



Eddie Baza Calvo
Governor of Guåhan

Ray Tenorio
Lieutenant Governor of Guåhan

Commission Members

David J. Matanane
Chairman

Joseph I. Cruz
Vice-Chairman

Amanda L.G. Santos
Commissioner

Pascual V.A. Sablan
Commissioner

(Vacant)
Commissioner

Michael J.B. Borja
Administrative Director

Chamorro Land Trust Commission

(Kumision Inangokkon Tano' Chamoru)

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PUBLIC HEARING MINUTES FOR THE PROPOSED RULES AND REGULATIONS FOR COMMERCIAL USES

Department of Land Management Conference Room

3rd Flr., ITC Building, Tamuning

Thursday, November 20, 2014; 1pm – 1:36pm

I. CALL TO ORDER

Chairman David Matanane called the public hearing to order at 1pm. Present were Chairman David Matanane, Commissioner Amanda Santos, Commissioner Pascual Sablan, Legal Counsel Kristan Finney and Administrative Director Michael Borja. Not present was Vice-Chairman Joseph Cruz.

II. OPENING STATEMENT

Chairman David Matanane – We do have a quorum and I'd like to just give an opening statement for a little bit. We're not here to enact or repeal any laws. What we're doing here is trying to augment the Bordallo Rules and Regulations and also a little bit change we're tweaking on that particular rules and regulations. As far as the Bordallo Rules and Regulations it doesn't specify for commercial leases but we have done so. But this is the reason why we're having a public hearing. We're not here to give up our authority as far as the Commission is concerned as seen on the documents but that is my opening statement. Please adhere to the details there because bringing it through it will not be all of these that is in here today. Of course your comments will be looked at and also considered. Thank you and I'll present it over to the Director Mr. Mike Borja and he will conduct the opening of the public hearing.

Administrative Director Michael Borja – Good afternoon ladies and gentlemen. Welcome to the Chamorro Land Trust Commission, I'm Mike Borja the Administrative Director for the Chamorro Land Trust Commission. I'd like to recognize our Commissioners the Chairman David Matanane, Commissioner Amanda Santos and Commissioner Pascual Sablan. We also have Kristan Finney who is our legal counsel and Dave Camacho who is our Deputy Director as well. I just want to go over a couple of things here today. The commercial rules and regulations that we're going to be having a public hearing for today had come out of Chapter 75, Title 21 of the Guam Code Annotated that establish the Chamorro Land Trust Commission and it does permit for the Chamorro Land Trust Commission to lease lands for commercial use but it also specifies as well that there needs to be rules and regulations. There had never been and so that's why we're doing it today. What these commercial rules and regulations are going to be doing for us is to make the transaction fully transparent so we can enact commercial leases for the benefit of the Chamorro Land Trust. It allows us to use the money to

Rev. 10/16/2014

maintain the lands and right now the Chamorro Land Trust has to be self-sufficient of the monies that it obtains from commercial leases in order to do the things we need to do for the agricultural and residential leaseholders. The original CLTC law includes the leases so it can fund the CLTC activities like I said assist the agricultural and residential leases. It will also be used to fund infrastructure development on our lands and right now those kinds of things are very difficult to do because they are quite costly. The monies we would get from the Chamorro Land Trust commercial leases would be intended for that purpose to help fund the infrastructure developments and in fact probably even do some land surveys. It also is what helps in staffing our organization so that we can ensure that there is compliance on the lands that we have and make sure that the people are honoring the leases that they have and doing it correctly. We also want to make sure our lands don't get spoiled. Right now we do have a lot of different kinds of issues but it takes funding to do that and that's what the commercial leases would help us to do. It will hopefully help us as well in developing affordable housing for those who are eligible. Notification for this public hearing was published three times in the Marianas Variety on November 6, 13 and 18 and it was also listed on the Land Management website. Your comments today will be reviewed. Any written comments that are submitted will also be reviewed in developing the final product. We are allowing written comments to be submitted to the Chamorro Land Trust until the close of business on Friday, December 5th. We hope to present the final draft to the Commissioners in the next Board meeting which will be held on Thursday, December 18th. If that's approved we'll then submit it to the Attorney General's Office for its review and once it's released from there we hope to submit it to the Legislature all in accordance with the Administrative Adjudication Law so that it could be passed into law and be part of the Paul Bordallo Rules and Regulations for the Chamorro Land Trust Commission. This slide has been up here but we want to just remind everyone that please we will take written comments as well. They can be submitted to the Chamorro Land Trust at our office here on the third floor at the other end of this building. You can mail it to the mailing address that is listed up there or email it to the address that's up there as well or you can even fax it to the number that's on the screen. We ask that if you're going to be providing oral comments we ask that you please limit your comments to five minutes. If you need to say anything more than that we do ask that you try and provide any written comments and those written comments again can be submitted till December 5th. All our conversations today in this meeting are being recorded. We have a number of microphones throughout this room and it does pick up all your conversations throughout this room so please we ask that you keep your personal comments down, put your phones on vibrate because all those kinds of things do get picked up by these microphones and it makes transcription a little bit difficult. And please out of respect of others that are giving testimony we ask that you also keep your personal comments and conversations in the room down to a minimum. If you have not signed up to make a comment then go ahead and do so now. If you don't intend to make a comment you don't need to sign in.

