Chamorro Land Trust Commission
(Kumision Inangokkon Tano' Chamoru)

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COMMERCIAL LEASE RULES AND REGULATIONS AND FEES SCHEDULE
PUBLIC HEARING
Agana Youth Center
December 24, 2008; 10:15am – 1:35pm

Facilitator: Joseph Borja

We are here to day in the Agana Mayor's Office to hear the proposed commercial rules and regulations and the fees schedule for the Chamorro Land Trust Commission. Before I start my name is Joseph Borja, I am the Administrative Director for the Chamorro Land Trust Commission and today I will help facilitate the public hearing on the rules and regulations. The Mayor himself is off-island and we would like to thank him and his staff for providing the venue for today's public hearing. I'd like to start off first with the reason why we are here, what the purpose of us being here today. Specifically in the existing rules and regulations for the Chamorro Land Trust Commission the Commission is actually prohibited from entering into commercial leases pending it's promulgation of the rules and regulations for commercial leases which is what we have today. A little bit also before we begin on the actual hearing a little background in terms of the financing of the Chamorro Land Trust Commission. We have to find out, we're here meeting today, people are getting paid, I'm getting paid, power bills are running back at the office and things like the sort. Where do we get the money to pay for that? We don't get it from the general fund. We don't get it from the general tax payers. Where we get it is from the leases that we issue and the licenses that were issued. The Chamorro Land Trust Commission I'm proud to say is 100% self sufficient. We do not use any money from the general fund. What does that mean? Several years ago Government employees were put into 32 hour work weeks, Chamorro Land Trust Commission staff were 40 hour work week. Now you hear the Governor maybe having to give over 20million dollars to the court for the Ordot landfill situation, is it going to come from the Chamorro Land Trust Commission? Not one cent is going to come from the Chamorro Land Trust Commission because we are a special fund. But it works both ways. What's our budget? Whatever you bring in. You bring in a little your budget is a little. You bring in a lot maybe your budget would be a lot. But that's the way that the balance goes. We really operate on what we call a balanced budget. Last year we were budgeted for $500,000 because that is how much money we expected to collect. We have a different account. And I just want to let you guys know that before I came into the Government whenever I hear of the budget for a department and they pass like 4 million for GPD, I always think that there is a ceremony down at the legislature where all the Directors line up and say GPD you get a 4million dollar budget, here is your 4 million. That is not the way it works. The way it works is GPD you are authorized to spend 4 million dollars by the way we'll give it to you as it comes

in, right now we don't have it. That is the way government budgeting and government finances work. Sometimes they say how come they were budgeted 4 million dollars, what happened to the money? They haven't gotten it yet because that is what they think they are going to collect. Unlike the Chamorro Land Trust Commission which is a bank account, money in the bank. You pull up that balance and you see what the balance is, whatever your budget is and whatever money you brought in that is what your budget is. $500,000 was what we were budgeted straight across the bat for the Chamorro Land Trust Commission. However through the work of the staff especially Mr. Diaz over in the admin. section, we discovered that throughout the years that there was $240,000 that wasn't being spent. Somebody knew it was there but he wasn't saying, who ever that person was. So we looked into that and we asked the Senators could we have access to our money. Could we spend our money? Because that money actually came from the leases that we've given out the commercial licenses that we have given out, that's where that came from. And like I said those came from people's pockets, people's checkbooks, not somebody's promising oh yeah come April I'll renew my car registration and the government expects to collect that money. No that is money that is already given in, it's a cash account. I like to tell my staff it is what we call green money. There are two types of money, there is white money and there is green money. White money is when the legislature writes down on a piece of paper 3million dollars to GMH, that is white money, that is on white paper. Our money here at the Land Trust is green money, money that is in the bank. That is why I just wanted to let you know that because in the beginning the Land Trust was being given years ago $500,000 from the general fund. As the years progressed I guess the legislature said okay you know what we are going to give you only 75% this year, and next year only 50% and the next year only 25% and then the next year you are on your own. What ever you collect that is what your budget is. So knowing that at least for me we have to collect a lot because it is coming. So I'm looking at it purely from an administrative viewpoint. Every regular residential lease and every regular agricultural lease that we give out we spend at least $1,500 on it. How can we spend $1,500 on it? There's the interview, paper, copy this, copy that, check this map, send somebody out to look at it, meet with that person so that's about $1,500. How much do we get from that lease? A maximum of $149. $50 application fee that we get right away, sometimes, we have about 3,000 that haven't paid their application fee. If they pay that we'd have $150,000 in 6 weeks. Secondly, is the $99; a dollar a year for the actual leases and if they pay that up front then we'll have access to the $99. If not I got to wait another 20 years to collect $20 from that so I don't really collect all of that right away so that is a little tough on the administrative side. So where do we get the money to operate? Well, the legislature in its wisdom gave us some pretty good pieces of properties but all of these properties have limitations. Some of them you can't deal with like zoning, ownership and things like that. But there is a process in the Chamorro Land Trust Act enabling legislation which is Chapter 75, 21 GCA that is the actual law that is on the books on it and there have been some subsequent amendments. Some very critical amendments for example it used to be you have to be quarter blood Chamorro to be in the Land Trust. Now you have to be someone who became a citizen through the Organic Act. So in order to be a Chamorro you have to be an American first. Actually Congress made it like that and it's sometimes good sometimes bad so you have that situation. Another one that is a real radical change is the legislature now wants the Chamorro Land Trust occupants of the property to start paying taxes on it. So you are going to have to start paying taxes on the land on the improvement on it I guess just like everybody else. Another change on it is the fact that we can't at least at this

point is do the commercial lease rules and regulations which is really why we are here today. But the leasing and licensing portion program of the Chamorro Land Trust is on two tracks. Sometimes it's not so obvious when you look at the law to do that. One track is native Chamorros only and this rules and regulations deal with that. Another track is the licensing program which is general public. Now that track is supposed to be administered by Department of Land Management. So when you read that law and it says the department, whenever you see the department and it doesn't say of Land Management when it says department it doesn't mean the Chamorro Land Trust Commission. We're a Commission not a department. There is a difference. Department is basically a line agency, the Director reports to the Governor. The Commission is different. Although the Governor appoints the Commission and in this case actually appoints a Chairman not selected by the members of the Board here but actually appointed by the Governor. The Director of the Chamorro Land Trust Commission reports to the Commission. I'm actually under the law hired. So there is a little bit of a difference on there and I caution you when you read the law because some people read the law and says oh, your department says the department can issue commercial licenses. No, when they say department and you'll see that in the earlier section of the law where it says definitions, read that part. It says department means Department of Land Management, Commission means the Chamorro Land Trust Commission. So the Commission is actually governed or the Director who is called an Administrative Director, I administer policy that the Commission has. One of the policies that the Commission has coming would be the rules and regulations. A short history on this rules and regulations, I hope we're progressing here and bear with me with some of these things I want to get out but the actual leasing and licensing of Chamorro Land Trust properties for commercial purposes has two tracks. That's been confirmed by the Attorney General's Office, they've issued an opinion that there is actually two tracks. But because to I guess keep it's hands clean the Commission prefers that commercial licensing of land be done by Land Management for what ever purpose. It doesn't want to have anything to do with. Number one, they are going to keep coming back and saying what do you want us to do. Number two, there is really no interest in them for it and I do know Land Management has done a couple of leases where the benefits of those leases go to the Land Trust. One of them is recently confirmed by the legislature the leasing of Chamorro property to the Asahi Palau Club, its a hundred dollar a year lease. We got the money though but its a hundred dollars a year. The Land Trust law the enabling legislation does allow for commercial use of the properties by non-Chamorros, by corporations. You don't have to be a Chamorro but it's a different track. Hopefully this also qualifies it. That is why the Commission still can issue commercial licenses but they are limited for example to 25 years. On this commercial leasing to native Chamorros the leasing is like 50 years and it sets size guidelines as to what is commercial use and what is not commercial use. So we do have that and I hope I covered the purpose of the hearing also because it is required under the administrative adjudication law. The rules and regulations although they are in bill form we're actually taking it through the administrative adjudication law. What does that mean? We publish the notice 10 days ahead of time, saying there are 5 copies available in the office for your review, it doesn't say to give you a copy or it doesn't say to give the public a copy but we've went ahead and provided the copies. The law just says you come and review it. Also we're supposed to provide an economic impact statement and attach any fees schedule that we have. So the application package comes in three parts, the amendments, the economic impact statement and the schedule for actual fees for

certain services to be provided by the Commission. I caution you when you look at the copies that you have you should have December 2008 version although it was word processed lately, lastly modified in December 2008, the actual rules and regulations were actually drawn up in 1999. These were drawn up by former Director Mr. Ron Teehan. He was the one that actually drafted the rules and regulations, I give credit where credit is due. Aside from changing the amounts in the rules and regulations we really did not change we being the existing Board nine years later just took those rules and regulations that Ron did and we changed the date on the top on it and I did increase one of the fees inside but I won't tell you where that is that I increased a fee in there maybe two times. The Commission has gone through it and the Commissioners agreed to go ahead and submit it as Mr. Teehan did. We think Mr. Teehan did a very good job on it. It was a result of a trip that he took to Hawaii where he got real good information and interviewed and met with a lot of people at the Office of Hawaiian Affairs and the Hawaiian Homelands Division. So he did meet with two groups that involved themselves with land for indigenous people. Just to give you a rough idea those groups they have like 200,000 acres so they have available in their inventory like the entire Guam. Guam is 212,000 acres I believe and those guys in Hawaii their land inventory is like 200,000 acres is like one whole Guam that they have in their inventory. Also they are having a little problem with the military and also a couple of serious issues with them is their definition of Hawaiian which is a quarter blood quantum and as time goes on it's hard to increase your blood quantum and I think their waiting list is I don't know if I'm mistaken only 16,000 people. In our waiting list we have about 16 to 18 thousand people. The amount of acreage that we have is nearly then times less than what they have. Secondly, the Hawaiian Homelands Division they get like 20million dollars from the state every year. It is kind of like their general fund contribution to the Hawaiians. Us like I said we don't get any money from the general fund. So the rules and regulations were drafted back in 1999. For whatever reason the Commissions following, the group of Commissions never took it upon themselves to promulgate the rules and regulations as required by that original law. So we basically took what was drafted by Mr. Teehan in 1999 updated a couple of things as you can see on the very first page, half way down we've changed Oka Point to Ypao Point. The original bill said Oka Point it is really Ypao Point and then it says occupied by the old GMH building. Well most of know that is not there now but he was using that piece of property as an example. So we're looking basically at three things on this bill on this rules and regulations, three major thing and one minor thing. Number one, the bill, the rules and regulation seeks to authorize the Chamorro Land Trust Commission to enter into commercial leases, to take away that prohibition in the law from doing that on it. And like I said you'll see later on the rules and regulations that commercial lease tract is really for native Chamorros, that it addresses on it. Secondly, it provides for the rules and regulations. How do you dispose of these properties, how much are you going to charge for it, how long is the term on it? Those are in the rules and regulations part. Thirdly, it is to provide to what is commonly known as the Paul J. Bordallo rules and regulations otherwise known as Public Law 23-38 it could be subject to the administrative adjudication law. When you do rules and regulations there are actually two ways of doing it. One is through the administrative adjudication law which is what we're following. Basically that involves that 10 day publication, having this public hearing, getting input from the public, reporting back to the Commission that these are some of the suggested changes, these are bad ideas according to the public, these I think should be looked at and be considered and then the work group basically made up of staff reports back to the

