE INTERIOR," recommends that the legislation be passed by the legislature.