III. PUBLIC COMMENTS

1. Albert San Agustin – Good Afternoon ladies and gentlemen my name is Albert San Agustin of the Chamorro Tribe. At the Tribe we do follow the federal laws and the federal laws will contain on who we are today and those laws need to be followed. So I have a letter here that I need to present to Mr. Borja and this is the Tribe stating what it should do

and this is research through our research has on the proposal. If possible I'd like for you to read that because it's addressed to you.

Administrative Director Michael Borja – Well go ahead and read it out.

Albert San Agustin – I'll let you read it.

Administrative Director Michael Borja – We'll just take it for comment but if you would like you may read it aloud.

Albert San Agustin – Mind you that Land Trust Chapter 75 was entrusted to the Federal Government to the rightful owners. The rightful owners is the Chamorros on Land Trust. The rules and regulations yes has been applied a lot of times different ways, legal and illegal. As a Tribe we want to ensure and to assist the Land Trust Commission to follow those laws and that's all I have to say. On that letter sir we're good to go if it's followed. You have our support that's all I have to say thank you.

Administrative Director Michael Borja – Thank you Mr. San Agustin your written comments will be made on record. (Attached, Exhibit A)

2. Oscar A. Calvo – Good afternoon my name is Oscar A. Calvo. Good afternoon Board members and Mr. Director. Today I come to fully support this bill because it's been a long awaited. I started this bill back then and you Mr. Matanane you and I worked on this longest hours and then come to the end of the page we were passed it out back then but that's okay because now we have an opportunity to get this back. It's vitally it's very important that we get this lease approved and support by the legislature and also it's something that was needed badly. But whatever the reasons back then the late Senator Ben Pangelinan held this issue back and rest his soul for that matter. I fully support the bill although there is only two portions of the bill really that I have a little bit on the comment and that's on Section 6.9 on the Senator Paul Bordallo regulation for the Chamorro Land Trust enacted by Public Law 23-38 is repealed and enacted. To me that should be just left alone. That already it's already been embodied by the Chamorro Land Trust back then. The other one that I have on a comment is on Section 60112, all commercial leases are subject to be approved by the Legislature. I differ with that because we set this rules here and basically I know it will still encumber to go to the legislature but I think the approval it should be done by the Board here and that alone is you know. Otherwise it's we need this the commercial like what Mr. Borja stated in the early that the Chamorro Land Trust you know we need to, it's a self-sufficient thing and if we don't, how else can we do the roads and so forth. That's been our issue that's been hit to us in many ways for a dollar a land a year there's no way you can do that. I remember one senator ask me he said I'll give you thirty thousand I said that doesn't even cover ten feet of land to be surveyed back then. So I support this bill and I just wanted to congratulate the Board and you know and I hope that this would really come true and if anything that we need to be commented in the future please let me know. My heart is still with the Chamorro Land Trust no matter what. Okay take care have a good day.

Administrative Director Michael Borja - Thank you Mr. Calvo.