Commission and says these are some of the suggested changes that are being made or were made at the public hearing. Now there is only one public hearing required. It doesn't require us to come back and say here is another public hearing on the changes for it. Some people may say well then you shut the door to changes on the rules and regulations. Not really because after the rules and regulations leaves the Commission it goes to the legislative secretary where its logged in as to when it was received and the legislature within 90 days can approve, disapprove or amend. Of course those people make the laws so that it where it will end at that point. But also at that point is an opportunity for the public to come in and say you know what I put an idea before the public hearing that the Commission held and it wasn't in the final draft that was submitted to you, I want to appeal to you Senator I think it is a real good idea. Of course if you can convince them and they amend it that is an amendment made on it. I do want to let you know that Senator Ben Pangelinan has written a letter to the Commission requesting that he did not think that there would be too many people coming to the hearing today and if we could have another hearing after the holidays. There have been some criticism of why are you having it Christmas Eve, well I don't look at it as Christmas Eve. I look at it as December 24 which is a work day. Why are you having a meeting December 31st, New Year's Eve? That is not New Year's Eve to me that is a work day to me and also that was the only day available to the Commission from the legislature to have that hearing room and also for us here at the Agana Mayor's office this was the only day available. So we might as well do it if we are going to do it. So that's the history of the rules and regulations. The format of the hearing we've provided copies from the office at least minimally to inspect if not to take a copy home and read it. Obviously, people are here today because of an interest in the Commission as well as specifically, hopefully the rules and regulations. This is the part of the administrative adjudication law which is the major intent of it by the way of the legislature was to make sure that there is public input. That the Commissioners are not sitting off on the side making a whole bunch of rules in secret and then all of a sudden tomorrow morning here are the rules. Basically the administrative adjudication law was to make sure of two major things. One that the public knows about it and two, that the public has an opportunity to provide input. Maybe not all of your ideas are good, maybe all your ideas are good and the process is we'll record it , it's being recorded now, it will be transcribed, if you do have written testimony it would really help if you could give it us otherwise we'll transcribe it and then what we need to do is we need to get back to you to give you the written version and say is this what you meant because that will become part of the record. And we are required by the administrative adjudication law to provide a complete transcript of the hearing and make sure that all the ideas that were submitted is transmitted to the legislative secretary whether the idea was incorporated into the final draft or not. The fact that it was submitted requires us to submit it as part of the package to the legislature so that the Senators also have that information before them. This is the part where the input of the public is very important. It is part of the process and like I said after here the next step would be a Board work session to review and prepare the draft for a vote at the next board meeting which will be December 31st, 10am at the Legislative Public Hearing Room. At that hearing if the draft rules and regulations are ready the Commission may vote to transmit or may vote not to transmit the rules and regulations to the legislative secretary and continue progressing on that process. If the vote is to transmit the rules and regulations and whatever form or final draft form as a result of today's meeting would be done after January 6. Why January 6? Because that is the day that the new legislature comes in. If we submit it before

January 6 it is basically useless, it dies with the old legislature and then we would have to resubmit it again. So if you're saying you're having a meeting on December 31st why can't you submit it, the next day is a holiday, the next day is January 2nd that beginning the weekend and you might as well wait until after January 6. Like I said once we submit that it should be by January 7 or whatever day that was if it's a workday it should be ready for transmittal or not depending. Like I said that the decision would have been made already at the December 31st meeting whether to transmit it. Earliest that it will get there is probably January 7th but certainly no later than the end of January on that. That is an important date because again that ticks off the 90 calendar days of filing with the legislative secretary where the legislature can either approve, disapprove or amend. And Senator Pangelinan wrote a letter that we may want to have another public hearing after the holidays. If we do have that it kind of pushes all those days ahead but I think today and the notice that we have we have 25 people signed in. I don't know if they all want to comment on the rules and regs and today is not the last day. Up to a week from today you can still submit we are not going to deny anybody putting in comments. We have about 25 people and I hope everybody did their homework and reviewed the rules and regulations. Again the format was other than I was going to give special placement to Mr. Teehan since he drafted the rules but since he is not here today I'll just call up the people that have signed in and some of you have indicated not testifying but I'll still call your name and if you do have any comments please use the format of identifying who you are and specifically what part of the rules and regulations you would want to improve by your testimony.

Public Testimony:

1. Maga'lahi MagaAniti – (Chamorro translation by CLTC staff James Diaz) I am Maga'lahi MagaAniti. I have a problem with this commercial leases for one it is very expensive and I remember the Fish Eye that is Chamorro Land Trust land but those people were given 5% of fair market value rental. They're paying $5,000 and then they are paying $500 a month and for us now you are just trying to make us broke. What kind is that? And another problem that I have here is the agricultural water rates. Why is it for every 3 months we have to go up to Agriculture to fill out a paper for agriculture water rates? It is already an agricultural lease, we should be given that same rights, the same less headaches than other leases. That is too much to keep going up sometimes we don't have money to buy gas to go up there to Agriculture and then down to Waterworks all these run arounds. That is wrong. Could Chamorro Land Trust and I already know you two have collaborated for these kinds of things, could they make it a little bit easier for us that are farming for the water rates? If it's every 3 months, ouch. We need the regular one rather than every 3 months I have to go to Waterworks, agriculture to renew the water rate application to agriculture. This commercial I understand that you need the money but please look for land for our people first and not outsiders. And I remember Felix for this the Ypao Point I remember when the governor came back from China when he first won for Governor he was brining back three business plans from China and it shows where his interest are at. He is going to give the Chinese this land but we the people of the land that are trying to survive it makes it harder for us. So please again make it easier for us the people of the land to survive. And that is wrong that kind of belief and with the Organic Act, throw that away, it is supposed to be the blood. If they don't have the blood then they are not the people from the land. That is the truth. That organic act who here is a US citizen? Thank you.

2. Danny Pagat Jackson – Hello Joe, Director of Chamorro Land Trust, I am Danny Jackson known as Pagat. All that I have heard about the rules and regulations I do not really understand about those things that the Chamorro Land Trust is doing. The obligation of the Chamorro Land Trust is to stop giving out the lands in the commercial zoning and give it out to the people that are farmers and needy and they need land to survive. I'm going to keep it short and that is all I have to say. Thank you.

3. Josephine Ofing Jackson – Hello and Merry Christmas I am looking at this that you said is the rules and regulations for commercial and it says here that the commercial license fee or the lease application fee is $1,000. What is this down here under j. minimum is $500. What is this?

Administrative Director – Minimum $500 that is when an application comes in for a commercial license and we need to have an attorney look at it that is what they need to pay. But the client applies for that they pay for it. If we need the legal counsel to look at the application if there is a problem or there is a company involved they need to know who that company is. So the applicant comes up with that, that's the legal review fee. Let's say the corporate papers, the business papers do not adequately answer the question maybe it's a corporation and there's missing papers to see whose actually the members of the corporation and the lawyer needs to look at that or get that he'll be charging the Commission for that work and we want to get that from the applicant themselves.

Josephine Jackson – So this commercial that you are asking your rules and regulations there is only two things here that I would request to put in. These Chamorros if they want to get a commercial lease make sure all your paperwork are correct any documents that you need. Don't give this commercial lease it should not be 99 years years. Give them 15 to 20 years but not 99 years. Minimum is 15 to 20 years put that in your rules and regulations. And if the 15 or 20 years is over those people that are applying and haven't been given property to distribute that land to these people because they already have infrastruction. That is what I am asking, give them 15 to 20 years and when it is done don't continue it for another 15 or 20 years. Give it out to the Chamorros that really needs the land and let them continue on with that land and let them use it for 99 years.

4. Tom Blas – Good Morning Joe, my name is Tom Blas, I'm a farmer for that past 10 years and I retired from Government of Guam from Department of Agriculture for more than 25 years of service. My position on this bill is I am not opposed to charging a fee for land utilization. However, when determining the rent for commercial farming I would assume that the land would first be appraised by a professional appraiser and I'm hoping that the appraiser specializes in farm appraising or is assisted by a professional in this field. My concern is when farm land is not accurately appraised the land will be appraised comparable with other types of commercial use and this is not acceptable. I also do not believe that there is data available on the island that can be used as a basis in formulating rental fees for the purpose of farming. The majority of the agriculturally zoned land bought and sold on this island is for residential and other purposes only. Guam is not like places in the United States where farming is a major industry and farm data is unlimited and precise. We all know that land conditions particularly in northern Guam is generally poor and rocky. In a 5 acre parcel for example it would be quite

accurate to say that perhaps only 25% of the land would be good for growing traditional short term crops. The remaining would require lots of money to develop. Money that most farmers don't have or are willing to borrow. If we were to pay $100 per acre for example this will surely kill the native Chamorros me included from farming and we might as well let all foreigners do the farming for us. Farming is a very risky business. You do not see a line of people at GEDA or USDA applying for a farm loan. Farming is riskier than other enterprises. A farmer cannot put up shutters to protect his crops from typhoons. He must deal with eight, four and sometimes two legged creatures. He does most of the hard work, sweat in the hot sun and usually sells his produce at a loss. Farmers are a select breed, there are very few of them. At this time I would like to ask what happened to the $1 per acre per year? How will this bill affect those leases that are currently in effect where the fee is $1 per acre per year for 99 years? Would we have two classes of leases? I've been reporting my farm income every year. I am paying taxes on it. If this bill becomes law I would be further burdened by paying an exurban rental fee. I suggest one of the following, that we go back to the $40 per acre per year. The amount that the Department of Land Management was once charging under the Land Use Permit Program. So it was a green revolution at that time. Second, take a percentage of the farmer's gross farm income or require all farmers to report their farm income and what's taxed transferred to the Chamorro Land Trust. In addition to the above farms have to be visited periodically by the Chamorro Land Trust Commission and farmers have to be encouraged to improve their farm activities if their lease land is under utilized. Joe, thank you for allowing me to comment and your consideration is most appreciated.

Administrative Director - Thank you Tom I really took good notes on that and part of the format would be after we go the rounds if there is time afterwards some of the concerns for example that have been brought up already I recognized as being addressed in the rules and regulations so certainly we'll bring that up.

5. Ceferina Espiritu – My name is Ceferina Espiritu I'm here to represent my brother that was relocated off island. I just wanted to find out the status of my brother's land.

Administrative Director - The reason why we are here today is to hear the rules and regulations. I'd be glad to meet with you after the hearing but the purpose of this hearing today is to discuss the rules and regulations for commercial leases.

6. Trini Torres – Thank you, I am Trini Torres, Taotaomona Native Rights and also a member of the Chamorro Nation but more on the Taotaomona Native Rights. This is difficult since it was drafted since 1999 and now you are coming out quickly with it. We need to digest it. Yes, it's good that we read it but bit by bit it surprised me. First of all you said that the Chamorro Land Trust Commission is not authorized to enter into commercial leases right and you have been doing it. This is the year 2000.

Administrative Director – No, we've entered into commercial licenses. As I stated earlier there are two tracks, there are licenses and there are leases and they are not the same.

Trini Torres – Okay and have you issued any licenses then before?

Administrative Director - Yes.

Trini Torres - So didn't you violate the law?

Administrative Director – No, the law said leases. We'd be glad to provide you a copy of the law that said leases not licenses and they're different.

Trini Torres – So which one have you entered into and which one you haven't entered into?

Administrative Director – We've entered into licenses, we have not entered into leases.

Trini Torres – Okay, licenses and leases and yet you specified the number of years that they are supposed to lease the land, right?

Administrative Director – On which one are you talking about? The years to the land, to license the land that's in the law, it's 25 years. On the leases here we're saying I believe 50 years, may not exceed 50 years and that is found on page 5.

Trini Torres – You have to be clear on that right.

Administrative Director – That's pretty clear on page 5.