3. Angel Santos – My name is Angel Santos. The reason why we have Chamorro Land Trust now is because when Paul Calvo have the idea that make the Chamorro Land Trust possible is because of the Chamorro people who have no land and are very poor. Then at that time when the Chamorro Land Trust it was supposed to be there's money in the Chamorro Land Trust for people to borrow money and build a house, to go to school and to have business. But now when the Governor was there he breaks everything. Right now we're going to be paying for taxes now. I'm not a good speaker but I'm trying my best. But that's it, it's a good Chamorro Land Trust for the people so that we have land and the people would think that there's Chamorro on the land. And now they have lease for people to lease the land I'm not against it but that's the only way we can make money for the Chamorro Land Trust. So like I said I'm not a good speaker but the Chamorro Land Trust is for the Chamorro people only but now everybody is maybe we can make it Micronesian Land Trust instead of Chamorro Land Trust. Thank you.

Administrative Director Michael Borja – Thank you Mr. Santos.

4. Carlos Camacho – Good Afternoon my name is Carlos Camacho. I'm here to support the movement of this Chamorro Land Trust rules and regulations for commercial leases. I'm here to ask two questions but the first question there's a few things I just wanted to just ask. Under 6.9.1.2, under the commercial use definition it didn't expand it but it said commercial trade or profit and then on the third line it says 6.7, livestock or crop. I was wondering I did look at the original law under that definition I was wondering if aquaculture can be included because that's another form of not agriculture but aquaculture is another industry that we need to further define to expand under 6.7 I guess if it could be modified. That's one comment I got there the second comment like Oscar Calvo said about the legislative role that they play I also identified one thing on page 6, section 6.9.7.8, terms of lease and option to extend. Right now this is reading that the Board will have the option based on financial requirements of a proposed commercial tenant that the option to extend the lease and (inaudible). But I just recalled I remembered the legislature passed a law minimizing all Government land leases exempting Chamorro Land Trust for residential lease and agriculture lease. Again that's states agriculture it didn't say aquaculture that's why there may be a conflict there. But that only has a five year lease and it has to go through the legislature through a certificate of need through GEDA. So if anybody can just clarify section 6.9.7.8 so there's no conflict with existing law in that fashion. Other than that at least now we finally have a vehicle a document that will allow the uses of these very good commercial assets to be developed. I did have some friends that already have existing licenses under commercial use. These are indigenous Chamorro friends of mine that have existing licenses. One of the things they asked me to ask is they wanted me to ask a question for them is what happens to their existing twenty-one year licenses they have. Would they be grandfathered in or would this supersede their leases and they have to go through the whole process of renewing their licenses because it's not a lease it's still considered a license in the past? That's one thing to consider also. One more thing also is in the commercial lease RFP would the indigenous members of Guam the Chamorros if they applied compared to let's say someone from the outside for that particular commercial

use would they have a preferential treatment as an indigenous member of Guam competing with that commercial lot? That's the only thing I wanted to share thank you.

Chairman David Matanane – Very good Mr. Camacho thank you for that comment.

5. Henry Simpson – Good Afternoon Board members my name is Henry Simpson. I'm the general manager of the Guam Racing Federation. I think this is a great document that you put together. We are on a twenty-one year license agreement right now and I think this will help us move forward into a new document. I would like to though ask that since our group is a little bit different we're a non-profit organization we're not trying to make money for anybody any stockholders or any particular people we're trying to provide a safe place for racing, for riding, for off-road and on-road uses that we'd possibly be allowed to consider some changes in this. And what I'd like to do is come back and put those in writing saying can we deal with a non-profit a little bit different than this commercial license or commercial lease document. But I think this is a great document it's going to work good for you for future things. It's going to do the things you wanted to do create income for Chamorro Land Trust that you'd be able use for surveys and other things. We hope to help support that but we'd like to just have a little consideration for our non-profit status. Congratulations I think it's going to work out really good.

Chairman David Matanane – On that point duly noted Mr. Simpson.

Henry Simpson – Thank you very much.

Administrative Director Michael Borja – Thank you Mr. Simpson. Is there anyone that came in late that wants to make any testimony? You could come on up and sign in please.