Trini Torres – That's what I said this is really you know what this is really important.

Administrative Director – That is why we are here.

Trini Torres – Yes and we need to kind of digest what we're talking about. You threw this out in a hurry and it's difficult for us to respond to it. I now that you need the money but if you're demanding too much money from our people who are really basically surviving on subsistence type of living then we need to also be sensitive to that. You need to be sensitive after all that was the purpose of this. It's not so much as to make money, the purpose to make money, that is to survive and support our people so they can survive. Right? Or am I wrong?

Administrative Director – You're right.

Trini Torres – We need to be careful on that and I would suggest we follow Senator Ben Pangelinan's request for another public hearing after the holidays because you know he is now in charge to oversee the Chamorro Land Trust. So we need to kind of work together with him.

Administrative Director – I thought that is why we are here today.

Trini Torres – Okay.

Administrative Director – What you're asking for is more time to read it.

Trini Torres – Please we don't need a microphone.

Administrative Director – How much are we looking at? I'm saying the Commission will take this up at its meeting on December 31st in a final draft. I think between now and then if you have any submittal I'd be more than happy to make sure it's included in consideration.

Trini Torres – Normally it should be the new legislature who should take over and you think.

Administrative Director – And if you were listening earlier I did say that it will be transmitted January 7 when the new legislature comes in.

Trini Torres – Please I understand and appreciate what you are doing to help our people but is important to do the right thing for the right reason.

Administrative Director – I don't think anybody is arguing with you here today on that issue.

Trini Torres – That is good. Then can we comply with Senator Ben Pangelinan's request please and in the meantime it will give time to digest this?

Administrative Director - That's something as I explained earlier that would be up to the Commission. We are only required by the administrative adjudication law one public hearing but it did say, the law also says that at the discretion of the Commission if the Commission thinks that there should be another public hearing then the Commission will so desire.

Trini Torres – It says requires one public hearing it doesn't limit you to only one public hearing.

Administrative Director – No it doesn't but the basic requirement is one.

Trini Torres – Please because even here on the fees schedule I have kind of like Ofing was saying give 15 to 20 years for commercial leases and then stop and really consider it if it is not issued out to Chamorros then we should really consider it.

Administrative Director - We'll take that into consideration. That's one of the things that the Commission and the drafter, author of this bill this rules and regs considers is that normal financing periods are normally 30 and 40 years. It is very hard to finance or find an institution now that will give you a 30 year loan. Most of the loans are programmed for 40 years. And we give 50 for maybe a couple of those years times might not be so good, you know a moratorium of payment, you still have a 10 year window to adjust yourself. That's one of the reasons why it is 50 not because it was a nice round number but most financial terms of mortgages and things like that are normally 40 years. You find very rare 30 and sometimes the norm might be getting up to 50. Remember cars before you can pay it off within 3 years now they allow you 5 years.

Trini Torres – Okay you're giving leeway. Anyway number b. here is that $25 some additive or it is one single. I'm not quite sure it says any single transaction. Are you going to be adding all these things like filing is $25, transferring is $25?

Administrative Director – No if it concerns one item, one file, one lease, one lot that is all part of the process. If you pull out that one file and every document you have is going to go in that one file. What is your suggestion to that? We kind of like mirrored Land Management and why is it $25 and not $20 I don't know but normally "research fee" meaning hey you do this for me that is about $25 for that employee to go open the file and take out the documents, copy the document, return it back. How much is that? People say its $25. Could it be $20? Yes, it could be $20.

Trini Torres – I don't know I was just like what in the world is it?

Administrative Director – I encourage you to submit on it because like I said why is it $25 and $20.

Trini Torres - Yes, and also this one e. it says certified or authenticated copy of leases or application, it says for each endorsement. Are you talking about signature or stamping or whatever? I don't know if it's certified already I don't know.

Administrative Director – No, what we mean with that is maybe you have a court hearing like maybe a divorce hearing and they ask for a copy of your original lease and you say well the original lease is recorded with Land Management it's up there and then you say well the court will accept a certified copy. What that basically means is some government employee makes a copy document and takes the original and stamps every document certifying that the original is the same as this certified copy. Sometimes if it's a 200 page document, its $1 per page.

Trini Torres – Its $1 for each page, well I don't know I guess you're earning money that way too. Go back to I. for research of any kind. I think this has to be broken down because it could be very difficult and you could you know.

Administrative Director – Normally these are like you know the corner lot by the court can you find out who owns it? And then somebody's got to go find out who owns it.

Trini Torres – But you might have to research what's the background, the history of that lot.

Administrative Director – Exactly, of that lot.

Trini Torres – So $100, so it should be broken down if it's more problematic than $100, I don't know.

Administrative Director – We could put that as a minimum, normally that's what researchers charge. And then you come back and you tell them oh, it belongs to Jose Cruz and then they say oh, okay, thank you. But in the meantime the Commission has already spent $100 of its resources just to get that information and the only thing they get after that is thank you.

Trini Torres – So that's why I say you have to kind of put a query it might be a little bit more depending on the difficulty. You know what I am saying? If you're trying to earn money.

Administrative Director – Well, we're not really trying to earn money on this what we're trying to do is recover cost.

Trini Torres - Yes but the point is commercial leases that's the purpose to earn money so we can operate the Chamorro Land Trust right? So we're trying to earn money and if you have to do the work for free, don't, okay. That's what I'm saying, thank you.

7. Faet Vicente Garrido – (Chamorro translation by CLTC staff James Diaz) Respect to you Joe, I am Vicente Garrido. First of all can you answer this question? Can you make it clear on the organic act, the definition of who is a Chamorro and who is a United States citizen, to qualify as a Chamorro? Because I think correct me if I'm wrong earlier we were following the organic act Chamorro now if you're born after 1950 and you are US citizen.

Administrative Director - No in the law the Chamorro Land Trust Act which was Public Law 12-226 if you look at that public law the definition of a Chamorro there it says quarter blood quantum meaning you need to have quarter blood of Chamorro if I'm not mistaken. Now that's in the original Public Law 12-226. I believe that was subsequently amended I think in the 15th legislature that said that native Chamorro shall be one as defined in the Organic Act so it changed the definition of a Chamorro. How radical does it change it? For example I know of about three cases where that person and I cannot be absolutely sure I don't think "has any Chamorro blood" even myself how do I know if I have Chamorro blood? I don't know if I have Chamorro blood. My last name is Borja and Martinez and that doesn't sound Chamorro, that sounds more Spanish to me but having said that though that was the original definition of Public Law 12-226. That was subsequently changed later and it made it basically anybody who became a US citizen through the Organic Act. So what's a Chamorro? It's a US citizen who became a citizen through the Organic Act and how do you become a citizen through the Organic Act? Having been born on Guam I believe after 1988 and you were here on Guam at that time. So I'd like to say at least in the legal definition how do you become a Chamorro? Well you become a US citizen through the Organic Act then you become a Chamorro. That's the way I see the definition. Now I might be wrong but I think my research show and I hope somebody did research besides me to check that because it was changed later on.

Vicente Garrido – Okay, I understand. I also come to understand that a Chamorro knows who he is because me I know who I am, I am Chamorro even though my name is Garrido my blood is still Chamorro. I do not like that definition that if you were here in the time before the war and you have no Chamorro blood then they made the Organic Act in 1950 and you're from another place we have to claim now that you are Chamorro. I have always not believed in that because my grandfather that was buried before 1950 he may not be Chamorro because they changed the law. You need to have blood to my understanding Joe to be a Chamorro. I think yes that I have the blood because I am just borrowing this Vicente Garrido name and that if is true that I have the blood and they trace back to my ancestors and they trace back the name Vicente maybe I will have a

Chamorro name. Even though I am a little bit white or whatever we are the same, Joe. Another this Chamorro Land Trust Commission correct me if I'm wrong they should prohibit giving land to this massive military build up. This is what I believe and the reason why I bring this out because there is one case up there, the Guam raceway park, that is a commercial lease is it not Joe.

Administrative Director – Commercial license.

Vicente Garrido – So if they already have people there native people with a lease and then the military comes in what is the right of that Chamorro? If the military meets the Governor under the table or in the restroom and they say they are going to take it away what is the right of that person, can he defend himself and say no I do not want to leave because I am already using it? That is what I am trying to know. Now Mr. Simpson he doesn't have any right to stand up and defend himself. In English I don't want to leave.

Administrative Director – If he already have a lease that is what you're trying to say with the Land Trust well, the lease that he signed if there is a lease that is a contract and in the law there are avenues to take it to court and you are doing your part on the contract and the party is trying to break it so you do have a contract between the two of you. That would be his recourse but I would read the lease and see it.

Vicente Garrido – The reason why I bring this out because I read in the news that the Governor and the higher ups in the military are always meeting and they are always whispering to one another that the military is interested in the land up there at the Guam raceway park for a firing range. So I think I would like to say please protect for the Chamorro Land Trust Commission for these leases for the native people so they can use it for their business or for their benefit, the people of our land. Because it is not just the outsiders I think that knows how to do business, it is not just the outsiders. There are a lot of our Chamorros that know how to do business and if we keep taking away the benefits from them and give it to the outsiders especially these military that likes to steal and take Chamorro land and that I do not support. I have always not supported this massive military build up because I tell you all this massive military buildup is going to break up our island. Another thing Joe, I have two more questions, has the people from the Chamber of Commerce ever meet with you or with the Governor and are looking for land within the Chamorro Land Trust Commission to use for the massive military build up?

Administrative Director - No, no one from the Chamber of Commerce came. There were some individual businessmen but not from the Chamber of Commerce in some sort of organized fashion, as far as I know, no.

Vicente Garrido – Okay Joe, lastly, if in case they pass the rules and regulations it is approved by the Guam legislature is the Chamorros that are already sitting on the commercial lease these people that have a lease already if they pass this rules and regulations and these are new for the Commission does it affect the ones that are already in effect?

Administrative Director – From what I understand in the American system law you cannot make a law to affect the people that have already passed the one that they call

expo facto law. So the question I think that was brought up by Tom, are you going to have two classes of leases? I think if it continues and if the legal counsel comes back and say you cannot make a law today that would affect a contract made yesterday I think they call that in the law, I didn't go to law school, expo facto law, you cannot go backward. That's my understanding but certainly that's an issue that we have and I did make a note when Mr. Blas brought that up and that's one of the issues that will be brought up to legal counsel.

Vicente Garrido – So that's it, thank you and again respect to you.

8. Mala'et Jose Garrido – Hello, Joe Borja Director of Chamorro Land Trust and Mr. Chairman. I am Jose Ulloa Garrido. (audio problems)

Administrative Director – (Audio problems)….actual lease and rules and regs.

Jose Garrido – I don't know Joe thank you for explaining deeper in detail on what these things mean but I just want to be simple.

Administrative Director – No and that's the easiest way to do things is to do it simplest. Please I don't want you to think I'm discouraging you. Look at it if you have the time come visit me and we can sit down and say Joe, if a native Chamorro is bidding for this land, what are the chances of getting it as opposed to a corporation for example. That is also addressed on the rules and regulation that priority for the Chamorro Land Trust Commission is residential and agricultural leasing. Commercial is a third priority and that's in the rules and regs.

Jose Garrido – I don't have time to digest this give me maybe about one month to look through it.

Administrative Director – Well you might have one month, that is what Trini was saying.

Jose Garrido - I can have this and I don't even have a week to read it I got too many things. I read the Chamorro Land Trust the Land Trust Commission Chapter 75 and I'm trying to compare because I know that in the proposal here you got details of how to lease the property and all that.

Administrative Director – Actually, basically that adds to it. It really doesn't change too much on the Chapter 75 it really adds that commercial leasing section.

Jose Garrido – But there are accompanying language in this.

Administrative Director – No, we're looking at rules and looking at potential laws we should be careful when we read it like Trini said.

Jose Garrido – More of maybe if there is a roundtable discussion we can ask the author what do you mean by this language. You know for example the legislature find that there is some question as to whether the Paul Bordallo Rules and Regulations of the Chamorro Land Trust as drafted and passed by the 23rd legislature are fixed in law or subject to provisions of the administrative adjudication law and you know some of these

are inferring to lets say that in the future the Chamorro Land Trust is going to be subject to a lawsuit of its constitutionality.

Administrative Director – No, what that one is referring to, the original rules and regulations were done by law. How do you change the law? You introduce another law to change it. What this proposed bill does is it makes it clear that the original Paul Bordallo Rules and Regulations Public Law 23-38 as in Chapter 75 is subject to the administrative adjudication act. What does that do? That means that if we want to change it we don't need to go to the legislature to make that change. You take it through the administrative adjudication process.

Jose Garrido – So okay I would like to speak now and then I will be finished. I am looking at this proposal I think our brother Ron he is the one in fact who single handedly draft this proposal. We are very thankful but I think there is something here that they are trying to do for the Chamorro to have less to receive land to have less again land for them to rent therefore to have more interest in this bill this proposal. So I am not saying that this is true but when I read this proposal I am going down the road like let's just give this Chamorro one house lot or one half acre so they can plant maybe tomatoes. So what I am say is that in case they pass this bill the end result of the Chamorro is very little and there is more land to lease for the other laborers. Another thing I am looking at somebody mentioned that the Chamorro Land Trust would not do us good if they allow the military to take again from the Chamorro Land Trust inventory 3 or 4 thousand acres for them to use for the military that is here on Guam. And that I think it is easy for us to have a meeting to have less land to lease. I think ultimately this will come to affect us if it is allowed for the other government agencies to get land and then in the end the Chamorros cannot go forward or backward. This I would say for my ending. That law that they made right after the war the one they call Public Law 33 this is the law of the US Congress when they returned about 40,000 acres or more which they took during the war and after and the Department of Interior Secretary ordered and I hope I remember this correctly but there was an order to take this land that is being returned to the Government of Guam when they made the Organic Act and it said create a program to give back the Chamorro people the land that they have taken or that they had. Give back the Chamorros the land equivalent to that size, number one. Number two, give some land to that Chamorro that you took their land for like this is a notice from the Americans to the Chamorros that land were taken from. So the last said rehabilitate the Chamorros that their lands were bombed. Rehabilitate and create a program that they can rent, and ranch or build their house. And then after so many years that he has lived on the land this Chamorro can go to the Department of Land Management and say that it has been 10 years that I have ranched and cleaned the area and that I want to claim this land. Rehabilitation of our people to this culture of Guam and that this public law is supposed to get all of these properties to return some of these properties to Chamorros whose properties were all taken. Number two is to return some of the properties that I return to you Guam to return to the Chamorro families whose land some of the land they own were taken and then the last one is to rehabilitate a disturbed and affected people by the war by whatever and our people who are in government failed to follow that and because they failed to follow that someone years later thought of the idea that then maybe we can create the Chamorro Land Trust. To satisfy Public Law 32 something that we were supposed to do but we failed to do because of political issues and Government of Guam was just a new government. They want to develop this they want

to develop that and in some way some of the leaders in the early Government of Guam they divided the land among one another. Now that's the whole saying about our people here should always remember the Chamorro Land Trust was not created because they want to see us farm and they want to see us build our house in a residential area. It was created to redress the lands that were taken from our people right after the war, before the war. Believe me that was the intent. Now even us the land was taken, some peoples land are still not returned. If we read Public Law 33 the arrendo program was created as a result of that but again they didn't follow because they just allowed any Tom, Dick and Harry who happen to come to Guam to arrendo it. Thank you Joe, maybe this will help out and will make the Chamorro Land Trust commercial leases clear. I just thought that maybe to impart an historic nature as why the Chamorro Land Trust was created so we don't have to be fighting among ourselves for land. Thank you.

9. Ernie Sablan Wusstig – I'm interested in the agriculture now in this new agricultural commercial rate that you are proposing. Would that fall under my lease that I have now?

Administrative Director – It may not fall under your lease specifically and the reason why it might not is because you already have a lease. Unless legal counsel or the AG says we can go back and really negotiate the terms on it. Now there are some leases like that that says the rate can be determined later but I'm not sure I think yours is really clear that it's a dollar a year, a dollar per tract. But let's take for example, what's your spread out there 60 acres approximately? Lets say what would your estimate be for the value of one of those acres?

Ernie Sablan Wusstig – About $60,000 per acre.

Administrative Director - $60,000 per acre that's quite a bit and that might be true because a residential acre is about $60,000 on it. That's where Tom's idea may come in and say wait a minute are you going to start appraising that up there as a residential appraisal or as a farm appraisal. Tom's got a real valid point and I'm talking about Tom Blas who brought that up earlier.

Ernie Sablan Wusstig – I am definitely against this proposal altogether for the simple fact that you are competing, the Chamorro Land Trust is competing with the Guam realtors. Here you are indigenous and you're leasing out properties a whole lot cheaper than private properties so how can private property prices go up? I think that's against the law for the government to compete with the private sector. So in order not to be against the law I believe they should rewrite this for commercial purposes and be the same with the private property. Now back to agriculture leases because that's my main interest because I'm a farmer. You know many years ago my dad took me to the legislature and I remember him making a remark before he left the island back in 1970 he wanted to when he was in the legislature he wanted to control the influx of civilians to our island. He wanted us to control the people that were coming in but it's not us to say it's the federal government. So my dad packed his family and that included myself, he sold his property I never did have any property. I remember someone make a remark at the last testimony that I was in two weeks ago, they sell their land and go to America and they were stumbling when they return back home, that hurts me because I have never had land. Yes I stayed in America for 23 years and that hurts me but it is not nice

that the Chamorros return back here where they were born and I for one in the words of the American I never knew how much I miss on the island until I came back home. And now I finally realize that you have to die to go to heaven, I am in my heaven this is my island. Then when I came here the people were talking about this Chamorro Land Trust to pass. It was new to me I have never heard of the Chamorro Land Trust but when I came here there was a bill that went to the legislature to be passed and the Lord, bless the spirit of Angel Santos and I think he is just my cousin, that man did good and every time he ran for the legislature and I would say in testimonial that yes, I voted Angel Santos all the time. Because I believe that they should protect the island because my father when he was a congressman he tried to protect this island because his father fled from Germany and came to America, the Germans weren't liked by the Americans and they sent my father here to Guam. Because they needed him here and when my grandfather came here he found out that this was his heaven and that he liked this land and he said this land should stay like this forever because it is paradise and yes, I am one-fourth German but two-thirds Chamorro. This Ron Teehan wrote and you said in the beginning that it should be the Chamorro Land Trust Commission to draw this I don't know if it is just the Director to do or if the Commission did it. And if it is really Ron Teehan that did this then this bothers me because I heard his mother say that you farmers you should pay more because you are making money and this goes back to this because I am being bothered by this commercial agricultural lease because I am categorized as a commercial farmer.

Administrative Director – Let me get a little more specific because we're not even half way down the list of doing it. When Mr. Teehan drafted this rules and regulations Mr. Teehan was officially with the Commission. As a matter of fact if I'm not mistaken the Commission paid for his way to Hawaii to research this issue at the time that he drafted this. This is really not Mr. Teehan's rules and regs. Mr. Teehan was paid to do this while he is an employee of that officially so I say Ron Teehan did a damn good job on doing this, on doing the rules and regs. But when I say Ron Teehan I actually mean the Commission at that time of which Mr. Teehan was working. But lets get a little bit more specific okay we've already determined that you've got like in your operation up there 60 acres okay. You said that the 60 acres is worth about $60,000 per acre. $60,000 per acre breaks down to a value of 3.6million dollars. According to the formula that we have here 3.6 million fair market value, 20% of that is $720,000 and then 1% of that would be $7,200. If you were to be under this rules and regulations the practical effect to you would be instead of paying $3.00 a year for those 60 acres you would be paying $7,200 per year. So for the 20 acres it would be $2,400 a month times 12 months. 12 times $7,200 would be about $86,000 a year for 60 acres. So if you're using the value of $60,000 which is probably a residential appraisal as opposed to what Mr. Blas was saying so that's what you would be looking at is $86,000 a year.

Ernie Sablan Wusstig - $86,000 a year?

Administrative Director – At that value of $60,000 per acre. That's what you need to get in there to figure that out. That's where it would practically affect you if you come under the rules and regs which you might or might not.

Ernie Sablan Wusstig – Almost $20,000 a year.

Administrative Director – That is quite an amount.

Ernie Sablan Wusstig – It is. For the last has it been 10 years now?

Administrative Director – I'm not sure but definitely the first question for you would be am I going to be covered? Is this going to be retroactive because if it would be then it would affect you. That's why I encourage people to sit down and figure that out.

Ernie Sablan Wusstig – And I hope this thing goes on the record I have dedicated my life to that property where I am at. I've picked every single rocks, I plant grass, improve the soil, I probably spent about $20,000 per acre already and I probably got about 30 acres that is already fully developed and I probably have given all the sweat of my family, my wife, my kids we go out and pick up rocks. As a matter of fact we're still picking up rocks. But with this kind of rate I don't think I want to ever do anything. I don't even think I want to plant grass I don't think I want to promote the ground, I think I'm going to go out and sell the dirt that I built and I'm going to get a bull dozer and push it all up and sell it and get my money back and get the hell out of there.

Administrative Director – Well that is the reason for the public hearing to be informed and I'm saying that this is the final one. Obviously, we already had one testimony that said wait a minute 1% of 20% of the fair market value is a little high. You might change it to rather than fair market value you might change it to assessed value which is what Revenue and Tax goes by. Or the way to catch it right at the very beginning is what Mr. Blas suggested to conduct the appraisal on a farm method and he says that we don't have any in there. The rules and regulations do allow for internal appraisals. Not necessarily that you get an appraisal from one of the guys that's certified or registered with the bank. The rules and regulations do allow for an internal appraisal and the last Director of the Land Trust was an appraiser himself, Mr. Tom Elliott. So maybe the appraisal may come back and say you know what that land is not worth $60,000 for agricultural use. This land is maybe worth $1,000 for agricultural use and then the percentages still hold but then the rental at that point would be 1/60th of what it was so you're looking at a rental of instead of $86,000 a year may be something like $1,200 a year. There's certain ways to catch it to adjust it and I think the comment that Mr. Blas made is I think that is a good way to do it. Is to make sure you conduct the appraisal in a farm appraisal if its for agricultural use and not only that but you know who's the gentleman before you that if any given 5 acre parcel I think it was you it might be 2 acres that might be worth it, the other acreage might be rocks on it and the appraisal will take that into consideration. Most of these appraisers they look at the maps and say oh yeah the lot is there by the beach the price is the same but maybe that one has a coral aggregate type of soil and that one has a sandy lonely black Merizo soil and for agricultural purposes it's obviously not the same. I am not the expert on that but I think the recommendation that Mr. Blas made is certainly I as Director I would push that somehow we address the appraisal. It doesn't mention specifically appraisals but how are you going to determine fair market value, by an appraisal. Instead of your agricultural lots being worth $60,000 residentially yes, they're worth $60,000 in any given equation you buy a house and lot that land itself. When you're buying a house for $120,000 you're not really buying $120,000 worth of house part of that cost is also the land which is $60,000 to $80,000 cost to that project of the house. Like I said if you're

not going to put a house on there and you are going to plant something then the value of that land would obviously be different.