6. Fred Aguon – Good Afternoon Board my name is Fred Aguon. I'm from the south you know but what really bothers me is the title you know. Like I know this is for commercial lease but why we're doing this? I mean are all our Chamorro people been given lands you know that they don't have any land? Now my whole point here is when this bill is created or this law is created by the late Senator Paul Bordallo I believe it's supposed to be just the name Chamorro the word Chamorro. And this is what really bothers me because sometimes we forget what is the title what is the name. Even when we're writing about something we're writing about the coconut tree then all of a sudden we ended up writing about the breadfruit tree. Now the whole point here my whole concern here is because I experience this in Merizo and you guys are aware of the land for the landless. I got six kids, all of my six kids applied for that, only two of them were given. But you know what happened there are some outsiders you know Caucasian. Caucasian that are given land. Now right in that law it says first that it has to be a Chamorro, resident of that village. Now again there must be something you know but actually my concern here is please Board please help our people. Let's help our people then I know everybody is sacrificing now or you know with the dollar sign or whatever you know the make business you know. But please let's do our people first a favor give them the right. Give them, those people that don't have any land give them first priority before we go into this. Just like in your household when you budget things first thing is you have to prioritize first. What are you

going to use every payday? What first are you going to pay your rent are you going to buy food or you're going to watch movie or go to the bar or whatever. You have to make priority. But anyways thanks I think this is my first time because I just recently retired. But I've seen you guys work and I know there's a lot of you guys have been doing good work. I know it's a very difficult process. I know it's a very difficult task. Like the old saying goes you cannot satisfy everyone but at least think first that this is the Chamorro Land this is our island and if we don't give this to our people then we're losing something. You cannot have this other place I mean in Saipan for instance or anywhere I think they're giving their people first. We're not saying the commercial no we're not going to do away with you guys no it's not that that is not my point. But my point first the mission I know you guys all have mission let's fulfill that first mission. Okay and thanks a lot.

Administrative Director Michael Borja – Thank you very much Mr. Aguon. Is there anybody else needing to sign up that wants to make any comments that came in late? You can come on forward and sign in your name please.

7. Trini Torres – I'm Trini Torres, Maga'haga of Taotaomona Native Rights and Chairman of the non-profit Chamorro Cultural Development and Research Institute. I wrote a letter before Senator Ben Pangelinan died that was sometime in April I believe I'm not sure of the month but just a few months before he died stressing that we believe that we don't want any more commercial leases until we really study the matter seriously. Now we find this thing coming up. Okay at least you did your homework. But I did not get a chance to read it I need to study it because land is the key. It's the key to our whole land to being Chamorro because if we lose the land we're nobody. We don't have a place go to. We don't have a homeland that's why this is a very serious matter. I do not like that okay it's going to be the Commission to approve it and then that's it, no. There should be an intermediate step also. You approve it and then you submit what you want to the Legislature so there's that safety catch. At least more people would have a say so on what's going on and know what's going on instead of just you. I know some of you and I know that you have land in your heart but sometimes we do make mistake and we get engulfed and carried away with what other people think but do not forget that the real objective is to keep the land for our people the Chamorro people the indigenous people not for anyone. If you have a chance maybe you should include to get back those lands that were given to the landless clients before. They have no business getting land for free. Some of them were University Professors I heard who got land and yet our people are still waiting. I've been after your necks you know that. Yes getting all the documents so we can study it and even I need the accounting the audit report I still didn't get it from the Chamorro Land Trust what you call it Commission over there. I got most of the papers. Now what I hear is some of those lands are also being used for low cost housing and who are all those homes going to? Some are not for Chamorros. Can you make sure can you guaranty that they are only for our Chamorro people? Now somebody is asking for that GEDA, Oka land for commercial lease or is it going to be free or whatever to be used for I know I like the idea for people who are old and need special care as they get old. But the point is the land will be going to everybody else who comes to this island. We have welcomed a lot of people but remember that we are trading our island our paradise just to make money from tourism and other businesses. People come here make business they make profit and they can leave when

they want to but you, your grandkids, your great grandkids will be left with no land then. Do not forget that because the land is not yours not any of yours. It belongs to our kids and the kids that are coming. We are the stallion of the land. We cannot just give it away and distribute and all these commercial leases I did write that letter to put a stop to this commercial leases now I see this thing coming up. Did you ever even let us know before you're making; we need to know yes. I would like to know what is the number of this bill and how long do you give me to make some remarks and go through this?