Ernie Sablan Wusstig – Because I can see the Land Trust needing money to operate. There is nothing wrong with that.

Administrative Director – There is everything right with it if we don't get money to operate we don't operate. If we're not here today we can't give you a lease. I think you should go back look at it submit something in writing and say I demand that the appraisal be on farm use and not necessarily because somebody wants to go in there and put you know a two storey apartment building because it would be different. But you can already see how it will be affecting you. If you don't really look at the details on it so certainly I would look at it in your case.

Ernie Sablan Wusstig – I am categorized as a commercial farmer. Who made that?

Administrative Director - Well, the 20 acres really is we just followed the basic law in terms of the maximum. The minimum is the one that the Commission has been kind of like playing with for years. Years ago we had testimony from Department of Agriculture technicians themselves as well as several farmers that basically said that subsistence farmers are people backyard weekend farmers in order to provide food for their families and even have some left over. One acre is enough for you to grow. Now of course if you're going into commercial farming you need more than one acre. We were getting people that said oh, I want to start a farm and I need 5 acres. When you get to that size of property from what I was told from the experts themselves is not only can that produce more for your family of four or family of ten but also you come to a point where its not just the machete or the hoe, you get into the fertilizer, you get into heavy equipment, you get into labor costs. To farm 5 acres apparently it's not the same labor it takes to farm a 1 acre portion. The maximum of 20 acres we were just following the original Land Trust Act that said 20 acres maximum and it made it the same as grazing but it was the bottom minimum figure the Commission was playing with and we got information from Department of Agriculture as well as the farmers themselves who said you know what a half acre to an acre for subsistence farming, arrendo, weekend, you have more than enough land to be able to produce food for your family. So that's where the bottom figure came from that plus a lot of times these arrendo farmers they end up planting a house.

Ernie Sablan Wusstig – Why am I being penalized just because I want to put air condition in my house?

Administrative Director – I don't know that's the rules and regs that penalize you for that.

Ernie Sablan Wusstig – Because every time you say commercial it comes back to this.

Administrative Director – I don't think you'll get charged rate because of the air conditioner in your house you're going to get charged the rate because that's the rate determined. Now whether we're punishing you because you're using air con I don't see that. Same as the water rates, we have no control over the water rates actually.

Ernie Sablan Wusstig – I really hope that this Commission would really look at this again over before they even submit it because I do believe that it is going to be DOA at the legislature, it is going to be dead on arrival.

Administrative Director – You know if that is the case we are required by law to process it. Right now by the law and by the rules I'm required to do this so here we are.

Ernie Sablan Wusstig – Alright, thank you Mr. Borja.

10. Roland Quitugua – Good afternoon Mr. Borja and Mr. Calvo. Just for the record I am not here representing myself but I am here as the Chairman of the Northern Soil Water Conservation Districts. When we heard about this change with regards to the rules and regulations of the Chamorro Land Trust I called together a couple of farmers those who are holding Chamorro Land Trust leases in order to get their input. We want to make sure that they were informed and more importantly that they under the impacts that the change to the rules and regulations would have on them. And with that I bring to you their recommendations, their concerns with regards to these changes. First of, the Guam Soil and Water Conservation Districts with regards to representing the farmers cannot support this change in rules and regulations in its current form. Bottom line is as it's written as you just realized with that big number that you saw with Mr. Wusstig who testified before me would basically put the farmers out of business. And if what we're trying to do is grow this island this is not the way to do it. It is the intent of the Chamorro Land Trust to provide homestead as you yourself just provided to us and for them to provide a means of sustenance for their families. Now we understand that it is the intent of this new rules and regulations to generate income for the Chamorro Land Trust let's just put that straight out here. You guys need money in order to operate. Well, like I said we cannot support it in its current form but we do bring to you a couple of suggestions. The first one, leave the agriculture leases alone. In its simplest way leave it as is and what you can do is create non-agriculture leases which of course these rules can apply to. Currently as written you are preparing apples and oranges. As Mr. Blas opened up a couple of eyes here this morning when you're talking appraised value that basically reflects upon urban land costs and not the agricultural value of the land. Just to give you an example in my former capacity as an extension agent I do have people who came to me because they were living on Chamorro Land Trust property they were relocated because they were moved out and their property was then used for the land for the landless, the dollar homes in that area and they were moved.

Administrative Director – No the Chamorro Land Trust was not in existence at that time so they couldn't have been moved out of their land for Chamorro Land Trust purposes because the Chamorro Land Trust only came into being in 1993. The land for the landless program or the dollar housing was previous to that. So they were not moved out of those properties for Land Trust purposes because Land Trust did not exist at that time when those dollar homes were being assigned.

Roland Quitugua – Do you have any records of people being moved off of government lands be it arrendo or whatever?

Administrative Director – Yes, people that received land or houses in the dollar homes were required to move out of the arrendo the and land use permit program. Yes, there were.

Roland Quitugua – But the whole point that I am making here is not the Chamorro Land Trust's fault but what we're going back to is again how an area has been designated as agriculture and we need to stress that because the area is designated as agriculture and when people survey they survey in square or rectangular lots and that is not how the topography goes and therefore we cannot assess an agricultural value based on the current practices. And so I'm glad Mr. Borja that it has been brought up and that needs to be rectified.

Administrative Director – I realize that and basically what you are saying is when we're giving out these agricultural leases as much as possible follow the farmable land rather than a nice straight land.

Roland Quitugua – That is one option but the other option is if its easier for you to square it out then that's fine but you're going to have to have one rate for the areas that we cannot farm because its limestone and then we're going to have to give another rate for the one that you can farm because it has deep soil. Because the purpose is how am I going to fertilize how am I going to irrigate are going to be totally different. Also we figure that maybe you have a really good program or rules and regulations but there might be an error on your calculation and that is 20% might need to be changed to 2%. If you move that decimal over one space it changes all those numbers that you were just freaking out of. Proposed rules they promote maximization of total area. If you are going to propose these rules and the farmers are going to fall under these new commercial rules you are going to pressure the farmers to maximize total area which means that they would probably have to adopt and implement practices that would go counter to sustainable long term preservation and protection of the lands. You are going to promote intensive agricultural, you are also going to promptly encourage some environmental disasters. This is counted to any adoption or implementation of what we call best management practices. Just for the record I'm letting you know that the Chamorro Land Trust is working with the University of Guam and the Department of Agriculture with regards to working on their agriculture leases making sure people are in compliance and are using best management practices. We also would like to say that if implemented if these rules are implemented we insist that the best management practices and conservation practices be discounted or credited to farmers based on approved and implemented practices and that means the installation of roads. If they have to do their own survey, the clearing, the installation of power and water and windbreaks and stuff like that we would like all that credited to the farmers if that is how the rules are going to be set. Another point that we have here is there is a section in there that talks about short term leases. Are they like 5 years? There's a section in there for commercial leases under short term.

Administrative Director – I don't think its short term it says the lease rates shall be adjusted every 5 years.

Roland Quitugua – Lease rates or was it leases can be as short as 5 years? Oh, adjusted every 5 years. So all leases will be all long term? What's the minimum lease term that we are looking at here?

Administrative director – I don't think there is a minimum I think its 50 years. 50 years is the max.

Roland Quitugua – We also wanted that in here that some of your commercial licenses right now do have them where they go above 20 acres, you're allowed to go above 20 acres. Is that correct? And if that is going to be the case we would also like to see a mechanism where if an agricultural producer is using 20 acres and is producing and complying with regards to their implemented farm plan we'd like to see a mechanism put in where they can get more than 20 acres. Because we want to promote good use and stewardship of the land, we don't want to punish the people for using or optimizing the land especially with what it was intended to be. And finally, if revenue generation was the basis it was brought to our attention that currently there are a bunch of parcels of properties that are under the licensing program so we ask that you make a public list of all Chamorro Land Trust properties available under the license program and bid them to the highest bidder, if you are going to bid them out and license, that once again are coming from the farmers.

Administrative Director – Actually if you look at the rules and regulations it allows for disposal of these properties in three ways. One is auction, one is drawing and one negotiating and one of them is exactly the process that you are looking at. Put it out in the paper Chamorro Land Trust has lot A, B, C and D, its appraisal value is $3 minimum, bid is $3 and then people come in and bid for them, that process is in there. But it also allows the two other processes where if 10 people want the same lot and they all seem capable of doing it then you go to the drawing. The third way is if someone sees a lot and says they like the lot they want to lease it okay what are you offering and you negotiate on that. I think Roland where you are talking about maybe shall be for a period not to exceed 5 years I think that is in the agricultural subsistence on page 5.

Roland Quitugua – With regards to that one our concern is that if you have short term leases not to exceed 5 years.

Administrative Director - Actually this is a 25 year lease but the renewal is every 5 years.

Roland Quitugua – Well you see one of the things that we were in discussion with the farmers is if you are going to have some come in and only utilize this or rent this piece of property for only 5 years they may sign a 20 year lease but with the intention for only really using it for 5 years. That may encourage fly by nighters who will raid the land that will sell top soil, the timber, the coral or utilize it in a way that they cannot proper manage it and then it is going to encourage erosion run off and impact the quality of the soil. Because please with regards to agriculture it takes years to build up the soil and at the prices you're talking here it will take someone 5 years just to build up the soil to get where they can get some return. They can't afford to pay what almost $7,000 on the first year. The last thing that I'd like to close with is that when times get bad with regards

to the economy which is as it is now people turn to the land and now is the time to go agriculture not to kill it.

11. Bob Barber – For the record I'm here representing the University of Guam's Cooperative Extension Service. We have reviewed the full document. We are particularly concerned with the subsistence agriculture leases and the commercial agricultural leases. Primarily we recognize that the Trust should grow its assets in order for it to meet the increase number of beneficiaries represented by the future generations of Chamorro people. It must provide all the services that the legislation had mentioned. It also needs to develop its assets because for example to farmers because many of your agriculture leases right now are to land that have no road, no power, no water, no phone and this puts a huge burden for a farmer to bring in a 6 inch water line thousands of meters to that land. It is critical to build the agriculture industry but for all of these things the Land Trust must have money. We believe this money should come from your license program, let the non-Chamorros who utilize this land pay. I'll briefly comment here on page 18 the proposal looks great for these commercial licenses it's good it may not be adequate enough for the premium property cases like the hospital point or other high rise hotel potential sites or even more so now that you have the military requesting for land right outside the base you might want to increase that from 10% to 20%. We would think that you would not want to do a land exchange with the military but instead charge the military a long term use.

Administrative Director – Recommendation well taken Mr. Barber.

Bob Barber – Roland was eluding around several concerns but first let me address because the comments were much shorter. The subsistence agriculture it is a change in the term that you proposed of. We recognize the need of an initial 5 year thing to ensure that the people go in who have these leases and put in place subsistence agriculture practices in an appropriate manner. But we feel that still that this was probably increased from a quarter acre minimum to a half acre minimum to an acre so that it meets the compliance island wide of a half acre in order to place a septic tank which requires you to be able to put a home on it. Any agriculture operation needs to put a home because of the two legged pests that we face. So when you look at this now we are talking about someone's home we believe that it should be 25 but after the initial 5 year we recommend that it then be given out and let the agriculture production comply and they should be allowed to have a lease of up to 15 years in order to obtain financing for a home. Because we want typhoon type proof homes we don't just want a container with tin roof and they need the permits for long term leases. Ideally, the provisions that you have made would renew that for another 50 years if not granting the full 99 year lease like you do with the residential leases. This is the key thing we see no problem with the $120 charged for a subsistence agriculture lease because this is providing a prime piece of property to produce the food for the family and it will serve in lieu of property taxes. Now there may be a concern later if GovGuam starts trying to charge property taxes to these but for the Land Trust everybody should contribute towards benefiting a little bit. But like I said it should be the licenses that pay. So that's the key concern that we have with the subsistence it is just that we were afraid that if we don't after the first 5 years that they meet compliance give them the ability to build a home and all their efforts will go from there. I frankly believe when you look as we start finding transportation cost go higher and higher we would probably need an incredible world for

subsistence agriculture leases because our island needs to become more self sufficient. Having said that I did not prepare a written statement but UOG would be happy to put together some written recommendations and try to get it to you a week from now but it's a little tough since it is the holidays but I will certainly get to you before you go to the legislature. A far greater concern to us are the proposed changes in terms of agriculture leases. The cooperative extension never does something like this without first consulting with our client basis. So I have talked to many farmer groups and Roland has included so you hear a little representation on what you heard from some of the farmers. As we understand it a major goal of the Land Trust is to provide land for homes and land for agriculture production. We need the support services and it should be funded by commercial leases but we want to know that our farmers' contribution to the Land Trust is not farming money they pay. The farmer's contribution comes from their sweat equity that they put, that their families and their friends put in developing the land. Ernie was very eloquent of that point and I think you need to realize that farmers are building the soil of lands so the next generation who have agriculture leases will have productive lands to farm. So this is where we should be looking at the farmer charges and I'll be giving some specific recommendations how to encourage that in a second. But I think we need to change the title of program I would like to recommend a change in title of this category and lets not call it commercial agricultural. Commercial agriculture by USDA is anyone who does sales of the products of their farm a minimum of $1,000 and beyond dollars. But what we are really looking at are market farmers. These are farmers who are growing produce beyond the needs of their families to sell to the market and they are providing long term food security to our island. I think we should call it market agriculture so that as we start talking about commercial rates what's appropriate for a business that can capture the maximum value of land on Tumon bay and then turn that value to the Land Trust does not apply to farmers. Mr. Blas was very persuasive on this point and so I'd like to elaborate on it just a little bit further. One you should know I did a little research on this before I came today, the national average is by state generally range from $30 to $100. $30 where there is no real improvements to the land no irrigation; $100 is for irrigation it comes with the leased land. In rare cases like in Minnesota the county average was $181 an acre but it was an urban county. Generally when they look at agriculture rental they do not look at agriculture rental in urban states. Guam is an urban island as the point has been made and therefore the discount on the land value as you are coming up with payment should be considerably less. A way at looking at this is maybe instead of looking at 20% of the appraised or assessed value is to look at 2%. If you say just $50,000 an acre you are probably talking about $20 an acre. We would like to recommend that you take this clause and just change the percentage but only if two other things are brought in. The cooperative extension since it was first asked to give input in the mid nineties have maintained that we must have a way of providing credits, not all farm land are the same. You've got to look at the fact that some of these farm lands some have water, power and others don't. Some farmers don't have it when they got the lease. They have paid out of their own pockets to bring this in. We believe that we need to look at two categories of credits or discounts towards the lease payments. First is the infrastructure developments where as a farmer because Land Trust does not have the money right now to bring it in to all farms has a farmer out of his own pockets bringing in these infrastructure his cost should be captured and applied to present and future lease rates and this will be for water, power, phone, roads. The second category though is the farmers are stewards of the land but not all farmers are as good a steward as others. We wish to encourage the best

practices as possible. We believe they should have a credit based on their stewardship payment. What I mean by this is they get credited of the implementation of sustainable and appropriate agricultural practices on their farms so they are growing the soil instead of rotting the soil. You can go anywhere in the world and see the terrible impacts of improper farming practices in terms of the structure of the soil. It's not hard of a thing to do actually. USDA Natural Resources Conservation Service has a program that sets these exact kind of awards, the EQUIP program and for our island they have already developed a payment schedule. We're not asking the Land Trust to pay farmers but just as they do award them by present and future discounts on the lease terms for doing it because these practices are anything from mulching, windbreaks, proper clearing of the land as opposed to bulldozing and stripping the soil. These are all things to credit. If these credits were put in place we believe that modification of a factor of 10 to take 20% of the assessed value as a baseline for figuring the 1% of changing it to 2% would then be appropriate. If these are not put in place then like what Mr. Blas said it would probably represent one-third of its value of $40 as the old agriculture lease program was. We believe that serious commercial activity is where the Land Trust has the greatest opportunity of making it. We also in terms of what we just recommended in the agriculture program we think that the University beyond our extensive expertise the university can probably help you make an additional category of commercial leases. You have a thing of allowing for cottage industry right now on your residential leases but we believe you almost need a small cottage or small business class of lease on non-prime land. You wouldn't give this at the front gate of Anderson or up Tumon bay but for people who want to set up a Laundromat in the community or small mom and pop store. There may be something that you want to look closely to what we just recommended for modification of your agriculture rates for a small business, Chamorro business rather differently than some large construction company that needs to lease land to hold their equipment on or some hotel industry. So we believe that is something to do and again if the Commission is interested we would be happy to act as a liaison with the business community within UOG to help you come up with language for that. Another thing is it does appear that the lease term is being reduced on the agriculture leases from 99 years to 50 years for these commercial leases. This raises two issues of profound concern first, is there should be provisions added to allow a renewal of this 50 year lease by a family member or successor. We recognize that 50 years of farming someone may be well ready to retire but they have probably been bringing up children, nieces, nephews that should be able to benefit. One of the greatest sources of multi generation of wealth in the mainland and other areas in the world is the transfer of farms. When you see a farm go bankrupt you're usually looking if it's been in 3 generations and you're probably looking at a million dollar operation wherever you are or equivalent in that economy. We believe that it is in the interest of the Chamorro people and the Land Trust to ensure this ability for the family to carry on a multi generation wealth that they built on the leased land from the Land Trust. So we think you ought to look at some form as long as they are in compliant with the agriculture production initiatives. The demands for the land in 50 years is going to be even more huge for non agricultural purpose but through security it would always be a critical issue for any kind of community, the docks could be stopped, the ships could be stopped. Second, we recommend because we know you are going to be facing compliance issues because in businesses there's statistics that show that a huge number anywhere from 15 to 80% of any small businesses failed, this could probably be higher in agriculture for people who get into it thinking they want to farm and do not have the experience. We would be able

to leave that as your start, tidying up your compliance you are going to find that you've given 20 acre leases to people who cannot farm it and they should probably really have 1 acre for subsistence. Therefore, we believe that in all the agriculture lease sites we would like to see the clause put into the regulations that a one acre home site is designated therefore if the family no longer wishes to farm on a market basis or if the lease ends or if lessee has built a home and yet is no longer in compliance for using it as agriculture at least a home up to the family would not be lost. While the bulk of the land could be taken and given to Chamorro farmers who really do want to farm. We feel this is critical because compliance to enforcement would be next to impossible when you start talking about pushing people off their homes. We've got to allow in cases for people to maintain their homes and homes is another thing that we need to protect. The final thing the proposal you had for commercial agriculture leases may be very appropriate in this fee structure and rate for licenses to non-Chamorros for agricultural purposes. Dole has come here on island looking for land to set up operations many others have these outsiders should pay huge rates. These are well financed who are doing capital intensive agricultural far beyond the means of most of us on this island and so then the 20% of market value, 12% of that annually may be an appropriate thing. That's up to the Commission if you wish to set up some form of a license structure for agriculture or just let it fall under the general license agreement. The same may be said well someone may have but I don't speak Chamorro so I may have missed it, but no one has comment on the changes that you've made to the residential lease program allowing for construction of a second home as long as it stays and is used by family members but when it is leased to outsiders and you are charging a little higher rate for that portion of the lease because it is being used for commercial purposes. Well, one of the concerns of the agricultural community is maybe they're leasing agricultural lands but then they're subleasing it to non-Chamorros. Maybe for those people you may invoke this level of lease payment. Most of these ideas have been run by the farm community and we hope that they address many of the concerns as I said I'd be happy to provide and easily provide my testimony in writing. It might take just a little bit longer because I would need to go back and consult with the farmers and others but I'd still get to you fairly quickly.

Administrative Director – What I would suggest we'll try to fairly quickly transcribe this and then give it back to you to verify if that is what you are saying or is that all you said. That all depends on the turn around on our side although I did take pretty good notes on it but there is nothing like the verbatim transcript.

Bob Barber - I'll go ahead and have my group start putting some of my things in and we'll give you so don't worry. We'll consult with the Soil and Water Conservation District, the Guam Farmer's Coop and try to give you maybe some actual wording if you would like to look and modify it as the Commission is doing.

Administrative Director – That is what we are looking for some of the details don't just say yes, you should change it but give us some idea as radical as they may be that's your idea.

Bob Barber - Right and we'll give it you, obviously you'll decide. Again the University stands ready to help. The Cooperative Extension Service stands ready to help in any

way in helping the Commission by drawing all expertise outside the College of Natural & Life Science.

12. Bill McDonald – (Audio problems) Mr. Borja, Mr. Calvo, my name is Bill McDonald from Agana Heights, I'm trying to be a farmer. I am the vice-chairman for the Soil and Water Conservation District for the southern district. Mr. Quitugua and Mr. Barber are part of our team. I just want to make this short and sweet here please remember that Chamorro Land Trust was set up for the Chamorro people. I am very new to the Chamorro Land Trust process. I'm just curious on how many leases have been given out to Chamorros versus non-Chamorros?

Administrative Director – To non-Chamorros I hope zero but to Chamorros on agricultural leases we've probably given out a couple of thousands.

Bill McDonald – And they are all Chamorros?

Administrative Director - They should be all Chamorros.

Bill McDonald – Should be?

Administrative Director – Well we do our best to make sure there are all Chamorros but I can't say that each one of them is a Chamorro but they should be all Chamorros. I'll take that back and say yes, all Chamorros.

Bill McDonald – What about subsistence?

Administrative Director – Subsistence farmers, it is not broken down but the way that the program is set now the agricultural program and the residential program only Chamorros are allowed to take part on that program. We do have some applicants that are definitely non-Chamorros but as far as I know those haven't been given any leases.

Bill McDonald – Can you rest assure us that you would try to enforce this.

Administrative Director – As long as I am sitting as the Director that's my job.

Bill McDonald – How many non-Chamorros are on these commercial leases?

Administrative Director – We don't have any commercial leases at all. The only two commercial leases that the Land Trust is involved in is the golf course in Dededo but that was not set up by the Land Trust. That was set up by the legislature and then said Land Trust you take over this lease they'll be paying you instead of the general GovGuam. The only other lease that I know of recently is the Asahi Club of Guam a Palauan group that is under the law allowed to take a lease on a portion of property up in Dededo. That wasn't done by the Land Trust but it was set up by the Department of Land Management as they are allowed to. But if you are asking now about commercial licenses which is a different issue I'd probably say that 90% of the people or corporations that got licenses are maybe non-Chamorro but that is allowed under the law for them. You don't necessarily have to be a Chamorro to take part in that

commercial licensing program. Again those are limited to up to 25 year licenses as opposed to this long term commercial leases.

Bill McDonald – Like I said I am fairly new to this process but can you explain to me how you set up a lease like at the racetrack.

Administrative Director – That was a license not a lease. We haven't given out any leases at all. We are actually prohibited by law from issuing out any commercial lease until we promulgate the rules and regulations which is why we are here today. But the raceway park that was a license for 25 years, I think that's maybe going on its 12th or 13th year license.

Bill McDonald – Like I said Mr. Borja please make sure and let the people of Guam trust the Commission that you will be enforcing all the rules.