Administrative Director Michael Borja – You have till Friday, December 5th okay to make any written comments. We're open for any more written comments that can come in till then. We have made publication since November 6. We don't have a bill number on here. This is something we have to; we have to conduct our own public hearing and then once we have a final product we then submit it to the Legislature for their final approval.

Trini Torres – Okay so I oppose this because I want the Legislature to be involved in the decision making. You then the Legislature. Thank you very much.

Chairman David Matanane – Just one comment Ms. Torres as you were stating about the commercial leases on number 6 on page 3 it says section 60112 all commercial leases are subject to the approval prior approval of the legislature. I think it's the reverse where we make the approval and subject to the approval of the Legislature. So that is why I made the opening remarks that I don't totally agree with what we got here but we are screening it and trying to filter it all out and make sure that we do it right. I mean this is just a rough draft and you guys make your comments that's why in my opening statement we're not enacting any laws or repealing any laws we're just trying to get all the information so we can purify this particular rules and regulations.

Administrative Director Michael Borja – The Legislature does have final approval.

Trini Torres – Good.

Chairman David Matanane – Thank you Ms. Trini thank you for your comments.

Administrative Director Michael Borja – Friday, December 5th okay so please turn in your comments. Is there anyone else that's present here that would like to make any comments? If you don't want to make any oral comments we definitely would recommend and suggest that you make any written comments and you have till Friday, December 5th to submit your comments here at the Chamorro Land Trust. You can mail it to us, fax it to us, email it to us either way but we'll definitely make it as part of the record when we submit our package to the legislature after it's gone through the approval process on our end. Commissioners there are no other individuals listed on the signup sheet that want to make any further comments so the comment period is over and written comments can be taken until December 5th.

Chairman David Matanane – Please restate where and how would they be able to submit their comments through emails and addresses.

Administrative Director Michael Borja – On the front of this if you have a copy of this it does also list down there that you can mail the comments in there's a mailing address there. There's also an email address as well; there's a website and you'll have an email address on that website that tells you where to turn it into or you can turn it into our office here on the third floor of the ITC Building. We'll be taking written comments until December 5th so we'll be withholding any final remarks on this process until we get that. As I mentioned earlier on the schedule the next item that will happen is after we've received all the comments and gone through all the oral comments as well we'll be making some modifications to the proposed rules and regulations. We'll be submitting it to the Commissioners for review and whatever the final product that comes from there we'll then submit it to the Attorney General's Office for their review. When it comes from there then we'll be submitting that along with the economic impact statement and minutes of this meeting to the Legislature for their review but that will not be happening until the earliest in January. Nothing will be submitted to this current Legislature.

8. Oscar A. Calvo – Mr. Borja, can I just state and I'm glad Mr. Matanane brought it back that's why I brought that section on the section 60112 in that lease there that the commercial leases would be the last vote would be the Legislature to but if you're reading this rightly it's like saying the Legislature would be the one approving the lease basically. So the Board members here would not even see that (interrupted).

Chairman David Matanane – New system new responsibility.

Administrative Director Michael Borja – There's a process that is described in here on how we would go about in selecting and offering. It's all fully transparent it's going to go through a (interrupted).

Oscar A. Calvo – Eventually it's going because the last approval would be the Legislature and they would make the comments to the commercial leases and so forth back. But it goes to the Board here and whatever the Board decides you know in essence to that whether they approve the lease or not and if the Legislature would enact to that and that's why I brought that up.

Administrative Director Michael Borja – Okay thank you, noted. Does anyone have any questions? Mr. Chairman your floor.

Chairman David Matanane – Okay if nobody has any comments I call this meeting adjourned.