Administrative Director – I hope that recent actions would be that they would trust the Commission not only to issue out the properties but to be sure that these properties are being used.

Bill McDonald - We're asking to please work with the Soil and Water Conservation District.

Administrative Director – One of the biggest things that we're doing on that is we're working with the College of Agriculture Extension Service and the Department of Agriculture. We hope to begin the compliance review of people that are using Land Trust properties to begin with Chamorro Land Trust employees that may have leases along with Department of Agriculture and Department of Land Management. So we're going to look at our own house first before we look at everybody else's. That's in the works, the Memorandum of Agreement has been signed and we just need to implement that. We got a letter back from UOG saying they are ready to implement it. That's what we're looking at in terms of making sure that the lands are being used and hopefully by doing these rules and regulations hopefully we're making it easier for the Chamorros to lease property for those who were given guidelines that they may have not just given out to them. I certainly especially since you're a member of the southern conservation group, I'm not here to tell you what your job is but it seems to me that you have some obligation to look at this and say hey, wait a minute you know that piece of property that I'm thinking about maybe not yourself but for the farmers what's the value of that property? Oh maybe $50,000 an acre how many more are we looking at, 5 acres, then use the formula and you may say that's $50,000 a year I don't think we can make that. Now is your chance to come in and say you know what we just changed that 20 to 2, I think I can afford that $500 a month payment. But that's the object of this hearing. Why do we want this? Because we want to start getting paid for the use of our property. Otherwise if we're not going to get any money from that program then forget about this program. But we're obligated under the law especially to do agriculture and things like that so definitely look at it. It is not set in stone if your comments don't get in now when they get over to the legislature come and make a presentation. Like what Mr. Wusstig said you know what if I was to follow these rules and regulations that those guys are doing its going to cost me $80,000 a year to pay it, forget I'm not going to make. Like he says pack up and leave town at that point. The object of this hearing is to not get into

that point. So certainly we welcome you and we welcome the scrutiny that you present in saying what you guys are trying to do? Get my company out of business? You got to let us know that because our part here is we want to make money so we can operate the program but if it's going to hurt you guys please say something because the program is for you. It is not really for us in that sense so certainly look at it and I know that I better expect something from Mr. Wusstig and Mr. Quitugua saying hey, wait a minute we were at that hearing and you guys got to consider that issue because you are going to run farmers out of business and I don't think that's what the program is for, to run farmers out of business.

Bill McDonald – That's right and I didn't think that Mr. Barber here, was discussing this last week and one of the things that we wanted to do was to provide a payment plan for a starting farmer. Like if you are going to survey.

Administrative Director – We're not experts down there. That credit for the use of the property we do that now with some of the commercial licenses. We give them credit there is no reason why farmers shouldn't get the credit for those in-kind services. Some of you guys you go in, there are cars taking root for your farming you got to get rid of that. Can we pay for that? Yeah, we could but should you guys get some credit for turning that junk yard land to arable farm land I believe as an administrator that is something that would have to be decided. To me that is only fair and like I said we do give credit to the commercial licensees in term if they clean up the property and like that with in-kind services and like that and I don't see why farmers can't get it also. Certainly that point will be taken up to the Commission when they do these adjustments.

Bill McDonald – Okay, thank you.

13. Greg Schacher – I am Greg Schacher with the Chamorro Tribes. I am here to say a few things regarding the commercial applicants. I like to make a recommendation that no one else has ever really looked at one of them is what is going on with Title 25 the United States Government in which a lot of our folks here the Chamorro Land Trust recipients are Chamorro who qualified for these housing grants, housing loans especially our veterans. There is tremendous amount of opportunity to develop the Chamorro Land Trust and I read Chapter 75 thoroughly and I understand it very clearly. The whole federal reserve program here disperse these lands to our folks that are qualified which by the way the dates back to the Treaty of Paris which Mr. Pangelinan made special amendments to include everyone in 1950 which defeats the purpose. I wish he'd change that back to the original intent that Paul Bordallo put together along with folks here realized that as well as the Chamorro Registry. The Chamorro Registry has the same intent, it should be dating back to 1898 or the Treaty of Paris that is the law of direct lineage of the blood not 1950 and who was here. Until that is resolved everything underneath that is to me erroneous. But that is the true intent of the Chamorro and the recipients of the Trust. The Commission needs to really look closely as to what its purpose is. I realize the economy, in its state that it is not something to be proud of. We are constantly continuing this extension and our grandchildren are going to be paying the price. So to preserve what we are all trying to do here is to give economic self sustainability to our people, our culture that needs to be preserved through the land and this land is federal reserve lands. And they are only to be used by Chamorros and I believe that if the outsider no matter what industry they're in or no

matter what the emergency need is whether its telecommunication, whether its energy, whether its manufacturing, whether its import or export they can pay fair market rate up there in the regular commercial industry. I don't think they should get involved in the politics and pushing the Chamorros in the corner and benefiting from them because the whole intent and the purpose of the Trust is specifically for Chamorros only. If the commercial division is going to open up opportunities for the outside, the Chamorro should receive 51% of its entities and the outsider can partner with the Chamorro and begin economic self sustainability and the security for its families and its off springs. This whole thing and God Bless Ron Teehan because he did a hell of a lot of work, to me it could be turned apart and recreated in a legislative forum. My suggestion is to take advantage of Title 25, the United States Code we're seeking federal registration, the current executive administration after inauguration would be addressing nation to nation relations and all tribes including the territories. And I believe that the Chamorros and the Chamorro Land Trust can benefit in the hundreds and millions of dollars in infrastructure not only for grants for homes for residential but the commercial opportunities for women only businesses, for the farmers, for senior citizens, disabilities and our veterans, would give us this opportunity and I believe that by working with infrastructure like Title 25 who has all of this and a thousand more every aspect of the Trust and its off springs needs to be looked into. I invite the Chairman, Mr. Calvo to please look at the opportunities in this administration because that is the purpose of the Chamorro Land Trust. Thank you.

14. Jose San Agustin – (audio problems) Good afternoon, it used to be my intent here today was not to testify but it would be a good point that I provide my comments as well. I'm retired, up to 29 years. I left the island back in '79 in the age of 18 to join the military. There are a lot of good inputs, a lot of good comments, there are a lot of agencies that are here trying to help our island to move forward who are here doing just that and that is a good thing. The bad thing is there are a lot of Chamorros who should be here are not here. I think the reason behind of that is the notification of this event. I was privileged yesterday to have visited Mr. Guerrero in Dededo and he was the one that actually told me that there is a meeting taking place down in Agana and so I decided that I should attend so here I am. This is going to be short and sweet, the first thing that I would like to reiterate to you is I think I have a very good understanding of what that purpose of the Chamorro Land Trust Commission is. The problem I still do not understand is the composition of the Chamorro Land Trust Commission. I know who the Director is, I'm starting to learn who Mr. Calvo is, I'd like to know who the assistants are and the folks who work down at the Chamorro Land Trust and I'll tell you what I have. I think there's respect of the folks that work at the agency under the Chamorro Land Trust. My understanding of the Chamorro Land Trust as I see it for myself is for this agency to protect the interest of the local Chamorros but not just the people itself. Twenty-nine of leaving this place I am back because I love this island, this is where I grew, this is what I know life to be. In respect to why we are actually here I understand fully what we are trying to address and I support that, fully support it. I wish I was Donald Trump, we wouldn't have to have people in here, I'd help you pay for your power bill but obviously I am not. I am farming in a place next to my mom up at Swamp Road. Several things because I have not yet read the entire handout that I picked up this morning and I will assure you that you will receive a written testimony from me within a week and it is going to have a lot of contents that is going to be very important. My first

question and I keep running my mouth and I will make it short, was there ever such a thing as a homestead for the people of Guam?

Administrative Director – No, actually earlier you heard Mr. Garrido mention something like that. There was a law by the First Guam Legislature it is called Public Law 33 that should have set up that homestead program. However, as you also heard Mr. Garrido said that our Government failed us at that time so there was never a homestead set up. Now homestead specifically by law there is something in the law concerning homestead and that is basically your home that cannot be taken away by foreclosure. For example if somebody were to sue you because you hit their daughter and they won the case your home as a homestead cannot be one of the items that they would sell to take care of that judgment. And then under Governor Gutierrez in 1997, Governor Gutierrez introduced a bill at the legislature to change the program the Chamorro Land Trust program from a leasehold program to a homestead program whereby the Chamorros can own the land rather than leasing it. That bill however did not pass at the legislature. That is kind of like the homestead history that we have on Guam.

Jose San Agustin – Okay and I ask this question because it is very interesting. I've talked to my mom and I asked her how long has she been here on this property. She's been there since 1952 and from that time if you all recall the old Governor Carlos Camacho he was the individual, he was the gentleman that actually helped us bring water in to this property to where we are at. What I am trying to allude here, what I am trying to say is here on Guam we don't have factories we don't own any huge manufacturing companies here. We are living out of simply what it is which is the land, this is what we can clear and farm on. After all these years if I'm just to apply which after that 50 year lease is over with no one within the family members follows up and renews it, it's one of those you loose it kind of deal. So I'm kind of interested in finding out if that is in fact true. You don't need to answer that question now because here is an individual who have been living here and they should be protected they are the homesteader, a pilgrim, they are here to stay but that's amazing if they are getting kicked out and put the military in.

Administrative Director – Strangely enough during the naval government days that is what they call arrendo so take care of the land for 20 or 21 years and the Naval or Government of Guam can sign you a document that it is yours you can take care of it. We don't have that now if you do that now you go to jail.

Jose San Agustin – So page two it doesn't apply?

Administrative Director – It doesn't apply under the homestead. It doesn't apply now not as far as I know. I know there are families that have been living on Government land for years and years for example the Mendiola family up there in Swamp Road. The Mendiola family had about 80 hectares of land that was taken away from them by the military when they built NacTams and the Government and the Naval Government had sort of said to those people don't worry, don't worry, you'll get the paperwork. That was that Public Law 33 that those people should have been covered but the Government didn't do the paper works so now two or three generations later they are still living on Government land but it was land that should have been theirs through that homestead program that was never implemented. It's not like today, today you can pick up the

phone, if you were going to check something about the government in those days you would have to walk from Dededo down to Hagatna to see if the guy is in. But the government never did that homestead program. If they would have done that then we probably wouldn't have this original landowner issue like Mr. Garrido was alluding to. The government, the naval government as well as the military and the congress of the United States they have a plan for them so they just didn't come in to Guam condemned all the land and say see you later Charlie, no, actually here are some lands settle the Chamorro people, homestead them, rehabilitate them but our government at that time didn't do the program and that is what we ended up with. But for the Mendiola especially because I know that family that they were promised land and they had like 80 acres where NacTams was. They were just waiting for the government official to come up to the house with the document that says this is yours now. That lady has died a few years ago and never got to see the document on it. But that was the plan, the homestead plan but it never happened.

Jose San Agustin – Okay, with regards to the proposed fees on the agricultural or residential or what not I would like to say I want to disagree with that. The reason is the folks that are actually using that for $1 a year, the properties, are not wealthy people. Even with the $1 a year if you drive around to the properties you are going to see that they still have houses made of twigs. So I would like to ask that you reconsider that and you'll be surprised. I agree with the comments before me who said to charge it to the commercial leases. The agriculture is here to stay. One of these days when the ships get stuck out at the ocean where are you going to get your vegetables? So please reconsider that.

Administrative Director – That's the point I got it down and I will be sure to transmit it. We will bring it up as one of the major points of disagreement with the existing rules and regs.

Jose San Agustin – Last but not least again I am in favor of helping the people of Guam. All I am going to ask you all and beg you all do you understand what is going on. I ask you all to please bear with me they (Department of Defense) do not come here to steal land that is what the Commission is for. We do not hide the plans what they do is they sit down and ensure that the plan is good. You know how I know that because I was part of that planning process before I retired. So I ask you all to please bear with the military. That is all I have to say, thank you.

Chairman Oscar Calvo - Just for the record I want to let you guys know I came today to listen to all of your comments and like what Mr. Borja said here what we initially have done today is to get the public input. But it doesn't necessarily mean that is what document that is going to go through. So all the input that you guys have put in that would be put in to perspective and then it will go to the legislature. When it reaches the legislature then you have another opportunity to yell at the legislature for whatever reason. But we have to do this because it is part of our job and it's a law that we have to follow through and it's been written back from Ron Teehan and its been years that we need to establish these things. But just for the record purpose I just want to make you guys understand that what we have done today and it's a good input that everybody from the University, the Agriculture, the civilians and so forth are out here in giving out their input because it's really about you people. What we give out here is just a starter

but it doesn't mean that this starter that we have is going to be the same document. So all the input that you guys have put in today would be put back in to the legislature and if the legislature decides to make any changes then it will be on their, like what Joe said would be on their hands. But we did our part as the Chamorro Land Commission and the Director what has been passed to do. So I just wanted to make that understanding. It's not that we want to charge you $86,000 a year, don't get me wrong because I myself too, I'd freak out. But we can make changes and I'm glad today you're calm and cool but that's okay I just want to make that sound to make you guys understand on this meeting today. And for whatever reasons there will be another day in court for everybody again to make their points and view and like I said when that time comes, when it comes to the legislature and you can voice your opinions again there and make it known to them. But we have to do our part in doing this but it doesn't mean that this piece of document that we have is going to be permanent okay. I want you guys to understand that part. It doesn't mean that is the final document.

15. Ron Teehan – (audio problems) My name is Ron Teehan I am here to testify in favor of the proposed draft commercial rules and regulations. I would like to point out that this version is one of the first versions that we prepared after much interaction with the Department of Hawaiian Homelands and others to look at various models. A good portion of it however is based on the Hawaiian model adjusted accordingly to fit within Guam's unique cultural circumstances. Now there has been a lot of criticism that this will change the basic foundation of the rules and regulations. It will not. What it does is further expands the items to take into account a much needed program within the Chamorro Land Trust that cannot continue to be limited to simple licenses which are short term that do not optimize, maximize the potential revenue to the Commission and thereby obtaining the necessary funds to build the water lines, the roads, the sewer system, power, you name it. We got to find ways to fund it. Now I agree with much that has been said today. First off let me point out one thing in the beginning of the bill on page two the first two number of changes in references to subsistence agricultural and commercial agricultural we pursue this separately later and this has actually in fact already been changed by law. Now one section in here that does need to continue to be added to this section is the reference to commercial, the allocation of commercial lands for commercial leases that should remain the other is no longer necessary because it is in fact already law. Now Mr. Barber brought up a very good point. The issue of residential lots lets say you're an agricultural lessee not in conformance and wish to retire so right now under subpart 4, not more than one acre or any class of land to be used as a residential lot. This should be further clarified to identify that in the event tied into the agricultural portion that in the event an agricultural lease is for whatever reason downsized or cancelled for whatever reason, non-compliance, desire to retire then the family will still retain the residential portion which would be identified ahead of time and can be severed out. I fully agree with them. Now another issue that came up in here, as we were developing these rules and regulations on the commercial agricultural tracts times 12 months. Mr. Borja and others when we were working on the agricultural we have all decided no it shall not be times but pro-rated over a period of 12 months. So that takes that initial calculation and divides it by 12 instead of multiplying it by 12. Another thing we worked on in 1999 with Mr. Barber was exactly what he brought up earlier, credits to be applied against the commercial lease rate which mandated a reduction in the lease rate with the performance of certain actions. It as well take into account agricultural practices which are in conformance with accepted and

promoted agricultural guidelines which will maximize the use of land in a sustainable manner with proper cultivation where you are not creating erosion, windbreaks, all the various aspects that are taken in account which could be applied as credits. So when you take this formula and then tie in those types of credits then by the time you're done the actual lease rate becomes negligible. This has a couple of benefits. But first may I point out Mr. Director that you will find in the Chamorro Land Trust records that we did go to hearings on that very issue where there is much discussion on that on the entire formula and methodology worked out with a number of people including Mr. Barber was put out. We did put it forward and when you tie this together this causes commercial agricultural farmer, it promotes compliance, it promotes the proper use of the land with the penalty that of course if you do not perform you are either going to have your area reduced in size or you are going to be paying the higher rate. This is done away to one, ensure compliance, achieve purpose of the agricultural program and yet not be so burdensome upon the farmer. Now another thing here no page 5 of the commercial agricultural I would insert: the annual rental rate shall be computed at one percent per month; pro-rated over a period of 12 months and then insert initial term of the lease shall be for a period not to exceed fifty years, except as may be otherwise provided for in this Chapter of the Rules and Regulations of the Commission and then within that added to this that a renewal up to the original 99 years would normally be applicable anyway. Why not just go straight to 99 years? I don't know of any 99 year old farmers. You might do it for 30 years, 40 years but there is no way in hell you're going to 99 years. Farming is hard work it's not like just walk up to 20 acres and reach into your pocket and throw out some seeds and then it all sprouts up, I'm sorry that doesn't work that way. I don't mean to be sarcastic because if you have 20 acres that is going to sit idle there are other Chamorros in line that maybe can step up to use that land, can do the necessary steps, plow it, irrigate it and do all the necessary things and are mission is accomplished. Many people like to take out a big challenge be it 20 acres, 10 acres and 5 acres even, that's a lot of work. Perhaps they are more rightfully placed in the subsistence agricultural category. One thing that I observed, many not all, there are quite a few, many are valid farmers who applied for agriculture but there are some who saw this as a way to get a larger area of land because they wanted 20 acres and just coincidently they have 20 kids. When I look at these lots and I may not see two-thirds under active cultivation I do see a good portion of it being built upon and what is happening is you are basically turning agricultural properties into residential districts, the land use plan are changed. And of those you who support agriculture should strongly object to that because that does not support the farming industry it actually detracts from it. That is why I am glad to see the agreement between the Chamorro Land Trust and Department of Agriculture and University of Guam to come up and review these, reassess and adjust accordingly. Now on the subsistence I agree that the 5 year period initial is quite short and I do agree with the recommendation with Mr. Barber, shall be for an initial period not to exceed 25 years, there on page 5 subpart 2. And on the renewals I see no reason why that can't go longer as long as the usage is in conformance with the subsistence and that can be adjusted accordingly to 50 years. As to the commercial rates I do agree that the strong support on the various methodologies proposed and adjustments that makes it competitive in the open market out there for Chamorro entrepreneurs to be competitive in our own homeland with these other businesses that now control 99% of the economic development communities that have been available here. They have a right to participate in the economy of our homeland. The Chamorro Land Trust is intended to give Chamorros protection in a step up. It's a

cultural development program that protects our assets. Now there have been some criticism in the past legislatures that did not implement the land restoration provision by the US Congress. Well may I remind everyone that until the elected Governor issued back the legislature would may have been willing but until 1970 that was the first time we elected our own Governor and these federally appointed Governors were not inclined to distribute land for the resettlement of Chamorro people that is a fact, that's history. That our people within a few years the elected Governor issued back and when the legislature then realized it is part of our own people in there that's when Paul Bordallo moved forward with the introduction and then passage of the Chamorro Land Trust Act. The definition was later amended from a blood quantum criteria to a social political timeline criteria. It was based upon a couple of reasons, it was Paul Bordallo and I was there, did it in conjunction with Richard Taitano and they decided lets, I supported it at that time and do now, let's tie in the definition used by Congress in the Organic Act in the application of US citizenship. They didn't put this reason I know I discussed it with them many times. The United States Congress said those who established residence on Guam in 1898 and descendants are hereby to be made US citizens under this criteria. Now Paul Bordallo and Richard Taitano said lets use our own definition in that way if this is challenged how do you challenge what we don't tell on their definition how do you challenge this. Now without invalidating various statutes, first the Organic Act, you can't have one meaning discriminatory and unconstitutional and not the other I don't know how the Supreme Court would swing that sort. It was ensuring them we had a program in compliance with what the United States promised us. We are so effecting programs that prior appointed administrations were not relying to implement to what prior legislations were ineffective because of what appointed Governors didn't implement. As far as commercial issue rates to non-Chamorros I think I agree that it should be the full market value. In addition I still continue to believe that the Oka Point is the crown jewel of the Chamorro Land Trust and the Commission has in its possession proposed legislation which could be incorporated in this as an appendix section regarding Oka Point. It sets out very clear criteria and procedures pursuant to which and by which the Chamorro Land Trust can make Oka Point available. Obtain input from all interested parties and stakeholders, maximize rental and include in the same time some of the cultural interest groups that have expressed an interest on Oka Point. Right now you have the opportunity to go forth without any adjustments to current law and it is dangerous because the current law allows the commercial lease of Oka Point it's defective and we've tried to get it changed and to date the legislature has not acted on the request. However, I think times have changed and I believe there will be a willingness to move forward on that. I would recommend to lets put it in to this one package so I would add that proposal provision as well as the provision of the correction of the lot number and then I further expanded it, revisited it to take into account many of the things that perhaps should have been put in the first place. I will put it in writing and have it to you by Friday. On the other one that had been presented on the agricultural credits tied into a commercial lease rates I do not know if I still have a copy of that but I do know that there are copies in the files and so if someone can pull that out and identify that yes this is the final one that we actually took to a public hearing. Anyway unless there are any questions or what not I just want to come and put my support on this proposed rules and regulations. I think there have been a lot of good input today. I am very glad to be the last one to speak because I had the advantage of listening to all the very moving testimonies. After all we are all Chamorros and we want to see our programs move forth. Thank you.

Administrative Director – Ron, thank you very much not actually just for your time here but actually for drafting the rules and regs. I know you got paid as an employee but I do want to thank you personally for it. If you hadn't drafted this we would be back really to square minus one on it. Just as a restatement of the administrative adjudication process staff now has received through this public hearing public input on the rules and regulations. We will prepare a review, make a staff report and prepare and report back to the Commission meeting to be held next Wednesday, December 31st at the legislature. I don't know whether they'll do anything with it at the hearing. What they might do if they feel the changes are substantial or that the recommendations are substantial they might do another draft and do another public hearing on it. Or they might just vote to send the rules and regs as is but with the comments attached as required by law to the legislature. The legislature would take a look at all the comments and say this is a good idea, this is a bad idea or whatever the comments that they may have. But at the very least I would encourage interested parties to attend the Commission's next Commission meeting which is Wednesday, December 31st at 10am at the Legislature's Public Hearing Room. If the Commission does decide to transmit it to the legislature it would be done after January 6 so they basically have two things they have to decide at the next meeting. Number one is whether to transmit the rules and regulations to the legislature but more importantly before is what are they going to be transmitting. Is it the original as it rules and regs with the comments attached to it or would they direct the staff to make changes and incorporate some of those ideas and then submit that package or the third one would be whether they would have another public hearing? It is not required by law but I think there is quite a bit of times, hearings at the meeting and at the legislature to stave off any changes that individuals or groups may not want to be in the final rules and regulations. So at the very least please attend the next Commission meeting Wednesday, December 31st at 10am. Are there any other people who want to testify or comment on the bill, the proposed rules and regulations? There being none this public hearing is adjourned at 1:35 pm.