IV. ADJOURNMENT - Public hearing adjourned at 1:36pm.

Transcribed by: Teresa Topasna: *Teresa Topasna*

Approved by Board motion in meeting of: *Jan. 6, 2015*

Michael J.B. Borja, Director: *Michael J.B. Borja*

Date: *JAN 6, 2015*

David Matanane, Chairman: *David Matanane*

Date: *JAN 6, 2015*

To: The Chamorro Land Trust Commission
Mr. Michael J.B. Borja
Administrative Director

RECEIVED

NOV 20 2014

Subj: Rules and Regulations for Commercial Leases

Date: November 19, 2014

Department of Land Management
Time: 12:29 Int: [Signature]

Esteemed Commission Members and Administrative Director,

On behalf of The Chamorro Tribe, I would first like to express our gratitude for the advance notification and opportunity to review and comment on the proposed Rules and Regulations for Commercial Leases of Land Trust properties. Having personally known the esteemed Authors of The Chamorro Home Lands Act, Chapter 75 of Title 21 now known as The Chamorro Land Trust Act, I am comfortable with my personal knowledge of their intent. Having had discussions, decades ago, with both former Sen. Paul Bordallo and former Gov. Ricky Bordallo on Chapter 75; I feel very confident in saying it was never their intent for Land Trust properties to be sold, or leased to non-Chamorro's for any purpose.

Be that as it may, The Trust needs to be financially independent of any Government of Guam appropriations which is not feasible without the ability to fully utilize it's available resources. If The Trust is ever to fulfill the intent of the Authors, it requires the financial ability to develop infrastructure and access to raw, undeveloped Trust Lands so that these lands may be surveyed and leased to qualified Chamorro applicants. Even with these issues in mind, we should always remember that we are discussing The Chamorro Land Trust and not the Government of Guam Land Lease Program.

Following, are our recommended changes to the proposed Bill:

6.9.1. Definitions-

6.9.1.2. *Commercial Use* means a purpose that furthers the commercial, trade, or profit interests of the tenant. Commercial use does not include commercial agricultural use as addressed in Section 6.7 (Livestock and Crops) of The Senator Paul Bordallo Rules and Regulations for the Chamorro Land Trust Commission, or any commercial venture which would result in extensive damage to the land which would render it uninhabitable and/or undesirable to future Lessees or Tenants without extensive restoration to the lease hold.

6.9.3. Commercial Lease or License Opportunities- Prior to any lease of government property for commercial use, the CLTC shall give notice of the opportunity to lease or license by issuing a **"Request for Proposals to Lease PUBLIC LAND" (RFP)**, any interested eligible chamorro, as defined in **Chapter 75 of Title 21**, who meets the standards of eligibility as defined in **Section 6.9.4.** of this act shall be afforded preference, and shall thereafter afford all other interested persons a reasonable opportunity to respond to the RFP or to submit data, views, or arguments in writing. The CLTC shall also accept from interested persons alternative proposals for lease or license of the public land that is the subject of the intended action. Notice of the RFP shall be made by publication at least two times during two consecutive weeks in a newspaper of general circulation in Guam. Pursuant to Section 75105(f), CLTC shall not lease any available property until such property is registered. Further, pursuant to 21 G.C.A, Section 60112, all commercial leases are subject to the prior approval of **I**

Liheislatura Guahan (the Guam Legislature).

6.9.5. Proposals In Response to RFPs. (Line 3, Page 4) CLTC in achieving its objectives identified in Section 6.9.3. *(No Such Objectives are Listed in Section 6.9.3.)*

6.9.7.2. Fair Market Rent. Based upon the appraisal, fair market rent shall be established at between 1/10th(one tenth) of one percent to 1/2(one half) of one percent of the fair market value monthly for eligible Chamorro's (as defined in Chapter 75 of Title 21), or between 6(six) to 10(ten) percent of fair market value annually for all others.

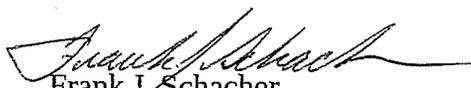
6.9.9.2 Rent Amendments and Payment Schedule. (Line 19) subject to approval of *I Lehislatura Guahan* (The Guam Legislature) and the Board.

Following are issues not contained in the Bill that should:

1. Ownership of any tenant improvements upon termination of lease, or liable for costs of removal.
2. Liable for costs of land restoration and/or waste removal.
3. Mandatory Business Insurance indemnifying and holding Trust harmless.

With the recommended changes, or their equivalent, we would be happy to assist The Commission with legislative passage of this Bill. Should you have any questions, or comments that you would care to discuss please don't hesitate to contact me.

Sincerely,


Frank J. Schacher
Chairman, Chamorro Tribe